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A Green Guide to Holiday Shopping, Page 6

# THE BERKELEY DAILY PLANET

Volume 8, Issue 76 • FREE

THE EAST BAY'S INDEPENDENT NEWSPAPER

Weekend Edition, December 22-28, 2006

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## How Berkeley Voted in the November Elections

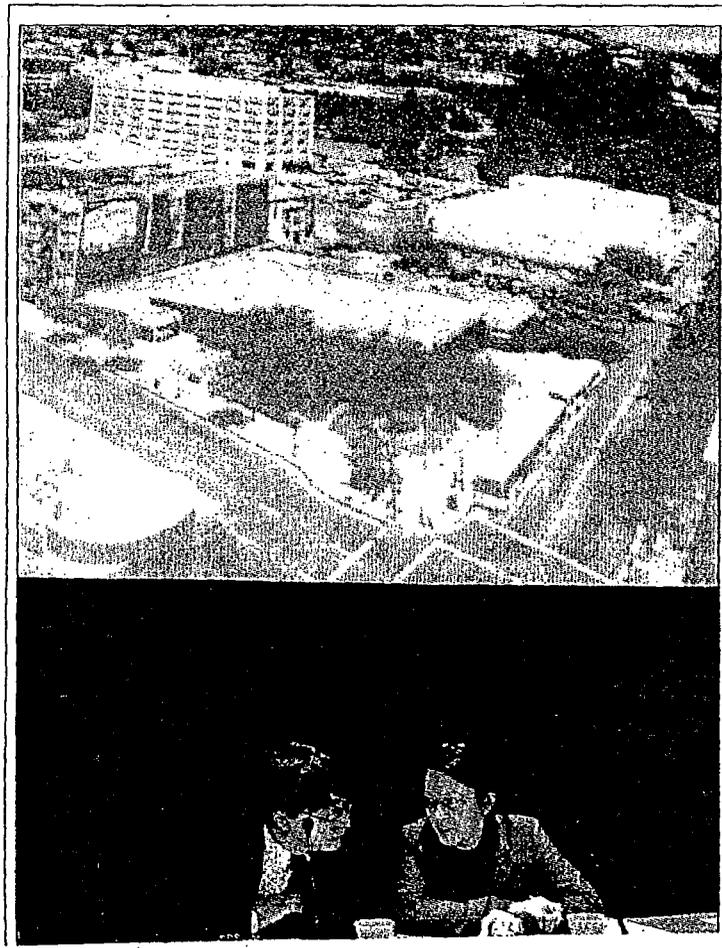
By ROB WRENN

There were no big surprises in the way that Berkeley voters cast their votes this year. As usual, Berkeley led the state in opposition to Republican candidates while showing continued support for abortion rights, public education, the environment and affordable housing.

### Governor

Though easily winning re-election in November's election, Governor Arnold Schwarzenegger got only 16 percent of the votes cast in Berkeley. This was the smallest percentage he received in cities with a population of 100,000 or more.

Schwarzenegger got 20 percent of the vote in Oakland and almost 30 percent in liberal San



## Temblor Punctuates Debate Over Stadium

By RICHARD BRENNEMAN

Raked by a legal broadside, the University of California beat a temporary retreat Wednesday, agreeing to halt development at Memorial Stadium pending a hearing in Alameda County Superior Court.

The move grants a short reprieve to the grove of oaks and other threatened trees west of the stadium where four protesters are camped out in the branches in protest over the impending loss of the last remaining grove of coastal live oaks in the Berkeley plains.

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away as Las Vegas, Nev.—659 miles southeast—and Eugene, Ore., 689 miles to the north—was more than 1,000 times weaker than the Hayward Fault shocker that U.S. Geological Survey seismologists say has a one in five chance of happening in the next two decades.

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"Hopefully it knocked some sense into them" said City Manager Phil Kamlarz, who also reported the only damage so far reported to the paper—a vase that shattered when it fell off a shelf in his house.

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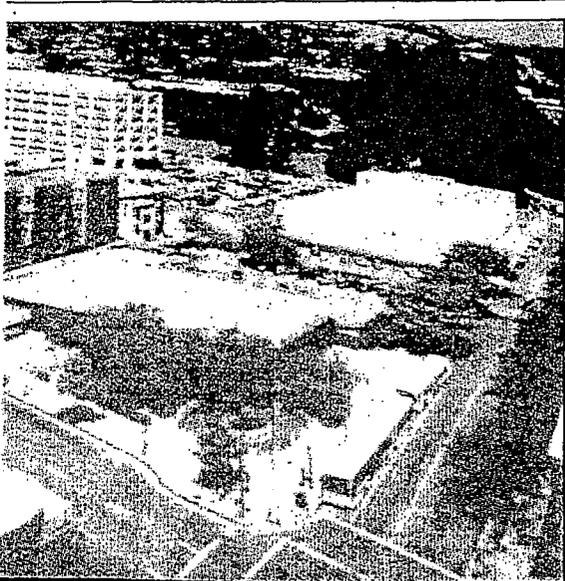


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# KEELEY DAILY PLANET

THE EAST BAY'S INDEPENDENT NEWSPAPER

Weekend Edition, December 22-28, 2006



Richard Brenneman

yo Ito listens as translator Noriko Takaguchi explains the Berkeley residents and officials for the new Berkeley Pacific Film Archive building he is designing on Center Berkeley.

## Architect Listens to Community Ideas

RICHARD BRENNEMAN

morning Berkeley who will help translate of downtown. teley officials intro-

screen during part of the 90-minute session left Calvin Fong convinced the architect would

Continued on Page Twenty-Seven

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"The university has agreed to stop from doing anything further until a hearing on a preliminary injunction," said City Attorney Manuela Albuquerque.

Just hours after university officials agreed to the delay, project foes got a boost from Mother Nature, as if in punctuation of the claims of foes that it makes no sense to spending hundreds of millions building on an active fault.

At 7:12 p.m. the Hayward Fault fired off the first of a pair sharp jolts, followed at 12:55 a.m. by a second, smaller shock—both with epicenters less than 1.2 miles southeast of the stadium.

The first single, sharp jolt hit 3.7 on the 10-point Richter scale. The second rated a feebler 2.2.

The first temblor, felt as far

away as Las Vegas, Nev.—659 miles southeast—and Eugene, Ore., 689 miles to the north—was more than 1,000 times weaker than the Hayward Fault shocker that U.S. Geological Survey seismologists say has a one in five chance of happening in the next two decades.

