

# **DEPARTMENT OF TOXIC SUBSTANCES CONTROL**

Site Mitigation and Brownfields Reuse Program

REPORT ON CALIFORNIA EXPEDITED REMEDIAL ACTION  
REFORM ACT OF 1994

January 1, 2003

## **DEPARTMENT OF TOXIC SUBSTANCES CONTROL**

### **REPORT ON THE EXPEDITED REMEDIAL ACTION REFORM ACT OF 1994**

#### **Prepared Pursuant to Health and Safety Code section 25396 Senate Bill 923 (Stats. 1994, ch. 435)**

This report provides an overview of the activities of the Department of Toxic Substances Control (DTSC) to implement the Expedited Remedial Action Program (ERAP) pilot program. Statute requires DTSC to describe its activities and accomplishments annually, including steps to implement the ERAP pilot program, a listing of sites that have been issued a certificate of completion under the program, effectiveness of the program in expediting the cleanup of selected sites, a comparison of the program to DTSC's Voluntary Cleanup Program, and recommendations for administering the pilot program.

#### **The ERAP Process**

ERAP is a pilot project administered by DTSC's Site Mitigation and Brownfields Reuse Program to promote the cleanup of up to 30 hazardous substance release sites. The Site Designation Process, created by Assembly Bill (AB) 2061 (Stats. 1993, ch. 1184) was amended by Senate Bill (SB) 923 to require the Site Designation Committee (the Committee) to also review and act on ERAP applications. The Committee is composed of the following six persons or their designees: Secretary for Environmental Protection; Director of the Department of Toxic Substances Control; Chairperson of the State Water Resources Control Board; Director of the Department of Fish and Game; Director of the Office of Environmental Health Hazard Assessment; and Chairperson of the Air Resources Board.

Since June 1995, the Site Designation Committee has designated 18 sites to participate in ERAP. One of the sites, known as Tow Basin in San Diego, was dropped from the program because the applicant failed to enter into an enforceable agreement with the State. A total of five sites have been certified: ANR Freight Systems; Alhambra Manufactured Gas Plant; Fountaingrove Plaza; Panorama Drive; and Lindberg Street Development. ERAP provides for payment of "orphan" share remediation costs for up to 10 sites (depending on available State funding) where the responsible party is either insolvent, or cannot be located or identified. Whether or not a site will be eligible for orphan share funding is determined by the ERAP application and approval process.

A brief summary of all ERAP sites is provided as follows:

## **SITE STATUS REPORT**

**1. ANR Freight Systems, Burlington Northern Santa Fe Railway  
Vernon (Los Angeles County)**

Designated: June 28, 1995

Agreement: June 27, 1996

**Certified: October 28, 1998**

This site is part of Burlington Northern Santa Fe Railway's brownfields project that involves the purchase of properties to expand its inter-modal facility. This parcel was contaminated with lead from a former foundry.

**Status:** The site has been certified and is being used to store trailer trucks.

**2. California Steel Industries Company  
Fontana (San Bernardino County)**

Designated: August 1, 1995

Agreement: July 8, 1996

California Steel Industries (CSI) operates a steel milling facility on 400 acres of the former Kaiser Steel Plant site. Heavy metals and petroleum are the primary chemicals of concern.

**Status:** Three of the 31 areas of concern have been released for reuse after approval of a Remedial Action Plan (RAP) to clean the site. The site investigation work has been completed, and the report for the remaining 28 areas of concern is currently being reviewed by DTSC. Following approval of the report and a risk assessment, the draft RAP will be prepared for this portion of the site.

**3. Southern California Edison, Long Beach II  
Long Beach (Los Angeles County)**

Designated: October 24, 1995

Agreement: June 24, 1996

This is the site of a former manufactured gas plant that operated at the turn of the 20<sup>th</sup> century. The site is located below a freeway overpass with an active oil production facility onsite. Contamination involves polynuclear aromatic hydrocarbons (PNAs) and oil. The selected remedy treated the PNA contaminated soil and groundwater with ozone using sparging technology. Following the treatment of the soil and groundwater, approximately 215 cubic yards of soil was removed.

**Status:** Remediation activities have been completed. The treatment system has been decommissioned and the site has been repaved. The Final Remedial Action (FRA) Report was reviewed and approved by DTSC on October 22, 2002. Due to the underground utility features, a thin layer of contamination remains at the site. Since the site was not cleaned up to residential standards (unrestricted use), a deed restriction must be recorded prior to issuing a Certification of Completion.

