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June 12, 2014

TO: Each Supervisor

FROM: for Jonathan E. Fielding, M.D., M.P.H. Cynthia A. Harding
Director and Health Officer

SUBJECT: **STATUS REPORT ON PROGRESS OF COUNTY TOXIC THREAT STRIKE TEAM (MARCH 11, 2014 AGENDA ITEM 6)**

On March 11, 2014, the Board of Supervisors directed the Department of Public Health to convene a County Toxic Threat Strike Team to target facilities that release toxic pollutants in highly burdened communities. The Core Group of the Strike Team was to include the Department of Public Health, County Counsel, District Attorney, Department of Public Works and the Fire Department. The Board directed the Strike Team to work with State and local regulatory agencies, and to make full use of the combined authorities and resources of the agencies, in a focused effort to reduce cumulative toxic risks within these communities.

As an initial assignment, the Strike Team was charged with achieving resolution of the Exide matter, involving a secondary lead smelter in the City of Vernon whose operation presents an elevated toxic risk to residents in the adjoining communities of Maywood, Huntington Park, Commerce and East Los Angeles. Concurrently, the Strike Team was directed to identify a short list of highly burdened communities based on the toxic risk ranking method established by the California Office of Environmental Health Hazard Assessment (OEHHA), with the goal of selecting two of the communities for intervention by the Strike Team.

Specifically the Strike Team was directed to:

1. Identify recommended actions to achieve closure of the Exide facility until the State Department of Toxic Substances Control (DTSC) makes a final determination regarding Exide's pending permit application.

2. Identify the 10 most highly burdened communities in the County, using the

cumulative risk-ranking method established by the California OEHHA.

3. Request from State and local regulatory agencies a listing of facilities within the designated highly burdened communities which release toxic emissions, are located in close proximity to residents, and believed by the agency to potentially place such residents at significant risk. Request these agencies to inform the County of other such facilities as they become known.

4. Negotiate with relevant State agencies the granting of State authority to the County under specified circumstances, where a determination has been made by the County Health Officer that a facility presents a substantial endangerment to the health of the public, and further, that it is in the best interest of the County and the public that the County assume leadership in mitigating the substantial endangerment.

5. Provide a progress report to the Board within 90 days including:
(a) Recommendations on the framework for developing mitigation plans for two highly burdened communities; (b) recommendations on potential protocols to establish a proactive approach and community engagement strategy when industrial uses are identified that potentially threaten public health; and (c) recommendations on a funding plan for the Toxic Threat Strike Team for consideration as part of FY 2014-2015 budget.

Review of the events leading to the current situation in the Eastside communities adjoining the Exide facility point to a series of past failures on the part of the State regulatory agencies. California standards for the protection of public health and the environment are among the strongest in the nation. Yet to date, these standards have not been achieved at the Exide facility which has operated in the same location since the 1920s. The operation itself involves secondary lead smelting which releases a number of highly toxic substances to the air including benzene, 1,3-butadiene, arsenic and lead. Because of these emissions, those who live or work in the vicinity are subject to an increased risk of developing illness as referenced in the Health Risk Assessment release last year by the South Coast AQMD.

As reported below, the Strike Team has made considerable progress in working with State regulators to leverage the available authorities and resources needed to reduce the extraordinary level of risk this facility presents to County residents. But as the Board previously noted, the Exide problem is symptomatic of a larger issue faced in many of our communities. They are left unprotected when the regulatory agencies fail to fully implement the highly protective standards built into State law. While Exide is a clear example of the problem, our efforts there can serve to better shape the design of the broader effort to reduce toxic risks in other highly burdened communities.

Following is our status report on the efforts of the Strike Team. Presented first is an update on

the Exide matter. Second we report on the Strike Team's work to design the broader effort to reduce toxic risks in highly burdened communities.

EXIDE

Two principal State agencies are charged with regulating the Exide facility to ensure compliance with federal and State standards: The California Department of Toxic Substances Control (DTSC); and the South Coast Air Quality Management District (AQMD). In addition, Cal/OSHA is charged with regulating workplace safety. The facility is located in the City of Vernon and also subject to local land-use and public health requirements. The City of Vernon is one of four California jurisdictions which have a separate City Health Officer, and which retains responsibility for enforcement of public health requirements. Additionally, the City is its own Certified Unified Program Agency (CUPA) regulating hazardous waste and the storage of hazardous materials within the City. Toxic air emissions from Exide however, have been shown to place residents in the adjoining cities and within the County unincorporated area, at an elevated health risk.

