

February 27, 2021

Ms. Eraina Ortega
Director, California Department of Human Resources
1515 S Street, North Building, Suite 500
Sacramento, California 95811-7258

Dear Director Ortega,

Over 16 years ago, I accepted a position as a Hazardous Substances Scientist with the State of California, Department of Toxic Substances Control (DTSC). I have a doctorate in botany and entered state service with experience as a restoration ecologist, a college teacher, and a scientific researcher in the field of plant ecology. The job with DTSC aligned with my personal values and priorities, and I was confident I would be working with like-minded scientists who were committed to and passionate about protecting California's natural resources. I was excited to help enforce the environmental laws, regulations and policies that are essential to the health and well-being of California's diverse population and necessary for the State to thrive. Today, I feel much the same about the importance of the work that I and my colleagues do on behalf of all Californians.

I am currently a Senior Environmental Scientist in DTSC's Site Mitigation and Restoration Program, and I work side-by-side with Hazardous Substances Engineers and Engineering Geologists on environmental cleanup projects throughout the State. When I first started working for DTSC, scientists and engineers received comparable salaries. We had similar job duties, worked on the same projects, and all contributed to the same teams. No one thought twice about our pay relationship for this reason. Historically, due to bargaining, scientists earned more than engineers during some years, while engineers earned more than scientists in other years. However, this difference never exceeded five or six percent. Scientists and engineers at DTSC consider one another to be peers. This view is also held by DTSC management, and it had been reflected in our salaries for over 20 years before I became a state employee. There was a clear understanding that both classifications were performing the same or very similar duties, so management made sure those pay relationships were maintained. But, in 2005, that long-standing salary equity relationship was disrupted. Since then, engineers have been compensated at a much higher rate for doing the same job as scientists. In my case, that figure today is 47%.

In DTSC's Site Mitigation and Restoration Program, professional staff function as project managers, whether they are scientists, engineers, or geologists. All project managers receive the same on the job training, report to the same supervisors, and have essentially identical duties. Even our projects may be shared, due to work assignments often passing from one project manager to another, regardless of job classification.

Director Ortega
February 27, 2021

As an experienced Senior Environmental Scientist in DTSC's Berkeley office, I also have "lead" responsibilities, such as training and mentoring new staff and overseeing the work of other project managers. Over the years, I have trained and mentored scientists, geologists, and engineers, and I currently oversee two engineers assisting me with a complex environmental cleanup project. A co-worker who is Hazardous Substances Engineer hired in 2017, earned 18% more than me in 2019 even though I have been with DTSC since 2004. How can this be considered fair or equitable? I tolerate this situation because I am a professional and dedicated to my work, but it should come as no surprise that I feel demoralized, taken for granted, and frustrated for having been put in this situation over and over. Again, for more than 20 years prior to 2005, scientists and engineers at DTSC with comparable job descriptions and experience would have had comparable salaries. Since 2005, despite the complete lack of change in our job duties, that is regrettably no longer the case. In the years to come, the pay gap between scientists and engineers will only continue to widen, if nothing is done, and it will become even more egregious, reprehensible, and harder to resolve. So please tell me, why can the State afford to pay an engineer, but not a scientist for doing the same job?

Does the State believe that treating State Scientists unequally is good for productivity and morale? Does the State believe this practice is in the best interest of all Californians or helps to protect California's natural resources? Our morale and inability to recruit – let alone retain – experienced scientists certainly point toward this not being the case. For us, it feels personal, invalidating, and punitive.

To make matters worse for State Scientists, we work every day knowing that we are right. The California Supreme Court essentially decided the matter in our favor years ago. The 2008 Court decision for Unit 10 supervisors and managers adds to the sense that rank and file scientists are not being treated equitably. That legal decision was based on one of the State's own government codes that apply to the salaries of all public employees. So why is the State ignoring this code and choosing not to comply with it for staff level scientists? Of course I know that all compensation issues for represented employees (such as myself and the myriad other scientists working in these conditions) must be resolved through collective bargaining, but I cannot comprehend why the State continues to use the Dills Act as an excuse to avoid complying with its own laws and salary policies.

Worse still is that scientists are forced to witness the State diligently maintaining vertical and horizontal pay relationships between supervisors and staff for nearly every other classification in state service. None of these is more apparent than the very engineers we work side-by-side with every day. The State works meticulously to maintain salary relationships between staff level engineers and supervising engineers in Bargaining Unit 9, but refuses to maintain those same pay relationships for Bargaining Unit 10. That has the appearance of discrimination.

How can the State justify treating two professional units so differently, especially when at DTSC they work side-by-side on the same types of projects doing the same work?

Director Ortega
February 27, 2021

Doing so not only appears to violate California law and the State's own policies, but also goes against standard workplace practices that seek to maintain a respectful and productive work environment.

I believe that one of the very first things new State employees are required to do is to vow to uphold all the laws and regulations that they will administer in the course of their duties. That vow took me less than a minute, and I have taken it very seriously for my more than 16 years of state service. It is not always simple or easy to enforce the law, but it's part of my job. To me, it seems unlawful that the State has failed to fix the compensation disparity between State scientists and engineers, and that it has been sitting on this problem since 2005.

In addition to the horizontal pay relationship with engineers, another long-standing Unit 10 pay relationship was broken in 2014. The Senior Environmental Scientist classification that I occupy is a "peer" classification that consists of two parentheticals, the Senior Environmental Scientist (Supervisor) and the Senior Environmental Scientist (Specialist). Since 1981 when the "senior level" scientist classifications were first established, the supervisor and specialist were paid nearly the same. That means both the supervisor and specialist were compensated as peers for 33 years, just as the classification specifications intended. Unfortunately, this salary equity relationship was broken in 2014 and remains that way.

