

July 21, 2021

Eraina Ortega, Director
California Department of Human Resources

Dear Ms. Ortega,

For the last 34 years I have been enforcing the State's environmental laws and regulations as a scientist in the Department of Toxic Substances Control (DTSC). During my time at DTSC I have worked in enforcement, permitting, pollution prevention and for over 25 years as a project manager in the Site Mitigation and Restoration Program in the Bay Area. Doing so has provided me with a great deal of satisfaction and pride and I can honestly say that I have not once shirked my responsibility of administering the laws and regulations that I have been entrusted with enforcing. It is a critical role and one I take quite seriously as failing to succeed in carrying out my duties could lead to significant negative consequences both for public health and the environment.

When I was hired by the State, I took a vow to uphold all of the State's laws and regulations and it's an oath that I don't take lightly. There is just too much at stake. If I fail to properly implement policies, contaminated sites may go untreated and lives may be lost, or seriously harmed. In addition to negative public health outcomes and ecosystems being compromised if I fail to act, my job as a regulator could also be in jeopardy. As a matter of fact, my performance evaluations are based in part on how consistently and effectively I enforce the laws I am responsible for, and I want to assure you that if I failed to do so, I would no longer be employed by the State.

In much the same way I enforce laws, CalHR is also responsible for enforcing the State's laws that pertain to employee's terms of employment, including wages and benefits. Therefore, it comes as a great surprise to me that CalHR has consistently failed to enforce the State's own Government Code -- section 19826 -- for rank-and-file scientist in Unit 10. Even more surprising is the fact that CalHR returned Unit 10 managers and supervisors to compliance with this very same government code in 2014 after a court decision directed the state to do so. Then, the state made a similar adjustment in 2018 for other managers. Still, the state continues to fail to do the same for staff level scientists.

While I understand that the Ralph C. Dills Act requires that the salaries and benefits of represented employees be negotiated through the collective bargaining process, my understanding is that the State still has the responsibility of complying with all laws that affects the terms of employment for all of its employees, including represented employees. If this was not the case, then the State would be at liberty to violate a myriad of laws, such as ones that ensure that employees have a reasonable right to privacy in the workplace, the right to a work environment that is free of harassment and discrimination of all types, and the right to not be retaliated against for filing a complaint against an employer, just to name a few.

Given that CalHR has the sole responsibility of ensuring that the State is in compliance with its own laws and regulations that apply to employee compensation, why has CalHR consistently failed to enforce Government Code 19826 for Unit 10 rank-and-file scientists? By not enforcing this government code

year after year, the State is sending the wrong message to its scientific workforce and essentially serving as a bad example for how employees should conduct themselves. I sincerely believe that is not the message this administration wants to send, and I also hope that it quickly finds the integrity to do the right thing and return to compliance with its own compensation laws.

Sincerely,

Thomas Lanphar

Thomas Lanphar
Senior Environmental Scientist, Specialist
Department of Toxic Substances Control – Berkeley

cc: Jared Blumenfeld, Secretary
California Environmental Protection Agency

Meredith Williams, Director
Department of Toxic Substances Control

David Rist, District IV Director
California Association of Professional Scientist

California Association of Professional Scientist
caps@capsscientists.org