The Exide facility has operated for decades without sufficient regulatory oversight from the AQMD, the State Department of Toxic Substances Control (DTSC) and the City of Vernon. For many years, residents in nearby East County communities have expressed concern about the safety of the facility. Last year the AQMD released a risk assessment which indicated an elevated health risk to people living and working in an expansive area extending several miles from the Exide facility. According to the Risk Assessment, non-Exide workers in the area are exposed to Exide emissions which represent an additional cancer risk as high as 156 in one million, or 7 times the next highest cancer risk attributed to a single facility in the South Coast Air Basin. The primary chemicals contributing to the elevated health risks are arsenic, benzene and 1,3-butadiene, all three of which are known human carcinogens. The Risk Assessment also reported a "Chronic Health Index" of 63, which is 80 times greater than the next highest Chronic Health Index calculated for a single facility in the South Coast Air Basin.

Due to the potential hazards associated with Exide's operations, the facility is subject to stringent federal hazardous waste requirements dating back to 1976. These requirements were designed to protect the health of the public and are implemented through either a federal or State permit, issued only after U.S. EPA or the State Department of Toxic Substances Control (DTSC) determines the facility is designed, constructed and capable of operating in compliance with the requirements. This determination was never made for the Exide facility. Over 30 years ago, it was given a temporary approval to continue operating while its permit application was being processed. It continues to operate under the limited terms of that "interim approval."

Officials at the State DTSC acknowledge a serious error in allowing this hazardous waste facility to operate without the required federal / State permit. There are two key consequences of this failure: (1) the facility was not subjected to the higher level of scrutiny and standards that would have assured all equipment was properly permitted and not emitting hazardous substances in concentrations exceeding the standards; and (2) the operator has not posted sufficient financial assurance to provide for the lawful closure, cleanup and post-closure monitoring of the site,

which is required of all other permit holders in the State. Former DTSC Director Debbie Raphael has publicly acknowledged that Exide is the only facility in California that continues to operate under an interim approval and has never received the full permit required by law. These failures have denied the community the vital protections that were intended when these requirements were written into law.

The Strike Team is working to achieve two objectives relative to Exide: (1) Achieve the voluntary or forced closure of the facility unless and until all appropriate permits established by law are in effect; and (2) influence the DTSC's plans for cleanup of the communities adjoining the Exide facility in a manner protective of public health, and sensitive to the concerns and interests of the local community.

Status of Achieving Voluntary or Forced Closure of Exide

Strike Team members have conferred with the State DTSC, the Cal/EPA Secretary, the Director of Cal/OSHA, District Attorney, Los Angeles City Attorney, the City of Vernon and the Executive Officer of the South Coast Air Quality Management District (AQMD). To date, the County of Los Angeles, the Los Angeles City Attorney, District Attorney, and the State DTSC have agreed to enter into a Common Interest/Confidentiality Agreement, and have begun sharing information and strategy. The Strike Team has begun to establish an effective working relationship with these agencies. Members of the Strike Team have also developed a good working relationship with key leaders of the community surrounding the Exide facility.

The combined authorities of these agencies, when applied in a coordinated manner, can provide substantial leverage in achieving our joint objectives. As of June 3, our relationships with the agencies are continuing to form in a way that supports the objective of achieving the voluntary or forced closure of the facility pending State action on Exide's permit application. Members of the Strike Team are prepared to brief the Board further on the details of our current strategy and progress in reaching this objective.

Strike Team members are developing long term recommendations to the Board that would accomplish the following: (1) Institutionalize the methods shown to be successful in addressing the Exide problem so that what is achieved in this matter can be applied by the County in other communities to enhance protection of public health; and (2) consider potential local ordinances and State laws and policies that would provide greater enforcement tools, innovative strategies, and reimbursement of County costs when pursuing solutions to complex multijurisdictional issues.

