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**Subject:** Feedback on DOE CONNECT Community Meeting  
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To Josh, and the ETEC Team,

I chose not to participate in the “discussion” Wednesday evening, as you know my views on the subject. This was a DOE meeting, and I did not wish to become a lightning rod as a former member of Boeing management. Josh was taking the heat perfectly well on his own. I noticed that Mindy and Tanya also did not participate.

Unfortunately, Wendy’s hope that we all listen to, and respect each other’s viewpoints, appears to have fallen on deaf ears.

### **Elephant in the Room – 2010 AOC**

As you are aware, on April 6, 2026, I sent an 8-page letter to DTSC Director Katherine Butler and Energy Secretary Chris Wright, proposing that DTSC and DOE negotiate and agree to terminate the 2010 DOE/DTSC Administrative Order on Consent (AOC).

[https://philrutherford.com/SSFL/2010\\_AOC/2026-04-06\\_Open\\_Letter\\_to\\_Wright\\_and\\_Butler.pdf](https://philrutherford.com/SSFL/2010_AOC/2026-04-06_Open_Letter_to_Wright_and_Butler.pdf).

ETEC was included on distribution. The letter provides, numerous regulatory and technical reasons why the “cleanup-to-background” mandate violates past and current, federal and California, remediation practices and is unnecessary for the safe and protective remediation of SSFL.

On May 1, 2026, I received a letter from DTSC Deputy Director Thanne Berg, committing that DTSC would “evaluate” this proposal. I’m not sure what this evaluation would entail as DTSC has frequently committed to enforce the AOC in the past.

[https://philrutherford.com/SSFL/2010\\_AOC/2026-05-01\\_Email\\_from\\_Thanne\\_Berg.pdf](https://philrutherford.com/SSFL/2010_AOC/2026-05-01_Email_from_Thanne_Berg.pdf).

## **DOE Office of Inspector General**

On May 6, 2026, the DOE Office of Inspector General (OIG) assigned case number 26-0500-C to this proposal, which it will investigate as a complaint under its authority to investigate “fraud, waste, abuse, and mismanagement.” Again, I am not holding my breath since my past experience with the OIG is less than favorable.

[https://philrutherford.com/SSFL/2010\\_AOC/2026-05-06\\_Email\\_to\\_IG\\_Hotline.pdf](https://philrutherford.com/SSFL/2010_AOC/2026-05-06_Email_to_IG_Hotline.pdf).

## **Political Pressure**

The OIG complaint is not about you and your team personally, but about how DOE has allowed itself to become ensnared in a sixteen-year-old “contract” known as the 2010 AOC. You, Josh, are stuck with a politically driven contract that you personally were not involved in generating.

The architects of this contract were Maziar Movassaghi, former Acting Director of DTSC; Rick Brausch, former DTSC SSFL Project Director; Dan Hirsch, founder of the Committee to Bridge the Gap (CBG) and DTSC partner; and Linda Adams, former Secretary of CalEPA. This contract was signed by Movassaghi and Cynthia Anderson, Chief Operations Officer, DOE/EM. The DOE AOC, and its companion NASA AOC, were formulated during the first Obama Administration at a time when DTSC was being sued by The Boeing Company over SB-990. DTSC anticipated, correctly, that it would lose the lawsuit, and therefore formulated the AOCs specifically for the federal RPs, DOE, and NASA. The federal RPs were more subject to political pressure in Washington, than the private company, Boeing. At the time, Dan Hirsch had remarkable influence over Senator Barbara Boxer (and other federal and state legislators), who in turn pressured numerous leaders of the federal DOE and NASA. In 2010, the Energy Secretary was Steven Chu, a Nobel Prize winning physicist. One would have hoped that a person with Chu’s scientific intellect would have seen through the snake oil salesmen who were selling the 2010 AOC. However, Chu was a political appointee, with an anticipated term limit of four years. He had

no personally vested interest in an agreement that would take multi-decades to implement, long past his retirement. And as Josh showed on Wednesday evening, ETEC's current budget is one tenth of one percent of EM's budget. In turn, EM's budget is 15% of DOE's total budget. So ETEC's budget and issues are, and were, small potatoes compared to the rest of EM and DOE, and not worth Secretary Chu losing any sleep over.

None of these past decision makers are decision makers today. Therefore, neither DTSC nor DOE have any obligation to continue blind worship to these false idols.

### **Implementability of the AOC**

I can understand why some of your statements about the AOCs in the meeting may confuse Melissa Bumstead and others. It illustrates the conundrum ... do we need to be at background to be safe? Of, course we know the answer is No! But, of course, the agitators (and legislators and DTSC) do believe that is true. However, the question becomes moot when DTSC cannot even define chemical background or at least cannot figure out how to prove the RPs have achieved background. Several times, you said the 2013 LUTVs post-dated the 2010 AOC's mandate of "cleanup-to-background," and that the LUTs could not be met by standard laboratory analyses. What you failed to state was that the problem that DTSC is trying to circumvent with the MLE, is limited to only chemicals. DTSC has said that implementing the AOC for radionuclides is not a problem. The reason for this is that the EPA/HGL procedure for calculating radionuclide LUTVs was rationale and implementable. Indeed, ensuring that laboratory radionuclide MDCs meet or are less than the respective radionuclide LUTVs is a standard DQO, and has been successfully implemented at the recent Boeing-led Area I Burn Pit remediation. In contrast, the DTSC procedure for assigning the lowest laboratory-claimed MRL as the LUTV was destined to fail from the outset, since the majority of non-detects and minority detects of the background dataset for many mostly non-detect chemicals far exceeded the plainly unattainable LUTVs (based on the unrealistically low MRLs). See MLE comments provided to DTSC below for further explanation.