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In a sworn statement filed with the city's action, Deputy Fire Chief David P. Orth called the stadium project "a disaster waiting to happen."

"The location of the Stadium ... on an active earthquake fault in a hazardous fire area and listed by State and Federal officials as a high-risk target served by a limited and convoluted road network makes no sense," said the 28-year veteran of Berkeley disasters.

The California Oaks Foundation filed Tuesday, the same day as the city filed its action and a week after the first lawsuit, which was filed by the Panoramic Hill Association, which represents neighbors on the slope overlooking the site where the university plans projects totaling more than

Continued on Page Twenty-Five

Hancock to Vie for Senate Seat

# City, Groups Sue UC

Continued from Page One

a third of a billion dollars.

Also joining with the Oaks Foundation suit were Spring, Doug Buckwald, Sara Shumer, Henry Norr, Lindsay Vurek, Patricia Edwards, Anne Marie Tayllor, Stan and Carrie Sprague and the McGee-Spaulding-Hardy Historic Interest Group.

Mike Kelly, an officer of the Panoramic Hills Association, said he was pleased with the delay, especially in light of Wednesday night's quake. "The university recognizes the importance of this case as do we. The fundamental issues of constructing major additions on top of the Hayward Fault have yet to be addressed."

Kelley said he and neighbors felt Wednesday night's quake "quite strongly."

## Tree shaker

The tree-sitters survived the quake in good shape, even the two who were making a traverse from tree to tree on ropes strung between the trunks high above the ground. "Those two didn't even feel it," said Doug Buckwald, the volunteer who has been coordinating ground support for arboreal activists.

Pending the outcome of the January court ruling, the university has granted a stay of execution to the trees, but that doesn't mean peace in the branches or for the ground crew, said Buckwald.

"UC Police are back to their aggressive tactics," he said, including the arrival at 1:30 Thursday morning of two campus police cars and a third car from the Kensington Police Department. "They had backed off last weekend, but they're back again and asking to see the IDs of everybody on the ground."

"The Kensington police brought an infrared camera and were taping everything up in the trees," Buckwald said. "What's next, LAPD? They could fly 'em by helicopter," he said.

Nonetheless, Buckwald said he was glad the trees had been granted a temporary reprieve.

"We are pleased that the university has agreed to delay implementation of this ill-conceived project," said Janet Cobb, executive director of the California Oaks Foundation in a prepared statement.

Handling the foundation's suit is Oakland attorney Stephan Volker, who said "We are gratified the university has agreed to pull back the chainsaws and bulldozers while the court examines the merit of our lawsuit."

## Legal basis

As do the other suits, the city's action, accompanied by supporting affidavits from

officials, charges that UC regents adopted an error-ridden environmental impact report and wrongly approved construction of the \$125 million gym and office complex planned at the site of the grove.

The stadium and gym are two of seven projects included in the environmental impact reports approved by UC Regents Dec. 5.

All three lawsuits make the same basic allegations: "The university's plans violate the California Environmental Quality Act (CEQA) and the Alquist-Priolo Act," said Oaks Foundation attorney Stephan Volker.

CEQA requires developers to demonstrate either that their projects pose no significant threats to the natural, human and cultural environments, or, if so, that mitigations be developed to keep them to a minimum.

Alquist-Priolo bars new construction within 50 feet of an active earthquake fault. The Oaks Foundation lawsuit features a geologist's declaration that the Student Athlete High Performance Center (SAHPC) does, in fact, fall within that zone, as does the stadium itself.

The other suits make the same allegation.

Volker said the university's environmental impact report (EIR) failed to adequately address the impact of demolishing "a venerable remnant of California Live Oaks believed by many professionals to be a significant ecological niche which should be preserved."

That point is also reiterated in the city's motion.

The proposed mitigations—which included planting new saplings—fail to make good for the losses of that last stand of native oaks in the Berkeley flats, Volker said.

The city's action, prepared by Sacramento attorney Harriet Steiner, includes sworn declarations from Orth, Planning and Development Director Dan Marks, Associate Traffic Engineer Peter Eakland and Assistant City Manager Arietta Chakos.

Orth's declaration was the scorcher.

The city's 26-page petition also alleges that the university:

- Failed to offer reasonable alternatives to building the SAHPC next to the stadium, or to retrofitting the stadium itself;
- Failed to analyze project impacts on the city and public;
- Failed to offer reasonable mitigation measures;
- Failed to comply with Alquist-Priolo by maintaining the gym is separate from the stadium, when it is not, contradicting earlier drafts of the EIR;
- Violates Alquist-Priolo by calling for

projects that exceed the law's limitation that no work on projects within fault zones can exceed 50 percent of the structure's value;

- Failed to give the public and officials adequate information during the comment period during preparation of the EIR;

- Approved the EIR even though six of the seven projects it includes haven't been designed;

- Failed to adequately consider the impact of the projects on city services and infrastructure, especially emergency services, transportation and sewers;

- Offered flawed analysis that "misstates the true significance of the project's impacts" that include emergency evacuations during fires and following earthquakes.

## Green Holiday Shopping Guide

Continued from Page Six

from flip-flops from the Philippines. There are also tote bags, created from old rice sacks by disabled Cambodian workers and silk scarves from Nepal made from recycled silk saris from India.

There are still two days—Saturday and Sunday—to get to the Telegraph Avenue Holiday Street Fair between Dwight Way and Bancroft Way. Among the hundreds of crafts offered are Peter Neufeld's belts made from recycled silverware and cheeseboards made by Pat Lloyd from old flattened bottles.

Of course, on the Avenue are Rasputin Records and Amoeba Music, famous for used records and CDs; for gently-read books on Telegraph there are Moe's and Shakespeare and Company.

In fact, in Berkeley one can find used books from independent booksellers in many neighborhoods—there is Pegasus on Solano Avenue near The Alameda and a second Pegasus on Shattuck Avenue near Durant; there's also Black Oak Books on Shattuck near Durant Avenue.

And finally, when you get your treasures home, they can be gift-wrapped in something old—the Ecology Center suggests dressing them in old maps, sheet music, colorful advertisements, used baskets or tins, scarves or a child's drawing.

At the end of the day, your (organic cotton) wallet will be a whole lot lighter, but you may have saved a tree or two, paid a decent wage to a craftsperson in Berkeley or Nepal and found something you're happy to give.

And maybe—possibly—you'll resist the Macy's after-Christmas sale.