Cleanup of Contaminated Soils in Adjoining Communities

The operations at Exide involve secondary lead smelting in which used battery components are heated in a process which results in the airborne release of fine particulate emissions containing lead and arsenic. These fine particles once released to the air are carried by winds into surrounding areas where they settle and are deposited on the ground and on structural surfaces. This is the general mechanism by which lead emissions from Exide contaminate soils, hardscape,

and residential structures in the adjoining communities.

Lead in soils and dusts which are accessible to the public can present significant health risks, particularly when exposure involves young children or women of child bearing age. These exposures can be effectively mitigated through the removal and off-site disposal of contaminated soils and dusts. Preliminary testing of soils and surfaces within the residential areas closest to the Exide facility has documented the need for cleanup. However, further testing is required to define the extent of contamination and the scope of the cleanup required.

The investigation and cleanup of the communities adjoining Exide is a unique and complex challenge because it involves invasive work that is highly disruptive to residents' daily living. These communities and similarly situated communities around the State have been critical in the past of the methods employed and lack of sensitivity shown by State officials. Members of the Strike Team have worked with State officials to engage this community in a scientifically sound and sensitive manner. For example, Strike Team members emphasized to State officials that the planned cleanup of front and back yards must be extended to include cleaning of home interiors that have been exposed to airborne particulate emissions and normal foot traffic in and out of the home. Interior cleaning is needed to remove contaminants which have migrated into the home. This will also address a significant concern identified by community leaders.

Strike Team members have also worked with State officials in the development of health protective standards to guide the planned cleanup. These standards were developed in advance of further testing in the community so that as laboratory findings come in, the tested properties can be prioritized for cleanup based on the level of lead contamination found and how close the contamination is to the surface. As a final example, the Strike Team has emphasized to the State the vital nature of clear and sensitive communications with community leaders and the affected members of the public. As a result the State is providing our County team drafts of public notifications, fact sheets, and other documents for input prior to finalization and distribution. We have also stressed the need for State outreach staff to confer with their counterparts in the County on the appropriate methods, channels and timing for disseminating this information.

These and similar outcomes to our discussions with the State have increased the confidence of community leaders. **As of June 12, 2014, our collaborations have been productive but not without challenges in assuring the actions of the DTSC are fully health protective and sensitive to the concerns of community leaders.** We will continue to influence the actions of the State to serve the best interests of the community, and we will keep you informed of significant developments.

COMMUNITY RISK REDUCTION EFFORT

The Strike Team was principally convened to lead a change in the standard regulatory approach to non-compliant facilities that endanger the health of communities. The Strike Team is to utilize a new approach that will bring a greater public health perspective and sense of urgency to the actions of State and local regulatory agencies. This represents a paradigm shift in the approach typically employed by regulatory agencies in securing compliance with applicable

standards, which often include protracted negotiations and extended compliance schedules, even when continued non-compliance places members of the community at substantial risk.

It is the intent of the Strike Team to influence the scope and timing of compliance efforts to better serve the interests of public health in communities already highly burdened by toxic risks. Additionally, although State and local regulators may have strong legal authority, due to poor coordination between the agencies, these authorities are rarely leveraged to achieve a complete and rapid solution to toxic pollution affecting many of our communities. Most importantly, the lack of State regulatory coordination and communication limits the County's ability to ensure that the course of action selected by State regulators protects the health of community residents.

In establishing the Strike Team, the Board stressed the need for DPH, County Counsel, District Attorney and related County departments to combine their expertise and draw from existing enforcement efforts to form a highly coordinated team to identify and timely intervene in State regulatory actions involving non-compliant facilities located in close proximity to the public. The Strike Team was directed to utilize the information now readily available from the California OEHHA to identify communities in the County that are highly burdened due to cumulative health risks from multiple sources of toxic exposures.

In response, the Strike Team has developed a method to identify the short list of candidate communities and a framework for selecting two for Strike Team intervention. This initial effort will test the effectiveness of optional risk reduction methods for subsequent broader application throughout the County. Below is a description of the process the Strike Team is using to identify the candidate communities.

Selection of Highly Burdened Communities for Targeted Risk Reduction Efforts

Pursuant to Board direction, the framework for selecting two highly burdened communities for risk reduction methods will be based on EnviroScreen, the risk ranking method developed by OEHHA, and other factors. It is conceivable that a high EnviroScreen score may be due solely to environmental conditions outside of the Strike Team's control - for instance heavy traffic. In addition, EnviroScreen scores are by census tract, which do not align well with identifiable communities.