[https://philrutherford.com/SSFL/DTSC/STREAM/SCF000006/Radionuclide\\_Que](https://philrutherford.com/SSFL/DTSC/STREAM/SCF000006/Radionuclide_Que)

[stions\\_for\\_Soil\\_Smarts\\_Workshops\\_Rev\\_A.pdf](#)

[https://philrutherford.com/SSFL/DTSC/STREAM/SCF000008/Chemical\\_Questions\\_on\\_Soil\\_Smarts\\_Workshops.pdf](https://philrutherford.com/SSFL/DTSC/STREAM/SCF000008/Chemical_Questions_on_Soil_Smarts_Workshops.pdf)

[https://philrutherford.com/SSFL/DTSC/STREAM/SCF000014/2025-03-13\\_Comments\\_Questions\\_on\\_Soil\\_Smarts\\_No\\_3.pdf](https://philrutherford.com/SSFL/DTSC/STREAM/SCF000014/2025-03-13_Comments_Questions_on_Soil_Smarts_No_3.pdf)

## Questions

I have yet to receive any direct communication regarding the April 6<sup>th</sup> proposal, from DOE management, including Secretary Chris Wright, Assistant Secretary for Environmental Management Tim Walsh, or ETEC management. Josh, are you at liberty to say whether DOE and DTSC are discussing this proposal and when I may hear from the Energy Secretary or his subordinates?

Specific questions related to the 2010 AOC. Please provide or confirm answers in the Q&A prepared for the next CONNECT meeting.

1. How many other DOE EM sites have a state-ordered cleanup-to-background mandate? Answer: None!
2. Why does DOE EM permit California to impose this mandate on ETEC alone among all its cleanup sites?
3. Is the 2010 AOC consistent with Executive Order 14300? Answer: No!
4. Is the 2010 AOC consistent with DOE's recent attempt to remove ALARA from DOE Orders and directives? Answer: No!
5. Is the 2010 AOC consistent with DOE-STD-1241-2023? Answer: No!
6. What is the cost of implementing the 2010 AOC at Area IV?
7. What is the cost of implementing a recreational 25 mrem/year radiological cleanup at Area IV (consistent with DOE-STD-1241-2023)?
8. What is the cost of implementing a residential 25 mrem/year radiological cleanup at Area IV (consistent with DOE-STD-1241-2023)?
9. What is the cost of implementing a recreational CERCLA chemical cleanup at Area IV including risk management?
10. What is the cost of implementing a residential CERCLA chemical cleanup at Area IV including risk management?

## Conclusions

Although we have had our differences, and DOE and DTSC probably regard me as a pain in the butt, I am really trying to help. I am in two minds over John Luker's expectation that DOE, NASA, DTSC and the "community" can reach a solution around the 2010 AOCs. I have never been a fan of community involvement, and I realize that is politically incorrect thinking. However, "community involvement" is one reason SSFL remediation was not completed years ago. DTSC itself, in response to one of my comments on the Final Peer Reviewed MLE Memo, stated,

*"The 2007 Consent Order, 2010 AOC, and 2022 Settlement Agreement are all negotiated contractual agreements between the parties that signed those agreements; thus, there is no public review process."*

[https://philrutherford.com/SSFL/DTSC/STREAM/SCF000780/2026-04-30\\_DTSC\\_Response\\_SCF000780.pdf](https://philrutherford.com/SSFL/DTSC/STREAM/SCF000780/2026-04-30_DTSC_Response_SCF000780.pdf)

Which gets us back to the beginning. DOE, NASA, and DTSC need to renegotiate a replacement to the AOCs without public involvement. A replacement is needed, not a band-aid MLE modification, that is more in line with conventional dose-based and risk-based cleanup remedies in use in the rest of the U.S.

In our communications after your last CONNECT meeting, I mentioned that I was working on a "Radiation Dose, Risk and Cleanup Standards" presentation. The current draft is overly long and would need to be cut down for a reasonable presentation. My offer to provide an alternative community viewpoint in your CONNECT meetings still stands. Obviously, it presents an alternative to the 2010 AOCs.

[https://philrutherford.com/SSFL/Cleanup\\_Standards/Radiation\\_Dose\\_Risk\\_and\\_Cleanup\\_Standards.pdf](https://philrutherford.com/SSFL/Cleanup_Standards/Radiation_Dose_Risk_and_Cleanup_Standards.pdf)

That's lot to chew on. Hopefully, it will generate some meaningful dialogue between DOE and DTSC.

Sincerely,

Phil

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