

Thu, Mar 24, 2022 at 4:10 PM

Michael Henry Hayden

To: "Williams, Meredith@DTSC" <meredith.williams@dtsc.ca.gov>

Hello Director Williams,

I am writing to you regarding DTSC's investigation of the contaminated property at 141 W Avenue 34, in Lincoln Heights. Our community continues to be shocked by DTSC's willful dismissal of the site's history as an illegal toxic waste dump, and their efforts to approve a Site Characterization and Removal Action workplan that neither mentions nor investigates this horrifying fact.

I received a disturbing email from Jessica Swan yesterday. In it, she claims that the Avenue 34 site has been "sufficiently characterized," despite the draft Site Characterization and Removal Action Workplan making no mention of the property's history as a toxic waste dump. As you know, in 1984 the City of LA prosecuted the former tenants, American Caster Corporation, for storing hundreds of corroded barrels of VOCs in underground holes across the property and on neighboring properties, and for dumping toxic waste directly into the sewers at 141 W Avenue 34 for years. DTSC staff are staunchly refusing to interview the former prosecutor who prosecuted these crimes, but have not offered any evidence that they have investigated these crimes themselves. DTSC staff appear ready to approve this document, despite clear omissions in the investigation, and many recent statements that contradict the conclusions of the Site Characterization itself, and which defy logic. Simply saying that "the site has been sufficiently characterized" does not make it so. This follows a pattern displayed in November 2020 when DTSC wrote a letter at the developer's request to "satisfy the City's requirements." That letter used no evidence of conditions at this address to state that impacts from a neighboring property were unlikely to affect this site's future residents, without taking into consideration the property in question's history or levels of contamination on this site. It appears that DTSC is attempting to use similarly dangerous evasions to avoid investigation of known toxic dumping on this and on neighboring properties.

The following is a line-by-line dispute of the message sent this week by Jessica Swan, which falsely asserts that the Avenue 34 site has been fully characterized. You will see Ms. Swan's statements (in blue), and following that is contradictory evidence from DTSC's actual investigation, and questions that Ms. Swan's statements prompt. I know that Ms. Swan is merely repeating talking points she has been instructed to give, which makes us all the more troubled that there is a coordinated effort by DTSC staff to cover up information that is of paramount concern to the community this affects. Please direct DTSC staff to expound on the following questions prior to any determination on the draft Site Characterization and RAW:

"After reviewing the articles regarding dumping by American Castor Corp, DTSC began an inquiry as to the location of the dumping which included attempts to contact Mr. Groveman. We were unsuccessful in reaching Mr. Groveman."

Please share the findings of this supposed inquiry. What are the locations of the dumping? We have found dozens of articles about the American Caster Corp dumping, which refer to subterranean cavernous holes across the property and on adjacent properties on the same block, as well as underneath the public right of way near W Avenue 34 and Pasadena Avenue. We are curious to know what additional details DTSC discovered. None of this information was included in the Draft Site Characterization and RAW, which was prepared before this history came to light. Will the results of DTSC's investigation into this history be included in a final version of the Site Characterization and RAW? Failure to disclose this information constitutes a coverup of these crimes.

Please share what methods DTSC used to contact Mr. Groveman, the reasoning for attempting to contact him initially, and the reasoning for declining to talk with him about this case once you did successfully get in contact with him. He disputes that DTSC ever reached out to him about this matter, and Ms. Swan asserted that they had been unsuccessful, in an email conversation in which he was included, and to which he responded immediately, saying he was willing to talk about the case.

DTSC staff have stated that they have been unsuccessful in locating City records of this incident, which is why we recommended reaching out to the prosecutor who successfully prosecuted these environmental crimes. We have found evidence that City records of the environmental crimes division of the District Attorney's office for cases in the 1980's were intentionally destroyed in 2016, within a few months of the application for the first version of this project being submitted to the Department of City Planning. If you have other information about this case that precludes the need to talk with Mr. Groveman, please share that information. Additionally, Mr. Groveman may offer insight into the type of cleanup operation that would have occurred at this property in 1984.