**4. Alhambra Manufactured Gas Plant Site  
Alhambra (Los Angeles County)**

Designated: November 29, 1995

Agreement: April 16, 1996

**Certified: February 28, 1998**

This former manufactured gas plant is in a residential neighborhood, and impacted approximately 20 homes.

**Status:** Significant soil contamination was discovered during the site investigation process. Final remediation and restoration activities were completed in February 1998, at a cost of \$5.04 million. The allocation of liability resulted in 61 percent being apportioned to the orphan share. In Fiscal Year (FY) 1997-98, DTSC reimbursed Southern California Edison Company \$2.8 million from the State Trust Funds. DTSC reimbursed the remaining orphan funds during FY 1998-99 for a total of \$3.074 million to Southern California Edison.

**5. General Electric Company  
Anaheim (Orange County)**

Designated: April 24, 1996

Agreement: October 29, 1996

General Electric is using a phased approach to remediate polychlorinated biphenyls (PCBs) contaminated soils offsite, due to potential exposure to humans. Contamination at the onsite facility will be addressed at a later date.

A Risk Assessment for the railroad right-of-way was accepted by DTSC in June 2000, for a health index of one milligram/kilogram (mg/kg) of PCB under a residential scenario. The RAP was approved on October 24, 2002, and will require removal of 775 cubic yards of soil.

**Status:** The hazardous waste facility permit is being modified to incorporate the RAP and remediation requirements.

**6. Amvac Chemical Corporation  
City of Commerce (Los Angeles County)**

Designated: May 29, 1996

Agreement: April 14, 1997

Pesticides and chemicals are manufactured at the facility, and a variety of chemicals have been discharged during the transfer of chemicals between the rail cars and product lines. This site consists of a rail spur owned by Burlington Northern Santa Fe Railroad that is located outside the facility. The site was remediated to industrial standards, with residual arsenic contaminated soil remaining ten feet below the surface.

**Status:** In June 1998, 2,000 cubic yards of pesticide and arsenic-contaminated soil was removed. However, soil contamination remains at levels that prohibit residential (or unrestricted) land use, so a deed restriction must be recorded before a Certificate of Completion can be issued. DTSC continues to negotiate a deed restriction with the property owner.

**7. Fountaingrove Plaza  
Santa Rosa (Sonoma County)**

Designated: May 29, 1996

Agreement: January 7, 1997

**Certified: March 1, 1999**

This abandoned property was previously the site of a trucking operation and used for heavy equipment sales and repair, auto repair, petroleum storage, warehouse, and other industrial uses. Shallow groundwater is impacted by trichloroethylene (TCE). This is one of the ten sites eligible to receive orphan share funds.

**Status:** The site has been certified and is in the Operation and Maintenance (O&M) phase. O&M requires the continued operation of a groundwater extraction trench and the discharge of extracted water into the sanitary sewer under a permit. A total of \$415,663 was allocated to orphan shares. The site will have a five-year review in 2003.

**8. Panorama Drive  
Bakersfield (Kern County)**

Designated: May 29, 1996

Agreement: January 7, 1997

**Certified: June 23, 1998**

A residential community consisting of 19 residential lots was built on this former burn dump that was operated by the City of Bakersfield (City). Soils were contaminated with lead and dioxin. The City purchased the majority of these properties and has resold them now that the remediation activities are completed.

**Status:** Contaminated soil was removed and a Certification of Completion was issued. The properties were re-landscaped to allow for the homes to be resold.

**9. Golden Technology  
Santa Rosa (Sonoma County)**

Designated: August 28, 1996

Agreement: March 20, 1998

Golden Technology operated a printed circuit board manufacturing company that released hazardous substances, including TCE and heavy metals. This is one of the ten sites eligible to receive orphan share funds.

**Status:** Additional soil characterization is being conducted to address the Regional Water Quality Control Board's concerns regarding the leachability of metals in soil. Based upon these results, a response action to address soil and shallow groundwater contamination will be proposed. Additional characterization of the lower aquifer is required.

**10. Ferro Union Site, Burlington Northern Santa Fe Railway  
Vernon (Los Angeles County)**

Designated: October 30, 1996

Agreement: April 1998

This site is another part of Burlington Northern Santa Fe Railway's brownfields project. This parcel is contaminated with lead from local contaminated debris material used as fill material.