For these reasons, the following other factors (detailed in Attachment 1) are included in the Strike Team's identification of "good candidate" communities:

1. The grouping of census tracts to align with an identifiable community;
2. The consideration of only those communities located in a County unincorporated area, where County agencies exercise greater control;
3. The candidate community is burdened by emissions sources that the Strike Team can target for intervention (i.e. non-compliant industrial facilities);
4. The candidate community is the site of an existing County community improvement effort; and

5. The candidate community has active community-based organizations and strong community leadership.

Using these five factors, with EnviroScreen rankings as the starting point, a short list of "good candidate" communities will be identified. Currently, as shown in Attachment 2, we have identified the location of the top 10 percent highest scoring census tracts in County unincorporated areas. After assigning values to the criteria included in Attachment 1, the communities will be prioritized. We believe this process will identify a list of candidate communities that are highly burdened as defined by EnviroScreen, but which also include characteristics that will allow for the greatest impact of Strike Team interventions. We expect to share the results of prioritization of communities with your Board in July 2014.

Framework for Risk Reduction

The Strike Team proposes a five-part framework to guide County efforts in mitigating cumulative risk in the selected communities. As described in Attachment 3, the framework emphasizes strong community involvement throughout the process. An initial community meeting will afford community members the opportunity to provide input on the assessment of environmental conditions. Later in the process, community members participate in selecting risk mitigation strategies most appropriate to their community. As referenced in Attachment 3, the five parts are:

1. Assess and document community environmental conditions;
2. Identify potential risk mitigation strategies;
3. Evaluate and select risk mitigation strategies with input from the community;
4. Implement proposed course of action; and
5. Evaluate effectiveness of risk mitigation.

The framework allows for continuous improvement and is designed to be iterative for evaluating effectiveness, reassessing conditions, and implementing additional risk mitigation strategies.

Community Engagement Strategy

As with the mitigation plan, the community engagement strategy emphasizes the integration of feedback from the community into Strike Team decision-making, rather than simply informing the community. Respect for community concerns and needs is the foundation of this strategy. As referenced in Attachment 4, the community engagement strategy has three elements:

1. Community connections, wherein the Strike Team establishes relationships and builds trust with key community leaders and organizations;
2. Risk communication, wherein the Strike Team delivers information to the community to inform the community's decision-making and links the community with resources and tools; and
3. Community empowerment, wherein the Strike Team includes community voices in decision-making processes and facilitates ongoing discussions with community members.

RESOURCE REQUIREMENTS

Pursuant to direction from the Board on March 11, 2014, discussions have been initiated between the CEO and DPH regarding recommendations on a funding plan for the Strike Team. Further assessment of resource requirements will be conducted by DPH in consultation with Strike Team members, once we have confirmed the community engagement strategy and scope of our risk reduction efforts. We anticipate returning to the Board with funding recommendations in late August 2014.

In the interim, it is necessary to retain environmental consulting services associated with our review of the planned exterior and interior residential cleanup in the community adjoining the Exide facility. We also require consulting services to support our review, evaluation and comment on proposed work plans, reports and other work products developed by DTSC, Exide and their contractors. The consultant will assist in interacting with State and local regulatory agencies, and in proposing and evaluating cleanup strategies and forensic analyses. For budgetary planning purposes, we estimate costs for these consulting services through December 31, 2014 at approximately $80,000.

JEF:ab

Attachments

c: Chief Executive Officer
County Counsel
Executive Officer, Board of Supervisors
Department of Public Works
District Attorney
Fire Department

Attachment 1

County Toxic Threat Strike Team - Criteria for Selecting Candidate Communities

					Criteria				
Community Name[1]	District[2]	SPA[3]	Pop.[4]	Health status[5]	CalEnviro Screen score[6]	County identified improvement area (y/n)[7]	Existing CBO/support (y/n)[8]	Toxic release percentile[9]	Priority status[10]

[1] More than 65 percent of the County (2,653.5 sq. mi) is unincorporated. There are approximately 140 unincorporated communities in the County. The Strike Team has elected to consider communities in County unincorporated areas.