San Francisco Chronicle

# BAY AREA

AND CALIFORNIA



BERKELEY

## 3.7 earthquake rattles area — no injury or damage reported

By Suzanne Espinosa Solis  
CHRONICLE STAFF WRITER

A magnitude 3.7 quake centered near Berkeley rocked the Bay Area at 7:12 p.m. Wednesday.

BART stopped all trains as a precaution for about 10 minutes to check the tracks. Calls poured into fire stations from people in the East Bay reporting that they had felt a strong jolt. People in San Francisco described the quake as a jolt or as a wave sensation.

The U.S. Geological Survey's Web site received more than 5,000 reports within the first 45 minutes of the quake from people as far south as Santa Cruz and as far north as Davis who said they felt the quake. Many described it as a light shake.

The quake occurred on the Hayward Fault about 2 miles southeast of Berkeley, according to the Geological Survey.

"We felt it," said California Highway Patrol Officer Tracy Hoover in Oakland. "It didn't knock anything down. It kind of just vibrated. It went through the floor and kind of vibrated to your legs."

Hoover, who lives in Red Bluff (Tehama County), said it was the first quake she'd ever felt.

"I don't like them very much," she said.

Although the magnitude was relatively minor, the jolt was described as intense by some.

Jennifer Baumbach, the store supervisor at Natural Grocery Co. in Berkeley, said she was in the back of the store when the jolt hit. And, although, shoppers didn't seem fazed by it, and the rattle wasn't strong enough to knock groceries around, the quake was unusual, Baumbach said.

"I heard it, then it was strange . . . not normal. It almost felt like it was coming from underneath and

up. It was kind of a weird quake," she said.

Both the Oakland and Berkeley fire departments, whose dispatchers said they received a flurry of calls from people about the quake, said no one reported injuries or damage.

And not everyone who felt it was rattled.

In Berkeley, longtime Bay Area resident Craig Law — who said he's been through lots of quakes — said this rumble wasn't too exciting.

"It wasn't that good. That was nothing — a little noise, a little window shake, and that was it," he said.

Law, a manager at Berkeley Iceland, said a couple of ice skaters felt the shake but no one fell.

"This place is built pretty solid. I'd rather be here than a lot of other places in Berkeley," he said.

E-mail Suzanne Espinosa Solis  
at [sespinosa@sfchronicle.com](mailto:sespinosa@sfchronicle.com).

sfgate.com

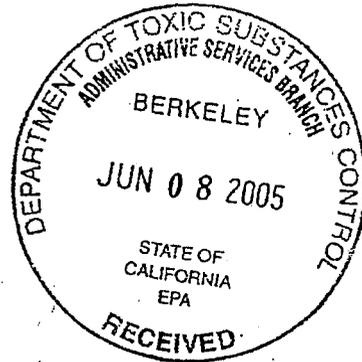
THURSDAY, DECEMBER 21, 2006

415-777-1111

San Francisco Chronicle

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Department of Toxic Substances Control  
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Berkeley, CA 94710

Hemant Patel, Project Manager  
US Department of Energy  
P. O. Box 54  
Oakland, CA 94612



June 7, 2005

**Re: General comments on the Lawrence Berkeley National Laboratory's Draft Corrective Measures Study (CMS), California Environmental Quality Act (CEQA) Initial Study, Negative Declaration, Statement of Basis and Environmental Assessment under the National Environmental Policy Act (NEPA).**

Dear Mr. Ahmad and Mr. Patel,

The following comments represent years of community effort, frustration and disappointment with regulators in our commitment to analyze, inform, and insist on seriously cleaning up Lawrence Berkeley National Laboratory site's radioactive and hazardous chemical contamination from the air, soil, soil water, groundwater, creeks, trees, vegetation, and aquatic species on the University of California lands in the headwater areas of the Strawberry Creek watershed in Berkeley and Oakland.

**DANGEROUS TOXIC CONTAMINANTS WILL REMAIN IN SOIL AND GROUNDWATER!**

The proposed CMS report is a good start but certainly it does not qualify to be called site cleanup, but rather it is a token cleanup plan that will leave in place at least 80% of the existing, known contamination for future generations to deal with. The CMS process is being used to facilitate LBNL's application to renew its Hazardous Waste Handling Facility's operating permit. LBNL is a contaminated site that needs immediate, comprehensive cleanup and a Groundwater/Surface Water Monitoring and Management Plan.

We ask that DTSC require LBNL to include an analysis of the Environment Impacts from the proposed and continued operations of the Lab's Hazardous Waste Handling Facility (HWHF) in LBNL's Long Range Development Plan Environmental Impact Review (LRDP EIR), currently under preparation. In addition, we request that DTSC postpone its decision regarding the LBNL HWHF permit renewal until after the LRDP process has been completed. (Attachment A.)

airborne tritium" (p.14). We believe this criticism caused DOE to cut the funding for the entire AIP Program a few months later. DOE then took control over the handling of the 8 radioactively contaminated sites at LBNL for which the DHS Report had expressed serious concern. **To date, no report has been released for public review and comment regarding corrective action for clean up of these radioactive sites!**

In July of 1998 the US Environmental Protection Agency determined, based upon a preliminary Hazard Ranking System (HRS) score, that LBNL was eligible for the National Superfund Priorities List, (NPL) under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA or "Superfund"). (Attachment 5.)

At that same time, the State of California had listed six locations at LBNL in the Hazardous Waste and Substances Sites List, aka the Cortese List. (Attachment 6.) And more recently in 2001, LBNL was included in the government list of cold war nuclear sites as a "California Hot Spot", because the facility handled Beryllium or radioactive materials. (Attachment 7.) These facts reflect both the complexity and extent of the environmental impacts that LBNL operations have had on the Strawberry Creek Watershed lands in the Berkeley hills.

**CMS REPORT LACKS A COMPREHENSIVE, COHESIVE, VERIFIABLE GEOLOGIC MAPPING OF THE STRAWBERRY CREEK WATERSHED AREA AT LBNL, AS WELL AS THE SYNTHESIS OF SURFACE AND SUBSURFACE GEOLOGIC INFORMATION**

LBNL is located in an area that is seismically very active, i.e. next to the Hayward Fault. (Attachment 8.) It is for this reason that the Final CMS Report should include comprehensive, verifiable geologic mapping of Strawberry Canyon, which depicts bedrock outcrops and geomorphic features including stream courses and landslides. It should also include the synthesis of surface and subsurface geologic information previously developed independently for the University of California at Berkeley (UCB) and LBNL.