**Status:** Abandoned buildings were demolished and the site investigation has been completed. DTSC approved the RAP and CEQA documents in June 1998, followed by DTSC's approval of the engineering design. Implementation of the RAP was completed in October 1998, when the entire site was graded and covered with an asphalt cap. A deed restriction is being negotiated with the Burlington Northern Santa Fe Railway. A Certificate of Completion will be issued when the deed restriction is recorded.

**11. Amvac Chemical Corporation  
Commerce (Los Angeles County)**

Designated: March 27, 1997

Agreement: June 29, 1998

Pesticides and chemicals are manufactured at this location. This facility is adjacent to the rail spur site listed as item #6 above. During closure of underground tanks soil was discovered to be contaminated with pesticides.

**Status:** Implementation of the Site Investigation Plan began in December 2002.

12. **Tow Basin, North Harbor Drive  
San Diego (San Diego County)**

Designated: March 27, 1997

**Site Dropped From Program**

The San Diego Port District (Port) currently owns this parcel with the intent of revitalizing the parcel for commercial use. The Tow Basin (Building 923) is a concrete basin that was used to conduct hydrodynamic designs of boats, ships, submersible vehicles, and seaplanes. Performance tests were also conducted on oil skimming systems designed for offshore oil spill clean-up. The primary contaminant of concern is PCB.

**Status:** The site was removed from ERAP for failing to negotiate an enforceable agreement. However, DTSC is addressing the site under the statutory authorization of Chapter 6.8 of the Health and Safety Code. DTSC is reviewing the draft RAP.

13. **River Street Development  
Santa Cruz (Santa Cruz County)**

Designated: December 11, 1997

Agreement: December 21, 1998

The site consists of nine parcels in downtown Santa Cruz, where considerable redevelopment is taking place. Soil and groundwater contamination includes total petroleum hydrocarbons related to an underground tank, PAHs and lead.

**Status:** A RAP was prepared by DTSC and released for public review and comment. DTSC is addressing the public comments received and preparing the final orphan share allocation.

14. **Lindberg Street Development  
Santa Cruz (Santa Cruz County)**

Designated: December 11, 1997

Agreement: December 21, 1998

**Certified: March 1, 2001**

The site consists of two parcels in downtown Santa Cruz. Lead was likely released during a previous auto wrecking operation at the site, and is present in the soils.

**Status:** The Lindberg Street site was certified in March 2001. Soil containing chemicals above residential cleanup goals was removed and disposed of offsite.

This is one of the three sites that have received orphan share funds; \$555,611 was distributed to the responsible party.

**15. PG&E Site  
Redding (Shasta County)**

Designated: February 5, 1998

Agreement: November 3, 1998

This is the location of a former manufactured gas plant that operated from 1886 to 1947. After the plant was dismantled, PG&E sold several parcels which are now used for commercial businesses. A small stream adjoins a portion of the manufactured gas plant. PNAs and petroleum are present in soils, and the groundwater contains petroleum hydrocarbons.

**Status:** The Site Investigation Report was approved in 2000. The draft RAP and Risk Assessment for the site will soon be released for public review. The draft RAP will require a significant amount of soil to be removed, and the construction of an interceptor trench to capture contaminated water.

**16. PG&E Site  
Colusa (Colusa County)**

Designated: February 5, 1998

Agreement: October 27, 1998

This is the location of a former manufactured gas plant that operated at the turn of the century until 1940. The site is located in the City of Colusa and is used by PG&E as a service center for gas and electric work crews, a substation and a pole yard. Subsurface soils are contaminated with PNAs, cyanide, phenyls and metals.

**Status:** Additional soil and groundwater characterization is underway and DTSC anticipates that the Site Investigation Report will be submitted in February 2003.

**17. PG&E Site  
Fresno (Fresno County)**

Designated: April 30, 1998

Agreement: November 3, 1998

This is the location of a former manufactured gas plant that operated from 1918 until 1929. The site is located in the City of Fresno and used by PG&E as a utility yard. A portion of the site was sold and is currently vacant. Soils are contaminated with PNAs and metals.

**Status:** PG&E submitted an Interim Site Investigation Report in March 2001. Additional sampling has been completed to determine the extent of groundwater

contamination. The Site Investigation Report will be submitted to DTSC in January 2003.