[2] Supervisorial District

[3]Due to the large size of LA County (4,300 square miles), it has been divided into 8 geographic areas. The 8 Service Planning Areas (SPAs) allow the Department of Public Health to develop and provide more relevant public health and clinical services targeted to the specific health needs of the residents in these different areas.

[4]1 million people live in unincorporated areas. We will use Census Bureau information to determine the population in a given community.

[5]Health-related quality of life and special health care needs that contribute substantially to health disparities.

[6]Screening methodology that ranks California communities by pollution burden and population characteristics.

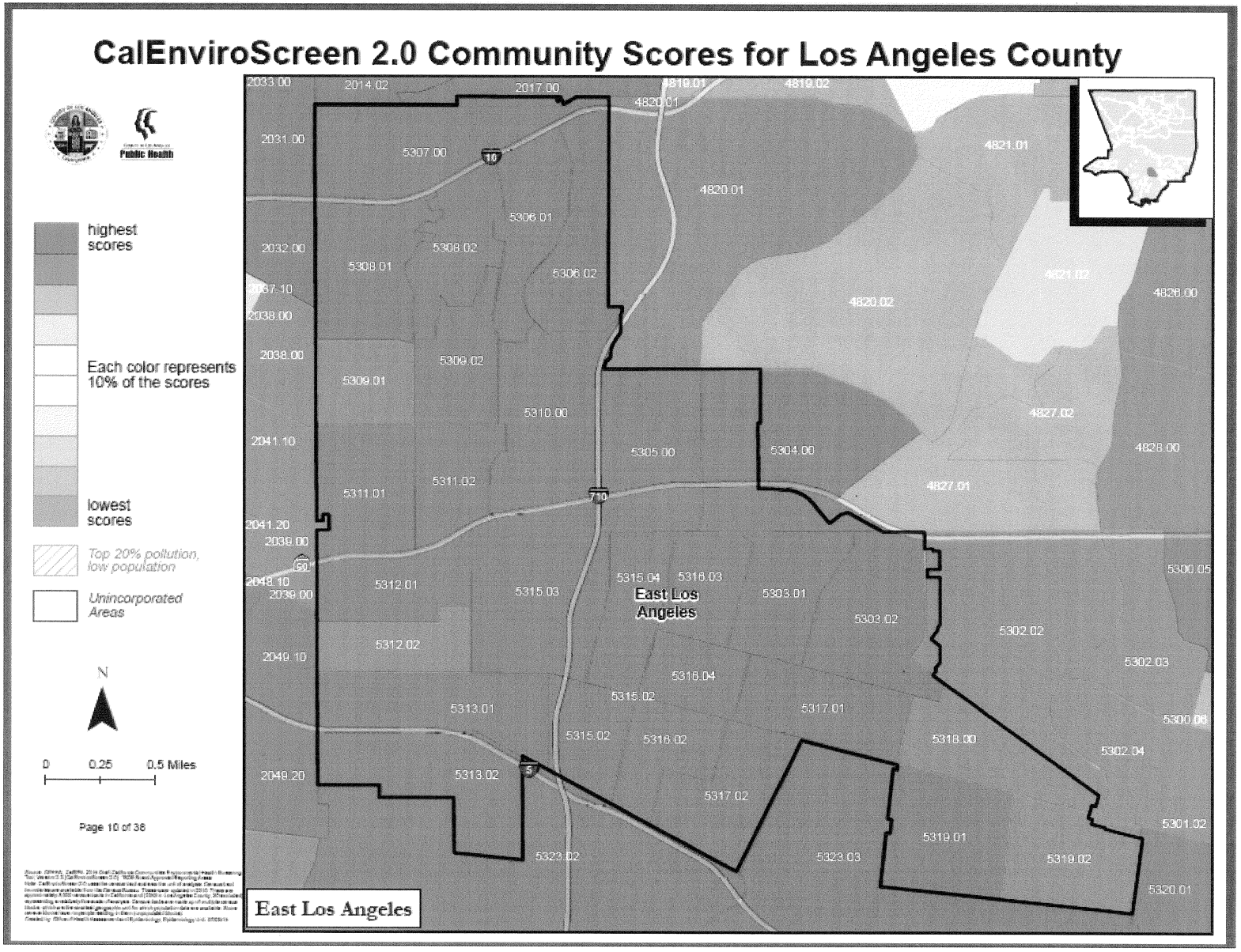
[7]Picking communities that are currently the focus of existing County efforts allows for County agencies to collaborate, build on existing successes, and leverage combined resources.