The LBNL Environmental Restoration Program has produced small scale, mostly building specific maps of areas where known activities had resulted in contamination of soil and groundwater. This piecemeal approach to understanding site geology has seriously narrowed the site investigations and discussions about overall impact of the contamination on the Strawberry Creek Watershed. We therefore ask that DTSC:

- Resolve confusion about the location of geological units and associated faults by locating verifiable bedrock outcrops as the basis for geologic interpretation;
- Provide a common base of geologic information, identify sites of slope instability, especially those associated with groundwater, faults and bedrock contacts;

several dozen creeks and their tributaries, as reflected on the Soule Map, are well known Mediterranean streams and appear on LBNL's Annual Site Environmental Reports. These include Berkeley Creek, Blackberry Creek, aka North Fork of Strawberry Creek, Cafeteria Creek, Ravine Creek, Ten-Inch Creek, Chicken Creek, No-Name Creek, South Fork of Strawberry Creek, Botanical Garden Creek, Banana Creek, Pineapple Creek, etc., and close to 30 springs.

The significance of the creeks as conduits for migrating contaminants from soil runoff, seepage from underground plumes etc., such as is the case with Chicken Creek and the tritium groundwater plume, has not been addressed. (Attachment 11.) There has been no evaluation of the potential health hazards following a seismic event or of the soil liquefaction potential/soil failure within the creek basins that lace the Strawberry Creek Watershed.

#### **WATER QUALITY, GEOLOGY AND SOILS, BIOLOGICAL RESOURCES, HAZARDS AND HAZARDOUS MATERIALS, AND HYDROLOGY ISSUES WITHIN THE WESTERN HALF OF LBNL.**

The Bevatron, a decommissioned particle accelerator, is located on a four-acre site in the western portion of LBNL within the Blackberry Creek (a.k.a. the North Fork of Strawberry Creek) Watershed. The site is in the Hayward/East Canyon/Wildcat Canyon Earthquake Fault Zone, surrounded by at least two cross faults: the Cyclotron Fault to the south and the New Fault to the north. Currently the Bevatron and Building 51 are under review for potential demolition. This site is central to the CMS cleanup evaluation but many questions have not been answered or information provided about the site.

#### **The Final CMS Report must include:**

1. a comprehensive earthquake fault map that would include all the faults in the entire Strawberry Creek Watershed, whether active or not, and an interpretation of the significance of the presences of these faults regarding the transport of surface, soil and groundwater within the LBNL site.
2. a watershed map for the LBNL hill site showing the various watershed and sub-watershed divides with a detail of the Blackberry Creek watershed and the four-acre Bevatron site as well as the Strawberry Creek watershed including the Chicken Creek sub-basin and the East Canyon area above the UC Botanical Garden.
3. a Seismic Hazard Zone Map which would show areas in the Strawberry and Blackberry Creek Watersheds where previous landslides had occurred, as well as all topographic, geological, geotechnical, and subsurface water conditions which indicate a potential for permanent ground displacement.

It should be noted that in a 1949 geologist (C. Marliave) report on the bedrock conditions at the Bevatron site "...the area at the Bevatron is to be excavated and leveled off to elevation 710. The bedrock beneath this beveled surface will be comprised of poorly consolidated Orinda sediments... The Orinda formation absorbs water freely and the lava flows and breccia that are associated with it are also quite pervious so that the whole mass becomes readily saturated... There appears to have been considerable land sliding in

7. additional groundwater monitoring wells are needed (a) west of the northern lobe of the Building 51/64 plume as well as (b) west of the western lobe of Building 71 solvent plume to show whether the two plumes converge into a topographic swale and (c) west of the old town plume, specifically in the area between Buildings 46 and 51. All of these plumes are in the Blackberry Creek Watershed and drain west toward the city of Berkeley and San Francisco Bay. (Attachment 13.)

8. how the removal of the Bevatron (a concrete plug) and its subterranean structures impact the movement and current hydraulic controls of these groundwater contamination plumes. This factor alone is reason for additional groundwater evaluation and monitoring wells. How is LBNL preparing to prevent any contamination from entering the creeks and ending up in downtown Berkeley where Strawberry Creek flows daylighted through many public and private properties? For this reason, all site clean-up must be done to residential standards.

9. a description of the air monitoring systems LBNL has in place to determine any changes in air quality during the corrective measures process.

10. the effects on the potential beneficial uses of Berkeley's large aquifer, e.g. availability in times of drought. Of special concern is the Lennert Aquifer, currently pumped by the Shively well #1. The Final CMS Report should provide an update on the pumping rates, water quality, where the water is currently being dumped and why. (Attachment 14.)

11. the potential effects upon the endangered Alameda Whipsnake for which the LBNL site is critical habitat. The Final CMS Report should evaluate the cumulative and significant effects, on the human (and endangered Alameda Whipsnake) environment, with the implementation of the corrective measures that proposes to leave some 80% of the existing contamination in place, concurrent with the Bevatron demolition, decommissioning and decontamination of the National Tritium Labeling Facility and the construction and operation of the Molecular Foundry.

12. a comprehensive description of the various beam targets (including the magnet gap) and the beam dump areas during the Bevatron's forty-year history, and a sampling strategy to determine where the highest concentrations and types of radioactivity and toxic chemicals/solvents are located.

13. all the stable isotope studies performed at LBNL, in the early 1990s (Attachment 4, page 9.) and in 1998-2000 when LBNL conducted stable isotope studies to characterize the hydrogeology of the site. Further, we ask that stable isotope studies be used as part of the development of the new Groundwater Monitoring and Management Plan.

14. in the Statement of Bases regarding compliance, that compliance be determined only after each monitoring well demonstrates measurements lower than the MCLs for at least eight (8) consecutive quarters. This would be a change to the current proposal to certify LBNL to be in compliance when multiple well data is averaged over four quarters and the average for these wells is below the MCL.

15. carefully considered alternatives to demolition and removal that would allow the Bevatron and its contamination to remain on site in relative containment. On site containment will allow the radioactivity to decay in place and not be hauled away to impact other communities. This option would save taxpayers millions of dollars and save

Preservation of the groundwaters of the State of California must be of the highest priority. The Berkeley City Council and its environmental commission support full environmental restoration at LBNL so as to preserve the Berkeley/Oakland hills groundwater for future generations. This is mandatory because in an emergency Berkeley groundwater will be used for domestic, municipal, irrigation and industrial purposes. Today, the LBNL site is contaminated by the presence of large quantities of radionuclides and 162 contaminants including Volatile Organic Compounds (VOCs), Polychlorinated Biphenyls (PCBs), Pesticides, Fuels, Metals and Freon.