"DTSC determined the data collected to date is sufficient to characterize the Site for both evaluating the potential for risk to human health and for purposes of developing a cleanup plan."

Please share how DTSC determined the data is sufficient to characterize the Site. The draft Site Characterization includes no information about the American Caster Corp dumping into cavernous holes and into the sewers at this address. Failure to disclose this information constitutes a coverup of these crimes.

"Site investigations evaluate the nature and extent of contamination, impacts from historically known sources of potential contamination, and unknown sources of contamination."

The nature and extent of contamination is currently unknown. DTSC has resisted calls from the community, our elected leaders, and federal agencies to extend testing beyond the property boundaries. Elevated levels of contamination extend to the property boundaries and beyond, as illustrated in the conceptual site model in the draft RAW. DTSC has confirmed that dumping occurred both onsite and on adjacent properties, but have not investigated that as part of the Site Characterization and RAW. This means that the nature and extent of the contamination is currently undefined. How does DTSC plan to determine the nature and extent of the contamination? What testing will be performed on the properties where these toxins were dumped? What testing will be performed in and around underground utilities that extend from the contaminated areas of the multiple properties impacted and out into the community?

"The Site has been tested for the contaminants listed in the Los Angeles Times articles, the families of those chemicals as well as several other contaminants."

As I'm sure you are aware, those tests reveal a site that is seriously impacted by dozens of toxic chemicals in the soil, groundwater, and soil vapors, with PCE concentrations as high as 40,000 times above residential safety limits. The LA Times articles are vague on the details of what contaminants were illegally disposed of in the buried barrels and into the sewers at this address, which raises the possibility that all of the identified contaminants are due to the dumping by American Caster Corp.

"Data collected on Site indicates that chemicals are stable and adjacent properties are protected."

DTSC has collected data from only a few testing events within a few months of each other in the past year. Those testing events yielded wildly different results, with the second test for vapors showing levels approximately three times higher than the first only a few months earlier. Please share what evidence DTSC has collected that "indicates that chemicals are stable." There is no language to this effect in the Draft Site Characterization and RAW.

Please share what data DTSC has collected to indicate that "adjacent properties are protected." The Draft Site Characterization and RAW makes a conflicting determination, concluding that "current nearby residents and commercial workers are also subject to Vapor Intrusion and dust exposure" ([link](#), p. 17). This means that vapors have travelled beyond the property and trespassed onto neighboring properties, where they are currently rising up from the ground and into our homes. The RAW documents underground utilities including sewers traveling directly through plumes of toxic contaminants, which connect to homes, workplaces, and the elementary school across the street. We have shared with DTSC information about a massive 40-foot deep subterranean tunnel confirmed by the developers' geotechnical investigation that travels diagonally through the property and off the property in both directions. This may have been where the barrels of toxic waste were stored, and there may still be toxic waste stored in this feature today. Contractors hired by the developers have additionally identified underground features on the property. These include other sewer lines, underground utility corridors, and a large concrete-lined rectangular pit built into the floor at 141 W. Avenue 34. These features may be

related to the history of dumping, and may act as conduits to carry contamination out into the broader community. In the face of these threats, which are not characterized in the Site Characterization, what evidence has DTSC collected to conclude that "adjacent properties are protected," and by what mechanism would they be protected?

The first draft of the RAW ascribed high concentrations of contamination in the soil to sewer leakage, which makes sense considering that the previous tenants plead guilty to seven charges of dumping into the sewers at this address for at least four years. When we called on DTSC to investigate the sewers in reaction to this, DTSC responded by drafting a second version of the RAW which reversed its conclusion that the concentrations of contaminated soil adjacent to the sewers that were the subject of illegal dumping had any correlation to each other. No new evidence was collected to support this conclusion, and in fact new evidence had been collected (the 1984 history) that reinforces the first conclusion. DTSC is attempting to evade necessary investigations.