[8]Liaisons in the community will be critical to communicating accurate information to residents about risks of concern, eliciting feedback on viable mitigation strategies, and helping monitor success. Consequently, communities with strong levels of community engagement and committed community-based organizations predispose a community for success.

[9]Toxic release is defined as toxicity-weighted concentrations of chemical releases to air from facility emissions and off-site incineration, from EnviroScreen. The percentile indicates toxic release burden in a census tract as compared to other census tracts. Thus, a high toxic release percentile indicates toxic releases that the Strike Team could target.

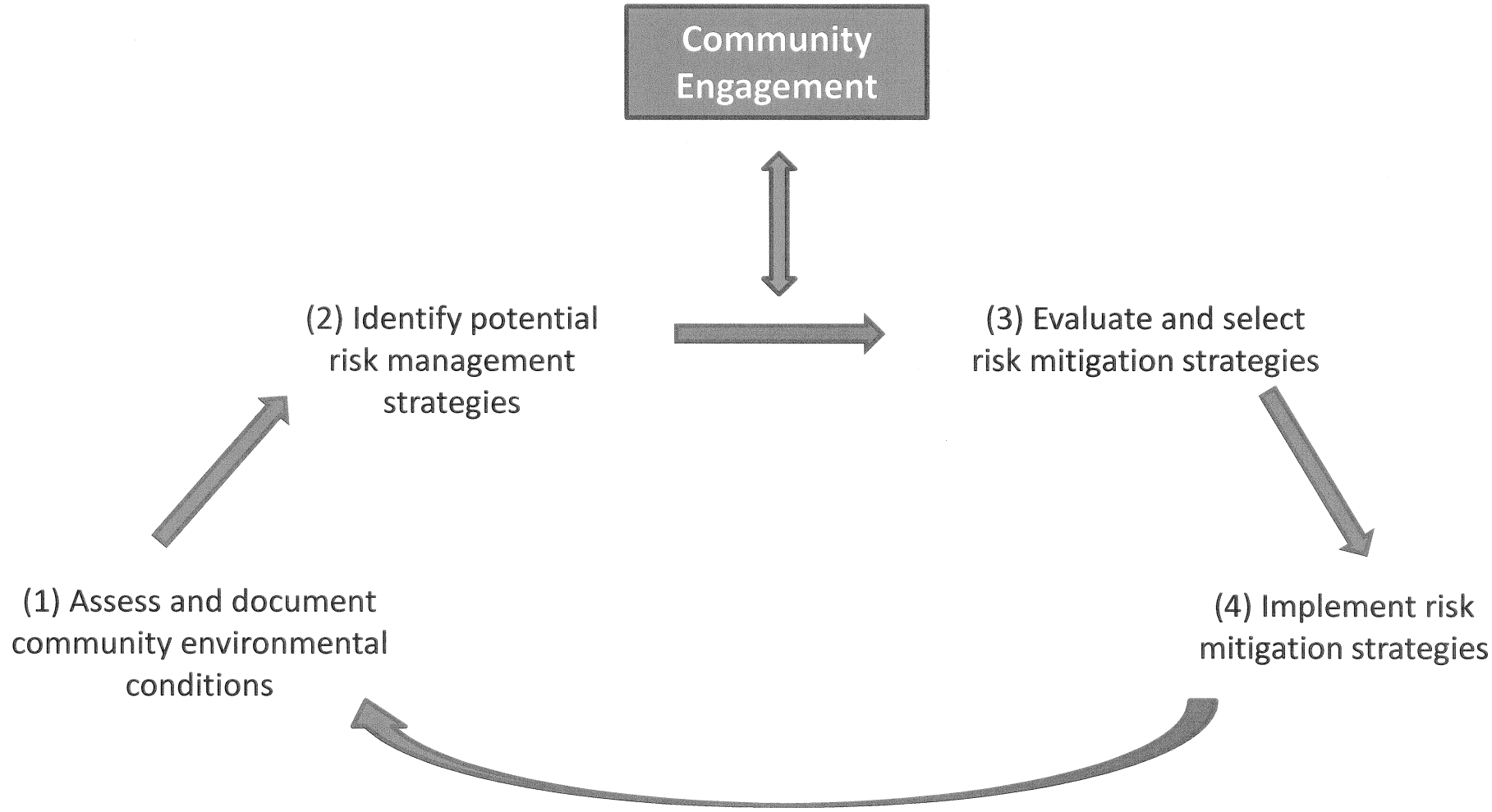
[10]Toxic Threat Strike Team's assessment of priority status (ranked 1-3) based on assessment criteria.