The official Zoning Map of the city of Berkeley designates the UC hill campus lands, including LBNL, as a residential district. This zoning permits, for instance, the construction of residential structures such as apartments and hotels that will provide housing opportunities for transient or seasonal residents. LBNL/DOE must evaluate the cleanup scenarios within the context of actual residential zoning and land use provisions. The city of Oakland's land use designation (S-7 Preservation) for the UC/LBNL hill area is Park, Recreation or Natural area or Watershed. (Attachment 17.)

### **COMMUNITY WATERSHED ADVISORY GROUP (CAG) TO OVERSEE ENVIRONMENTAL CLEANUP AT THE LAWRENCE BERKELEY NATIONAL LABORATORY**

In addition to the four hundred (400) signatures already submitted at the May 26, 2005 Public Hearing showing considerable community interest in environmental issues related to the LBNL site, we now are submitting over eighty (80) additional signatures on petitions requesting that the State of California Department of Toxic Substances Control (DTSC) sponsor a representative citizen's watershed advisory group to participate in the implementation of the environmental cleanup at the Lawrence Berkeley National Laboratory. This DTSC sponsored community advisory group, (CAG) would be involved in the development of the Groundwater Monitoring and Management Plan for the Laboratory site, located in the Strawberry Creek Watershed.

DTSC has failed to adequately engage the Berkeley public in the RCRA process and for this reason we request that DTSC support our community's desire for more involvement and grant our request now for a DTSC sponsored CAG.

### **IN SUMMARY WE CALL FOR A SOURCE WATER PROTECTION PLAN**

For the intent of the Resource Conservation and Recover Act, we call for a Source Water Protection Plan to conserve and recover the Upper Strawberry Creek Watershed that is still impacted by spreading toxic groundwater plumes. In this regard, we request a comprehensive watershed analysis be conducted, including the drinking water bank, Lennert Aquifer, and its groundwater movements feeding Strawberry Creek tributaries for a healthy environmental recovery.

We call for an Ecological Protection Zone in the Strawberry Creek Canyon and the Berkeley-Oakland Hills to conserve and protect human and ecological life from further harm in the 21<sup>st</sup> Century.

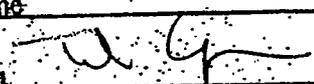
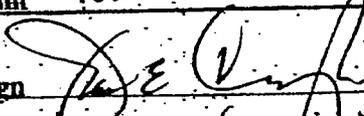
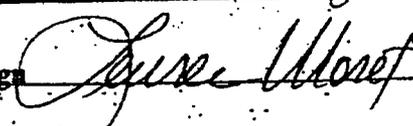
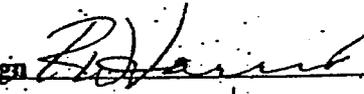
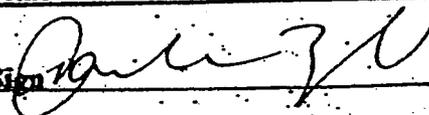
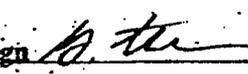
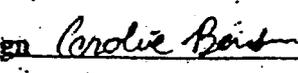
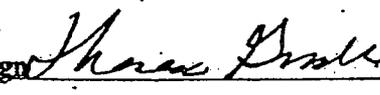
**Request to DTSC to Sponsor A Community Advisory Group (CAG) to Oversee  
Environmental Cleanup at the Lawrence Berkeley National Laboratory**

We, the undersigned, residents of Alameda County, request that the State of California Department of Toxic Substances Control (DTSC) sponsor a representative citizen's watershed advisory group to participate in the implementation of the environmental cleanup at the Lawrence Berkeley National Laboratory. This DTSC sponsored community advisory group would be involved in the development of the Groundwater Monitoring and Management Plan for the Laboratory site, located in the Strawberry Creek Watershed.

	Name	Address	Date
1.	Sign <i>Anne Paxton Wasley</i> Print ANNE PAXTON WASLEY	127 ALVARADO RD BERKELEY, CA 94705	6/1/05
2.	Sign <i>Carl Friberg</i> Print Carl Friberg	1685 Arch St Berkeley, CA 94709	6/1/05
3.	Sign <i>Sharon Hudson</i> Print SHARON HUDSON	2501 Benvenue #21 Berkeley CA 94704	6/1/05
4.	Sign <i>Barbara Gilbert</i> Print BARBARA GILBERT	476 VINCENTE AVE. BERKELEY, CA 94707	6/1/05
5.	Sign <i>DEAN METZGER</i> Print <i>Dean Metzger</i>	1 HAZEL RD BERKELEY 94705	6/1/05
6.	Sign <i>Danielle Thompson</i> Print DANIELLA THOMPSON	2663 de Conte Ave Berkeley, CA 94709	4/1/05
7.	Sign <i>JIM SHARP</i> Print <i>Jim Sharp</i>	POB 4756 Berkeley CA 94704	1/20/05
8.	Sign <i>Pamela Sitvola</i> Print PAMELA SITVOLA	P.O. BOX 9646 BERKELEY, CA 94709	6/1/05

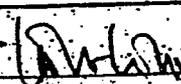
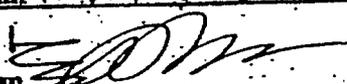
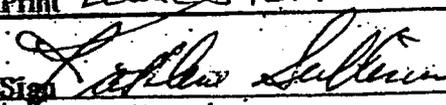
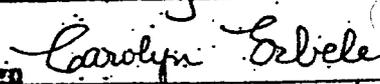
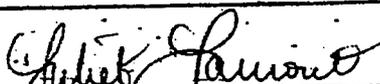
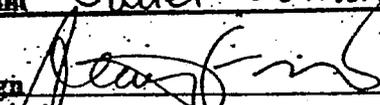
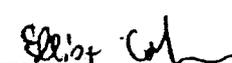
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	Name	Address	Date
1.	 Sign Print Tula Gordon	1546 Milvia Berkeley CA 94709	6/2/05
2.	 Sign Print James E. Cunningham	1007 Miller Ave Berkeley 94708	4/2/05
3.	 Sign Print	2533 Durant St. Berkeley 94704	9/2/05
4.	 Sign Print RICHARD HARRIS	1201 OXFORD ST BERKELEY 94709	6/2/05
5.	 Sign Print Pamela Bachilla	2520 College Ave # 307 Berkeley, CA 94704	6/2/05
6.	 Sign Print GRETCHEN FISHER	1638 JOSEPHINE ST Berkeley 94703	6/2/05
7.	 Sign Print Corolite Benson	Piedmont 94611	6/2/05
8.	 Sign Print Theresa Cronsky	1229 Alston Way Berkeley, CA	6/2/05