Additionally, the news articles and DTSC staff have asserted that this dumping included locations on adjacent properties. How are adjacent properties protected, if that is where DTSC asserts the dumping occurred? What testing has been performed or will be performed to evaluate the levels of toxins on these adjacent properties that were used as dumping grounds by the former tenants at 141 W Avenue 34?

["There is no evidence that the dumping referenced in the article which was cleaned up by the joint City/County of Los Angeles Hazardous Waste Taskforce in 1985, impacts the Avenue 34 site or any cleanup plans for the Site."](#)

The articles from 1984 refer to a hasty cleanup that lasted until 2 a.m. on the same day that the barrels were discovered. All 250+ barrels were described as severely corroded, with less than 5 gallons of liquid remaining in most. Please share what other evidence of a cleanup DTSC has found. What do the manifests to BKK Landfill reveal? What post-cleanup confirmation sampling was performed? How were vapors extracted from the site? Conversations with people who worked on the Toxic Waste Strike Force have revealed that cleanups at that time typically consisted of removing only materials based on visual and olfactory evidence. Volatile organic compounds are often odorless, and may have travelled far from their source after being dumped underground and into the sewers for years before these crimes were discovered. Is it DTSC's position that a cleanup lasting less than 12 hours would be sufficient to remediate an intentional illegal toxic waste dump in a residential community? How can DTSC conclude that this dumping does not impact the Avenue 34 site? What evidence has DTSC found that the high levels of contamination on this site are not due to its past use as an illegal toxic waste dump? We understand that DTSC holds the manifest records for BKK landfill, which received the corroded barrels of toxic waste in 1984. What do those manifests reveal? None of the claims that the site was cleaned up are supported by the evidence in the Draft Site Characterization and RAW, which instead show continued high levels of contamination decades later, nor does that document address this property's history of dumping at all.

DTSC cannot in good faith approve any Site Characterization that omits the site's most relevant environmental history as a major illegal toxic waste dump, especially since that information was both publicly available and explicitly shared with DTSC prior to the Site Characterization's consideration for approval. DTSC's recent statements make contradictory claims about the thoroughness of the Site Characterization, and betray a desire to shape the evidence in

whatever ways would suit an outcome that was apparently predetermined before collecting any evidence. This is completely contrary to the scientific method. It is abundantly clear that further onsite and offsite testing must be required. DTSC cannot approve any cleanup plan that is not designed in response to an investigation of, or indeed does not even acknowledge the site's history as a toxic waste dump. Failure to acknowledge this past constitutes a coverup of these crimes, at a property where thousands of unsuspecting people may live in the near future, and where hundreds more may be impacted in the immediate vicinity.

It is not only our neighborhood, but also our elected representatives and federal agencies who are calling for offsite testing, a thorough investigation, and a stringent cleanup proposal. County Supervisor Hilda Solis, City Councilmember Gil Cedillo, US Representative Jimmy Gomez, and the US Environmental Protection Agency have all written letters and met with DTSC to share their concerns that this investigation has neglected to identify dangers to the community, and that the cleanup plan is insufficient.

We look forward to DTSC preparing a Site Characterization that makes all these important considerations and collects new evidence based on the environmental crimes committed by this property's former tenants, including off site testing. We look forward to seeing that Site Characterization completed and approved **before** a cleanup plan is proposed in response to it, as required by the Voluntary Agreement. For DTSC to ignore this information is a perpetuation of the original crimes against our community committed by American Caster Corporation in 1984, any attempts since then to cover up that information, and the environmental racism this community has suffered for generations. We will continue to defend our community's safety, and will not rest until DTSC adheres to its mission statement by investigating these unanswered questions about these toxic threats to our neighborhood.

Sincerely,
Michael Hayden
Lincoln Heights Community Coalition