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New Redevelopment Agency Environmental Oversight Agreement Finalized With DTSC

by **Steve Andrews**, Community Redevelopment Agency, City of Los Angeles/Brownfields Committee Vice-Chair

John Harris, Richards, Watson, and Gershon

Dorothy Rice and Caren Trgovcich, Department of Toxic Substances Control

Intergovernmental cooperation, much less collaboration, often appears to be as rare as the flightless dodo bird. This spring, a new partnership has taken wing. This new bird is in the form of a prototype tool for redevelopment agencies and one state department to use in working together to revitalize urbanized communities.

The fruit of two years' work, CalEPA's Department of Toxic Substances Control (DTSC) and CRA's Brownfields Committee announce the availability of a *Prototype Environmental Oversight Agreement* that will facilitate the environmental assessment, cleanup, and re-use of brownfields sites by redevelopment agencies throughout California.

The Environmental Oversight Agreement is intended to establish a new relationship between redevelopment agencies and the DTSC. This relationship has three desired outcomes. The first is to establish a working partnership that is more collegial and supportive in nature as well as acknowledge the unique qualities of each situation. The second is to ensure timely and cost-efficient environmental site investigations and cleanups. The third is to make sure that efforts fully protect public health and the environment and address community concerns.

The Agreement was developed because of the unique role redevelopment agencies play in cleaning up brownfields sites. It can be modified

to meet the specific objectives and unique circumstances of a redevelopment project. It can also be used for a single redevelopment project or for groups or series of redevelopment projects.

Unlike the typical Voluntary Cleanup Agreement, the Environmental Oversight Agreement allows the DTSC to provide redevelopment agencies with technical assistance and consultation. The DTSC can supervise site cleanups without an agency being designated as a "responsible party" and can assist in remedial actions and in cleanup procedures taken by an agency exercising its authority under the Polanco Redevelopment Act.

The Environmental Oversight Agreement consists of four basic components:

- ❖ The first component covers the basic business provisions, including terms for reimbursement of DTSC's consultation and oversight costs.
- ❖ The second component covers the "scope of work." An agency has the option of obtaining technical consultation or full project oversight services, or both. The first "scope of work" can be used if an agency needs only technical consultation and information in evaluating site cleanup issues and potential regulatory processing steps.

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The New Environmental Oversight Agreement Brings New Law to “Dodge”

by **Richard G. Opper**

Partner, Opper & Vance, LLP and Member/Brownfields Committee

We do not have a new sheriff in town; however, the old sheriff has agreed to deputize redevelopment agencies to join forces and clean up the town. Now that CalEPA's Department of Toxic Substances Control (DTSC) and CRA have embraced a new framework for cooperation, what is in the redevelopment pipeline? If all goes as expected, a growing number of redevelopment agencies will enter into the new Environmental Oversight Agreement with the DTSC.

The City of National City is one of the first cities to seek an agreement under the new Environmental Oversight Agreement. The second oldest city in San Diego County, some of the oldest industrialized areas in the state lie within its jurisdiction. Until his recent retirement, Paul Desrochers, who served as the Chair of the CRA Brownfields Committee for its first seven years, was the Executive Director of National City's Community Development Commission. Mr. Desrochers was very active in developing the new Agreement and having National City selected as one of the first cities to implement this new program.

The Pacific Steel site has been one of National City's most challenging redevelopment projects. The site was originally the location of the first oil refinery in San Diego County. Later, metal recycling operations of various types located at the site. The site abuts railroad easement land and drains to a natural stream system that leads to the San Diego Bay. The owners of the site had also started to rehabilitate some adjacent leased land. The owners dug up the underlying soils and sifted through the soil for chunks of reclaimable metals—the litter of decades of metal recycling. The piles of soil that resulted created a moonscape quality to the site.

Originally, the Community Development Commission team proposed a plan for the redevelopment of the site that relied on the relocation of a building supply business. Unknown to the Commission, a neighbor had complained to the DTSC about dust emissions at the site. This complaint resulted in the initiation of enforcement proceedings against Pacific Steel while the Commission was trying to designate a different oversight agency to work with it on a redevelopment plan. At that point, intergovernmental cooperation was looking a little more like the gunfight at the OK Corral, with the redevelopment plan on hold until the smoke cleared.

Previously—under the Voluntary Cleanup Agreement protocol—there would not have been a way for the Community Development Commission to work with the DTSC without it becoming a “responsible party.” Under the new agreement, the Commission has every reason to expect that there is a path that it can follow, in partnership with the DTSC, to undertake a reasonable and appropriate redevelopment of the site. Working cooperatively and using the Polanco Act, the Commission hopes to transform the Pacific Steel site into what is currently planned as a municipal public works yard including facilities for the fire department and other public safety related activities.

The Environmental Oversight Agreement is the yoke that allows state and local government to shoulder together the burdens of environmental cleanup planning and continue down the road to a cleaned up town. Everyone in the community can be a winner as a result.