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Name	Address	Date
1. Sign 	2741 Garber St. #5	6/4/05
Print N. K. Kite	Berkeley CA 94705	
2. Sign 	2741 Garber St #2	6/4/05
Print Edward J. Hoffman	Berk, CA 94705	
3. Sign 	1540 MIYVA ST. BERK, CA 94709	6/4/05
Print Carolyn Erbele	1803 Bonita Avenue	
4. Sign 	Berkeley CA 94709	6/6/05
Print		
5. Sign 	2249 Glen Ave.	6/6/05
Print Juliet Lamont	Berkeley, CA 94709	
6. Sign 	2887 College Ave #274	6/6/05
Print STEVE FREEDKIN	Berkeley, CA 94705	
7. Sign 	2000 Durant Ave #108	6/6/05
Print Michael G. Sherman	Berkeley - CA 94704	
8. Sign 	2124 Kittredge #188	6/6/05
Print Elliot Cohen	Berkeley CA 94704	

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	Name	Address	Date
1	Sign <i>Mary Tarczynski</i>	2100 Funston Pl.	6/6/05
	Print Mary Tarczynski	Oakland, CA 94602	
2	Sign <i>Judy Kimmel</i>	351 Countyview Dr	6/6/05
	Print Judy Kimmel	Mill Valley, CA 94941	
3	Sign <i>Willard W. Davis</i>	6479 Acot Dr	6/6/05
	Print Willard W. Davis	Oakland, CA 94611	
4	Sign <i>Cardyna Marks</i>	1427 Milvia St	6/6/05
	Print Cardyna Marks	Berkeley, CA 94709	
5	Sign Robert Ablon	Oakland, CA 94618	6/6/05
	Print		
6	Sign <i>Leeza Vinogradov</i>	1464 Bancroft Way	
	Print Leeza VINOGRADOV	Berk CA 94702	
7	Sign <i>Peter B. Dumont</i>	2322 SHATOLE AVE. #416	6/6/2005
	Print PETER B. DUMONT	BERKELEY, CA. 94704	
8	Sign <i>Gordon T. Wright</i>	2001 Aikawa Way #306	6/6/05
	Print Gordon T. Wright	Berkeley, CALIF. 94709	

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	Name	Address	Date
1.	Sign <i>Thomas G. Kelly</i> Print THOMAS G. KELLY	1809 San Ramon Ave BERK., CA 94707	6/6/05
2.	Sign <i>Julia Bradt</i> Print JULIA BRADT	825 Delaware St. Berkeley, CA 94710	6/6/05
3.	Sign <i>Nancy E. Holland</i> Print NANCY E. HOLLAND	2117 Grant BERKELEY, CA. 94703	6/6/05
4.	Sign <i>Jana K Olson</i> Print JANA K OLSON	2645 Shasta Rd Berkeley CA 94708	6/6/05
5.	Sign <i>Mary Setkirk</i> Print MARY SETKIRK	1619 Jaynes St. Berkeley 94703	6/4/05
6.	Sign <i>Phillip Price</i> Print PHILLIP PRICE	2249 Glen Ave Berkeley CA 94709	6/6/05
7.	Sign <i>Carole Selz</i> Print CAROLE SELZ	2930 Russell St. Berkeley CA 94705	6/6/05
8.	Sign <i>Carole Selz</i> Print CAROLE SELZ	861 Regal Rd Berkeley, CA 94706	6/6/05

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	Name	Address	Date
1.	Sign <i>Kathleen L. Bowman</i> Print Kathleen L. Bowman	185 Avenida Dr. Berkeley, CA	6/6/05
2.	Sign <i>David Volker</i> Print David Volker	1446 Grizzly Pk Blvd. Berkeley, CA	6/6/05
3.	Sign <i>Kathleen L. Keller</i> Print Kathleen L. Keller	2029 Channing Way Berkeley, CA	6/6/05
4.	Sign <i>Barbara Allen</i> Print	Berkeley, CA	6/6/05
5.	Sign <i>Martha Jones</i> Print Martha Jones	2908 Derby St Berkeley, 94705	6/6/05
6.	Sign <i>Ann L. Riley</i> Print <i>A 2<sup>nd</sup> Riley</i>	1110 Chace St BERKELEY 94702	6/6/05
7.	Sign <i>Shirley Dean</i> Print SHIRLEY DEAN	934 Santa Barbara Rd Berkeley CA 94707	6/6/05
8.	Sign <i>Marie M. Wilson</i> Print MARIE M. WILSON	1466 Summit Road Berkeley CA 94708	6/7/05

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	Name	Address	Date
1.	Sign <i>Bonnie E. Wolfe</i> Print BONNIE E. WOLFE	256 Fairhawn Drive Berkeley, Ca 94708	6/9/05
2.	Sign <i>Carolyn Sweeney</i> Print CAROLYN SWEENEY	514 Ramona Ave Albany Ca 94706	6/9/05
3.	Sign <i>William Berry</i> Print William Berry	1366 Summit Rd. Berkeley, CA 94708	6/9/05
4.	Sign <i>Paul Jeremy Cook</i> Print PAUL JEREMY COOK	1620 Prince St. Berkeley CA 94703	6/2/05
5.	Sign <i>Andrea Pflaumer</i> Print ANDREA PFLAUMER	6 SUMMIT LANE BERKELEY, CA 94708	6/13/05
6.	Sign <i>Roger Van Ooghtel</i> Print	2611 Le Conte Ave Berkeley CA 94709	6/14/05
7.	Sign <i>C. Fred</i> Print C. FRED	1334 PERALTA AVE BERKELEY 94702	6-14-05
8.	Sign <i>Lesley Emmington Jones</i> Print Lesley Emmington Jones	195 The Highlands Berkeley 94705	