**18. Alhambra Combined Facility (Southern California Edison)  
Alhambra (Los Angeles County)**

Designated: April 29, 1999

Agreement: April 13, 2000

The site was used as a wood treating facility from 1920 until 1957. Since 1957, it has been used as a utility yard. Onsite soils are known to be contaminated with pentachlorophenol and PCBs as a result of past site activities. Southern California Edison has divided the property into three operable units.

**Status:** The RAP for Operable Unit 2 was approved in August 2001 and calls for an in-situ thermal desorption unit to treat onsite contaminated soil. The engineering design was approved after many months of working with the community to address concerns over the potential for air emissions. Contractors are in the final construction phase of the treatment plant, and remediation of the site is scheduled to begin in January 2003.

**COMPARISON OF THE EXPEDITED REMEDIAL ACTION PROGRAM (ERAP) WITH  
THE VOLUNTARY CLEANUP PROGRAM**

**Expedited Remedial Action Program (ERAP):** This Program provides significant incentives for redevelopment of contaminated properties by promoting cleanups based on the planned land use, by providing a covenant not to sue, and by outlining a fair and equitable liability scheme. ERAP was designed to test alternative methods for addressing cleanups and has provided ideas for future programmatic changes. Since 1994, 18 sites have been designated to participate in the pilot program and five sites have been certified as being satisfactorily remediated. In addition, three sites have completed their remedial action phase and have been returned to productive use. Since the inception of ERAP, only one site has dropped out due to the responsible party's failure to comply with statutory requirements; however this site is undergoing remediation under the provisions of Chapter 6.8 of the Health and Safety Code. ERAP provides for mitigation rather than litigation by revising the liability scheme based on fair and equitable standards and it provides orphan share funding for up to ten sites. To date, three sites have received orphan share funds and more than \$4.045 million has been distributed in orphan share funding.

**Voluntary Cleanup Program:** DTSC's Voluntary Cleanup Program (replaced the "Walk-In" Program in 1993) allows motivated parties who are able to fund cleanup under DTSC's

oversight to move ahead at their own speed to investigate and remediate their sites. DTSC has found that working cooperatively with willing and able project proponents is an efficient and cost-effective approach to site investigation and cleanup of sites that do not pose a substantial threat to public health or the environment. This Program stresses the use of presumptive remedies and innovative technologies to expedite cleanups, along with a risk analysis and land use covenants that can link the cleanup standards with the planned use of the property. The Voluntary Cleanup Program uses a fee-for-service agreement to obtain funding for DTSC's oversight costs. Since its creation in 1993, approximately 519 projects have entered the program, and approximately 326 have been successfully completed.

**DTSC Brownfields Program:** The ERAP and the Voluntary Cleanup Program are not competitive programs. For several years now, DTSC has been establishing a comprehensive Brownfields Program. Brownfields are properties contaminated or thought to be contaminated, and that are underutilized due to perceived remediation costs and liability concerns. The redevelopment of brownfields is a critical factor in ensuring renewed prosperity in California and reducing a burden on the environment. DTSC's Brownfields Program utilizes a variety of administrative and legislative tools, and ERAP and the Voluntary Cleanup Program are the key drivers of this initiative. ERAP is primarily designed to address high-risk contaminated sites that threaten public health or the environment; the Voluntary Cleanup Program is primarily designed to address lower-risk sites. These two programs complement each other rather than compete.

## **GOVERNOR'S URBAN CLEANUP INITIATIVE**

Governor Gray Davis introduced the Urban Cleanup Initiative in 2000. A major component is DTSC's Cleanup Loans and Environmental Assistance to Neighborhoods (CLEAN) Program, established by SB 667 (Stats. 2000, ch. 912). This new loan program encourages property developers, community groups, local governments, and private property owners to redevelop underutilized urban properties. There are six brownfield projects currently being funded with CLEAN loans. However, due to State budget reductions, no new loans are being made at this time.

The second component of the Governor's Urban Cleanup Initiative addresses the open-ended liability concerns involved with obtaining financing for brownfield projects. SB 468 (Stats. 2001, ch. 549) established the California Financial Assurance and Insurance for Development Program (FAIR Program). Through this new program, Cal/EPA will make pre-negotiated and standardized environmental insurance coverage available and affordable to stimulate private investment in brownfield development. Due to State budget constraints, funding for insurance subsidies is unavailable.

**RECOMMENDATION:** ERAP provides significant incentives for high-risk brownfield cleanups and this pilot project should be continued to fully test its alternative methods for addressing contaminated sites that pose a risk to public health or the environment.

Attachment

Chaptered version of Senate Bill 923