Attachment 2: Example map of County unincorporated area with census tracts color-coded by EnviroScreen score



Attachment 3

County Toxic Threat Strike Team
Framework for Mitigating Risk in Highly Burdened Communities



County Toxic Threat Strike Team
Framework for Mitigating Risk in Highly Burdened Communities

A five-part process for implementing risk mitigation measures for two selected highly burdened communities in Los Angeles County.

Part I – Assess and document community environmental conditions

Part I begins with creating a "community profile" — a snapshot of the community that helps guide future activities. To create the community profile, the Toxic Threat Strike Team (TTST) will first inventory pollution sources in the community. Second, TTST will determine compliance status of industrial emitters as well as their contributions to cumulative risk in the community. Third, TTST will develop a demographic and health status profile of the community to assist in characterizing population vulnerability. Finally, in order to capture conditions or activities in the community that previous steps may miss, TTST will hold a meeting with community members to solicit comments and suggestions regarding the evolving community profile.

Part II – Identify potential risk mitigation strategies

Part II involves identifying proposed actions to stop, prevent, or minimize harmful effects identified in Part I. Risk mitigation strategies may include the following:

- Working with regulatory agencies to address non-compliant operators
- Working with land use authorities to improve the criteria for future permitting decisions
- Incentivizing voluntary emission reductions
- Prioritizing allocation of resources toward candidate communities
- Developing health protective policies for possible adoption by local authorities

Part III – Evaluate and select risk mitigation strategies

Part III brings the community into TTST's decision-making process. The purpose is to build community capacity and provide community representation. TTST will establish connections with community leaders and organizations in order to build trust and facilitate the bidirectional flow of information. A formal stage of this process will comprise meeting with community members and relevant organizations to inform the community of the risks that have been identified in Part I and to solicit input on proposed mitigation strategies identified in Part II. Through this process, TTST will develop a course of action.

Part IV – Implement risk mitigation strategies

Part IV sees TTST implementing the proposed course of action. An action plan or plans will be created to identify specific objectives, lead personnel responsible for meeting deliverables, and a timeline for completion. TTST will involve relevant federal and State authorities as appropriate.

Part V – Evaluate effectiveness of risk mitigation

Part V comprises the ongoing monitoring of relevant indicators (e.g. non-compliance, community empowerment, quality of life indicators) in order to track the effectiveness of risk mitigation strategies to lessen the cumulative pollution burden in the community. Specific monitoring plans will be created to outline what indicators will be monitored and how monitoring will be carried out.

Attachment 4

County Toxic Threat Strike Team
Proactive Community Engagement Strategy

Three critical elements to effective community engagement when industrial facilities threaten or are perceived to threaten public health.

Community Connections

- The Toxic Threat Strike Team (TTST) will establish relationships with key community leaders, community-based organizations, and faith-based communities to identify formal and informal communication pathways. Establishing connections with key leaders and organizations allows for building trust and facilitates the bidirectional flow of information from TTST to the community and from the community back to TTST. Community leaders and organizations will advise on the components and roll-out of the community engagement strategy.

Risk Communication

- TTST will deliver coordinated, prompt, and reliable information on risks, available options, and strategies for risk mitigation to the community through the use of clear, consistent, accessible, and linguistically appropriate methods. With appropriate information, communities can focus on pollution sources that pose the greatest risk, and use reliable, up-to-date information in decision-making. TTST will also link the community with resources and tools for achieving a healthier environment.

Community Empowerment

- TTST will involve the community in the planning process and work towards ensuring that residents have the opportunity to influence decision-making that affects their health. TTST will elicit residents' input in selecting risk mitigation strategies that are most appropriate to their community. An early goal of TTST will be to demonstrate successful collaboration with community leaders. TTST will also facilitate ongoing interaction and discussion with community members from the designated highly burdened communities.