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	Name	Address	Date
1.	Sign <i>Jesse Townley</i> Print JESSE TOWNLEY	1354 Carlotta Berkeley CA 94703	6/9/05
2.	Sign <i>Drew King</i> Print Drew King	1819 Addison St #4 Berkeley, CA 94703	6/6/05
3.	Sign <i>Tiffany Simpson</i> Print TIFFANY SIMPSON	2344 6TH ST Berkeley, CA 94703	6/9/05
4.	Sign <i>Candace Miles-Threault</i> Print Candace Miles-Threault	1730 Alcatraz Ave #1 Berkeley, CA 94703 1104 Ashby Ave Berkeley, CA 94703	
5.	Sign <i>Allie L. Shields</i> Print ALLIE L. SHIELDS	1470 SEVENTH BERKELEY, CA 94710	6/9/05
6.	Sign <i>Suzanne F.S. Berry</i> Print SUZANNE F.S. BERRY	1366 SUMMIT ROAD BERKELEY, CA 94708	6/11/05
7.	Sign <i>Sabrina Lanier</i> Print Sabrina Lanier	1620 Prince St Berkeley, CA 94703	6/12/05
8.	Sign <i>Janice Thomas</i> Print Janice Thomas	37 Mosswood Rd Berkeley	6/14/05

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	Name	Address	Date
1.	Sign Joyce R. Kraus Print JOYCE R. KRAUS	1510 Summit Rd. Berkeley 94708	June 14
2.	Sign M Pelleg Print Michelle Pellegny	2535 Hillegass Ave. Berkeley, CA 94704	6/14/05
3.	Sign Roger Byrne Print ROGER BYRNE	1739 VIRGINIA ST. Berkeley CA 94703	6/22/05
4.	Sign Evelyn Glabman Print EVELYN GLABMAN	1340 Quince Rd PERRIS, CA 94708	6/23/05
5.	Sign Bonnie Lombardi Print BONNIE LOMBARDI	1441 Summit Rd Berkeley CA 94708	6/24/05
6.	Sign Larry Melnick Print LARRY MELNICK	1320 ADDISON ST. APT. B225 BERKELEY CA 94702	6/25
7.	Sign Alvin Pozoff Print	1344 SOUTH 19TH STREET, RICHMOND CA 94804	6/30
8.	Sign Ethel Dotson Print ETHEL DOTSON	396 South St. Richmond, Ca 94804 396 SOUTH RICHMOND 94804	6/30/05

Watson Gin, Deputy Director  
Hazardous Waste Management Program  
DTSC  
P. O. Box 806  
Sacramento, CA 95812-0806

September 30, 2005

**Re: Appeal and request for a high level administrative review of DTSC's Decision For the Approval of Corrective Measures Study Report and Remedy Selection for Lawrence Berkeley National Laboratory (LBNL)**

Dear Deputy Director Gin,

We, the undersigned, residents and environmental leaders in the Berkeley community, respectfully submit this request for the highest level administrative review of the above referenced decision, its administrative record and DTSC's 8/31/05 Response to Comments document.

The three reasons for our petition asking DTSC, to review the conditions of its decision are (1.) an important policy consideration requiring review and (2.) the fact that all public comments were not addressed and petitions and other materials submitted were excluded from the attachments and (3) the array of wells to sample, monitor, and assess the distribution of the contaminant plumes is insufficient to disprove that contamination is not more widespread.

**I. Important Policy Consideration Requires Careful Review**

DTSC states, in its Response to Comments, that one of the three general areas of concern expressed by the public was "Public Outreach". Public outreach is only one component of an important equation. What is and has been missing is the most important component, i.e. the inclusion of public input into the decision making process during the past decade and a half, during which time DTSC has been the lead agency.

A glaring example of the exclusion of public input was DTSC's own statement in the "Final Decision" document, which states: "Please note that DTSC did not make any changes from draft to final decision." Public Hearings and Public Comment Periods are a total waste of taxpayers' monies, considering that DTSC has excluded public input in the decision making process and virtually ignored that public comment finally allowed. Because community input was not allowed in the past decade, and is now ignored, it is mandatory that our request for a community advisory group (CAG) be implemented.

In response to general comment #3, DTSC states that..."there is a provision for establishing a Community Advisory Group (CAG) for response actions for state superfund cleanups." Please note that the ZENECA site is not a state superfund site, and yet a CAG was formed including 25 stakeholders from the Richmond community, plus additional members added later to represent University of California's Richmond Field Station.

"DTSC's mission is the protection of public health and the environment. A vital component of accomplishing this mission is providing meaningful opportunities for community members to have input into the decision of which the CAG will be an important part." (DTSC's February 2005 Public Involvement information sheet titled: *Members Needed for Community Advisory Group for the ZENECA/former Stauffer Chemical Company site in Richmond, CA, which also includes the University of California's Richmond Field Station site next door.*)

LBNL may not be on the state's list for superfund cleanup (US EPA made an administrative decision to not require DOE to clean up its superfund qualified site: LBNL) but LBNL qualifies as a Superfund site, with a Hazard Ranking Score (HRS) of 50.35, higher than Lawrence Livermore National Laboratory's ammunitions' dump, Site-300.

## **II. Fact: All Public Comments Were not Addressed and Petitions and Other Materials Submitted Were Excluded.**

In the August 31, 2005 "Notice of Final Decision for the Approval of Corrective Measures Study..." on p. 2 it is stated "DTSC has prepared a Response to Comments document addressing all public comments received during the public comment period." This is erroneous:

- 1.) The 6/7/05 letter from the Friends of Strawberry Creek Watershed, attachment 2 (see p. 53) erroneously listed as a petition, was not responded to. We hope that this time it will not be dismissed.
- 2.) An 11 page petition, with more than 80 signatures, requesting that DTSC sponsor a representative Citizens' Watershed Advisory Group to participate in the implementation of the environmental cleanup at LBNL, was excluded from the Response to Comments. (This petition is an integral part of public comment #16, Sihvola-Wood letter dated 6/7/05)
- 3.) A 400 + signature petition titled Save Strawberry Creek Watershed was excluded from Response to Comments Attachments. (See comment #8. Tuula Gordon)
- 4.) A transcript and Community Questions from a 1996 DTSC Public Hearing submitted by commenter #3, Joan Levinson, was excluded from the Response to Comments attachments and was not responded to.

DTSC must include these omitted documents, which review the history and show the depth of community concern over LBNL's environmental contamination. This strong community concern warrants the formation of a 25 member CAG, as was established in Richmond, a site not on the state's superfund list.

We also ask that DTSC answer Councilmember Kriss Worthington's question, asked at the May 26, 2005 Public Hearing: Is there anything in the law that forbids DTSC from sponsoring a CAG for the Berkeley community?