I recently examined the State's pay scales and determined there are 51 other "Senior" classifications with a Supervisor and Specialist parenthetical. With the exception of the Senior Scientist classification, both the Supervisor and Specialist in all of those other classifications are compensated nearly identically, with an average difference of **2.65%**. Prior to 2014 when salaries were adjusted for managers due to the Like Pay for Like Work court decision, the difference between the two Senior Scientist parentheticals was **0.61%**. Today, the difference is 36%.

If the State had adhered to its own laws and policies and adjusted salaries for staff level scientists concurrently with supervisors and managers in 2014, then the State Scientists' union would not be forced into the position of having to spend its time and energy trying to convince the State to comply with those laws and policies. CalHR's mission statement promises to "*...provide exceptional human resources leadership and services with integrity, respect and accountability to state departments and all current and prospective employees.*"). And yet, the salary inequity issues for State Scientists, which started in 2005, still have not been fixed.

Up to this point, I have focused primarily on how State Scientists have been treated inequitably. Before I continue, I want to make clear that my primary motivation for taking a job with the State was to serve the public interest and protect California's natural resources. This is still the case. In addition, I expect fair and reasonable compensation for the work that I do, as well as respect and appreciation for a job well done. However, for far too many years, State Scientists have been told through our salaries that we don't merit the same respect as engineers and geologists. Our salaries tell us that "we

Director Ortega
February 27, 2021

don't matter," that "scientists don't matter," and that "science doesn't matter." But, as DTSC project managers, we are still expected to perform the same work at the same level of quality as our engineer and geologist counterparts, but for less pay.

Making matters worse is the fact that we have never been given any explanation as to why we are treated differently. Our managers and executives are just as perplexed as we are. They look at this situation and see the absurdity. They see it affecting their programs, and they, too, want it fixed. Each time my union has gone to the bargaining table with CalHR, I was hopeful that this would be the time when all of the compensation disparities would be corrected. And yet, throughout my 16 years as a State Scientist, all that I and my fellow scientists have heard through numerous rounds of bargaining is that fixing the pay issue requires expending money that the State cannot afford to spend. That seems like a poor excuse, especially given the amount of new spending on other units and statewide programs recently proposed in the State's draft budget, the largest in California's history.

The State Scientists salary issue is widely known both within and outside State service, and the State has gained somewhat of a severe reputation because of it. Where the State of California once represented an enticing career option, many recent PhD graduates now turn toward jobs in academia or consulting. The bargaining updates provided by our Union to all State Scientists have included letters sent to the Governor and other officials in the administration, including yourself. Over the years numerous letters and reports have been sent to the administration by non-profits, politicians, academics, and countless numbers of scientists, including supervisors and managers from across the state. Even the Legislative Analyst Office has mentioned the pay issue in two separate reports and recommended the legislature address it. All of these communications convey the same message: fix the scientists' pay issue before it does any more harm to the State's reputation or to the agencies and programs that rely on scientists to accomplish their missions.

The Secretaries of the two largest environmental agencies (California Natural Resources Agency and California Environmental Protection Agency) recently looked into the matter of scientists' salaries and put their concerns in writing after conducting their own internal investigations. Both Secretaries concluded that the pay issue is a significant problem that threatens their ability to accomplish their agencies' missions, and they requested that it be resolved. If requests from these two Secretaries aren't sufficient to fix the issue, then what is? Over the years, the refusal to fix the salary inequity issue has been viewed as a monetary decision, a political decision, or possibly both. But it's never been a science-based decision. Withholding support from the State's own scientists has real and significant consequences for the well-being of all Californians. The Secretaries of the State's two largest environmental agencies know this to be true. Making their concerns known to your agency and asking for your assistance should be more than enough to take action.

In the January draft budget for 2021-2022, Governor Newsom proposed spending 4.1 billion dollars on a suite of initiatives such as addressing climate change, preventing


Director Ortega
February 27, 2021

wildfires, reducing smog, and supporting the adoption of electric vehicles. It is a bold move and one that I and other State Scientists fully support. Scientists understand how critical it is to invest in science if we as a society hope to avoid the worst outcomes posed by the effects of climate change. We also know that it will require a motivated and talented workforce of experienced, highly educated scientists to accomplish such an ambitious environmental agenda.

A majority of my colleagues overwhelmingly support Governor Newsom. He is known to many of us as an environmental and public health champion that is truly concerned about safeguarding California's precious natural resources. Since his first days in office, the Governor has repeatedly talked about equality and justice. He has fought to advance his vision of a greener California, including taking on the Federal government. To date, the Governor has prevailed both through the courts and by working directly with entities that can help achieve his goals. He has demonstrated his commitment to relying on and supporting science, no matter the cost. It is my hope that if he were personally aware of the details of the scientists' pay issue, it would be fixed immediately. He would undoubtedly see it for what it is, a past mistake that violates his commitment to equality and the values he holds for California.

State Scientists know that it is not appropriate or feasible for the Governor to personally address every problem the State is facing and that issues like ours must be tackled by leaders that he has entrusted with carrying out his vision and acting on his behalf. Given your responsibility for maintaining the State's workforce, will you act now to correct the mistakes of the past and support the Governor's priorities and values? Or will the State's scientific programs be allowed to falter, making it more difficult for the State to meet today's and tomorrow's scientific and environmental challenges, and diminishing the quality of life for all Californians? I and 3,500 other State Scientists await your decision.

Sincerely,



Allan Fone, PhD
Senior Environmental Scientist (Specialist)
Department of Toxic Substances Control
Site Mitigation and Restoration Program
Berkeley Regional Office