DTSC's second classification of general comment, **Radionuclides Contamination**, discusses collocated contaminants, i.e. radionuclides mixed with solvents, which is the case with regard to the large underground tritium plume, and the radioactive solvents associated with it. In view of the most recent information on radiation risks, published by the National Academy of Sciences panel: Committee on Biological Effects of Ionizing Radiation (BEIR VII), there is No Exposure Level Below Which Dosage of Ionizing Radiation is Harmless! (San Francisco Chronicle, June 30, 2005)

We ask that DTSC express more serious concern over the cleanup of collocated contaminants at LBNL, which once pumped up from underground become mixed waste under DTSC's jurisdiction. (Attachment A)

Ultimately nothing we brought to the attention of DTSC in the interest of protecting public health and the environment was considered in the decision making process. For this reason, it is imperative that a Community Advisory Group be formed for the Berkeley community, to include a wide representation (25) of stakeholders from the creek and environmental communities, neighborhood organizations, various city commissions, including the Community Environmental Advisory Commission at City Council's recommendation, to participate in the implementation phase of corrective measures process, and in the development of the Groundwater Monitoring and Management Plan.

In fact the Groundwater Monitoring and Management Plan is such a central component of the CMS process, that the CMS report should not be approved until the Groundwater Monitoring and Management Plan is developed and approved by community members participating on the CAG, as their first order of business.

### **III. Monitoring Wells Should be More Widely Distributed Near Previously Interpreted/Mapped Faults and Landslides**

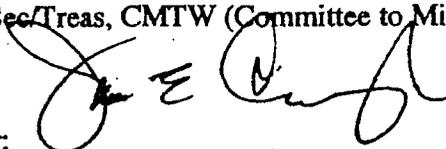
Based upon previous and recent geologic interpretations of Strawberry Canyon there still seems to be uncertainties and differences in interpretation over the interpretation of fault and landslide features. Given this and that the entire area is within a complex sheer zone that is intensively fractured and faulted, it seems wiser to place a larger array of monitoring wells downslope of landslides and along suspected faults intersecting the contaminant plumes in order to disprove that pollutants are not moving along these zones.

It is certainly easy to visualize that one or two wells could easily miss a fracture zone that could funnel contaminated groundwater in some unanticipated directions. The current placement of monitoring wells does not convince us that the plumes are fully contained along the zones shown by LBNL. Independent and technical review of the sampling strategy should be conducted by an outside highly qualified scientific review panel.

We, therefore, respectfully ask again that you conduct the highest level of review of DTSC's lower level decision and its administrative record.

Sincerely,

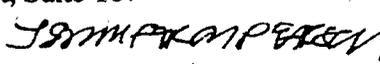
James Cunningham, Sec/Treas, CMTW (Committee to Minimize Toxic Waste)  
1007 Miller Avenue  
Berkeley, CA 94708



Also signing for:  
Pamela Sihvola, Co-chair CMTW  
PO Box 9646  
Berkeley, CA 94709

Joan Levinson, CMTW  
1622 Buena Avenue  
Berkeley, CA 94703

Jennifer Pearson, Ph.D., Co-facilitator for Friends of the Strawberry Creek  
C/O 1250 Addison Street, Suite 107  
Berkeley, CA 94702



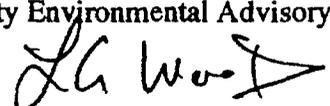
Also signing for:  
Carole Schemmerling, Co-facilitator for Friends of the Strawberry Creek  
C/O 1250 Addison Street, Suite 107  
Berkeley, CA 94702

Jim Sharp

Also signing for:  
Daniella Thompson, (Daley's Scenic Park Association of Neighbors)  
2663 Le Conte Avenue  
Berkeley, CA 94709



L. A Wood, Berkeley Community Environmental Advisory Commission (CEAC)\*  
1803 Bonita Avenue  
Berkeley, CA 94709



\*Identification only

cc: Alan C. Lloyd, Agency Secretary Cal/EPA  
Leonard E. Robinson, Acting Director Department of Toxic Substances Control  
Mohinder S. Sandhu, P.E. Chief Permitting and Corrective Action Branch  
Congresswoman Barbara Lee, 9<sup>th</sup> District  
Senator Barbara Boxer  
Assemblymember Loni Hancock, 14<sup>th</sup> Assembly District  
State Senator Don Perata, District 09

# Chronicle

THURSDAY, JUNE 30, 2005

CHRONICLE  
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## Even lower radiation poses risk, panel says

### No exposure level found below which dosage is harmless

By H. Josef Hebert  
 ASSOCIATED PRESS

WASHINGTON — The preponderance of scientific evidence shows that even very low doses of radiation pose a risk of cancer or other health problems and there is no threshold below which exposure can be viewed as harmless, a panel of prominent scientists concluded Wednesday.

The finding by the National Academy of Sciences panel is viewed as critical because it addresses radiation amounts commonly used in medical treatment and is likely also to influence radiation levels the government will allow at abandoned nuclear sites.

The nuclear industry, as well as some independent scientists, have argued that there is a threshold of very low-level radiation at which exposure is not harmful, or possibly even beneficial. They said current risk modeling may exaggerate the health impact.

The panel, after five years of study, rejected that claim.

"The scientific research base shows that there is no threshold of exposure below which low levels of ionized radiation can be demonstrated to be harmless or beneficial," said Richard R. Monson, the panel chairman and a professor of epidemiology at Harvard's School of Public Health.

The committee gave support to the "linear, no threshold" model that is currently the generally acceptable approach to radiation risk

assessment. This approach assumes that the health risks from radiation exposure decline as the dose levels decline, but that each unit of radiation — no matter how small — still is assumed to cause cancer.

"It is unlikely that there is a threshold below which cancers are not induced," said the report, although it added that at low doses "the number of radiation-induced cancers will be small." And it said cancers from such low-dose exposures may take many years to develop.

The panel, formally known as the Committee on Biological Effects of Ionizing Radiation, or BEIR, generally supported previous cancer risk estimates — the last one by an earlier BEIR group in 1990.

Contrary to assertions that risks from exposure to low-level radiation may have been overstated, the panel said "the availability of new and more extensive data have strengthened confidence in these (earlier) estimates."

The committee examined doses of radiation of up to 100 millisievert, a measurement of radiation energy deposited in a living tissue. A single chest X-ray accounts for 0.1 millisievert, average background radiation 3 millisievert a year and a whole body CT scan delivers 10 millisievert.

The committee estimated that 1 out of 100 people would probably develop solid cancer or leukemia from an exposure of 100 millisievert of radiation over a lifetime with half of those cases being fatal.

The report noted that exposure from a whole body CT scan is much higher than the usual X-ray, and it raised concerns about the frequency in which such medical diagnostics should be used.