

Attachment 31 – Public Hearing Transcript, May 26, 2005

PUBLIC HEARING
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

NORTH BERKELEY SENIOR CENTER
1901 HEARST STREET
BERKELEY, CALIFORNIA

THURSDAY, MAY 26, 2005

6:30 P.M.

REPORTED BY:

MICHAEL MAC IVER, SHORTHAND REPORTER

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

Mr. Mohinder Sandhu, Department of Toxic Substances Control

Mr. Waqar Ahmad, Department of Toxic Substances Control

Mr. Nathan Schumacher, Department of Toxic Substances Control

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

INDEX

| | Page |
|-----------------------------------|------|
| Opening Remarks by Mr. Schumacher | 4 |
| Public Comments | |
| Leuren Moret | 4 |
| Tom Kelly | 8 |
| Joan Levinson | 9 |
| Robert Zangato | 9 |
| Jim Cunningham | 9 |
| LA Wood | 10 |
| Jane Kelly | 12 |
| Tuala Gordon | 12 |
| Pamela Shivola | 12 |
| Adjournment | 14 |
| Reporter's Certificate | 15 |

PROCEEDINGS

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: Okay.

We are now starting the public hearing portion of this meeting this evening. The court reporter will take our words from now on. We will not respond to anything that you have to offer. Okay.

The ground rules - Please state your name for the record. If your address is not on the sign-in sheet, then please state your address as well, since we do want to respond in writing to any comments that you do make this evening. Okay.

MS. MORET: Now there are people who have more questions and wanted to ask more questions, how will that be handled?

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: We can talk about possible ways to do that, but let's start the hearing now and afterwards we'll talk about that.

MR. SANDHU: I understand. The people who have questions that we haven't answered, please go ahead and put them in the record to us. He didn't mean to say that we are not going to answer any more questions. We will respond to each and every comment that you want to submit even now read into the record. So I would simply ask that anybody who wants -- you know, any question you have, comments you have, just let us know, the court reporter will keep a record of it, and then we will have a written response to comments that you offer.

So we are starting the public hearing.

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: Yes. Now, one other thing, we have until a little bit after 9:00 p.m., okay. I just want to caution you all about that.

MS. MORET: The notice says 9:30.

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: We have to clean up.

MS. MORET: We'll help.

MR. SANDHU: You may want to thank the panel. The panel is free to leave. They don't have to be here.

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: Please, you don't have to be seated there. We'll still take your comments, of course.

MS. MORET: Should I turn around?

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: Well, I will sit here and Mohinder will sit here, and people from our department will sit here.

MS. MORET: My name is Leuren Moret. I worked five years at the Lawrence Berkeley Laboratory, two years at the Lawrence Livermore Laboratory. I'm a nuclear weapons lab whistleblower. I blew the whistle on the Yucca Mountain Project and the Superfund Project at Livermore.

I'm a geoscientist and I worked on the groundwater cleanup at Livermore, and I'm now an international expert on radiation as a result of blowing the whistle, having a Karen Silkwood experience, and I survived it.

This comment is to Mohinder Sandhu regarding – I would just like to make a comment about the date that was set for this public hearing, the first one that we've had, and to ask why this was scheduled on a busy holiday weekend. This is not the first time this has happened in public process, it seems to be a pattern. And I think this is unfair to the community and people who wanted to be here and could not.

I'm going to address the regulatory standard and the risk model now for chemical and radiation exposure. In 1989, I interviewed Calvin Wilhite, I'm sure he does not remember me. I asked him what the EPA chemical exposure limits were based on, and he said, well, we couldn't do experiments on humans to determine the risk and we couldn't afford to do experiments on animals, animal studies, to determine the risk, so we made them up. So the chemical risk standards for the EPA and the US government are made up. They are not based on science.

The radiation standards which were conducted or they were based on the A-bomb study of Hiroshima and Nagasaki survivors were based on external gamma ray exposure and neutrons, there was no determination of internal exposure or even recognition of it. We were dealing with internal exposure. And the studies were fraudulently done because they threw out the first five years of data when most of the people died.

In fact, I have worked around the world with radiation experts from Russia working on Chernobyl and Japan and European countries. This is a European Parliament independent study, the regulator's edition, published in 2003, January 2003, on low-level radiation risk, and it determines that the A-bomb study which provided the data for the ICRP standard, International Committee on Radiation Protection, are mutually exclusive from a model, radiation risk model, which we then see in this study for the European Parliament based on internal exposure. And what they determined in this study is that internal exposure to low-level radiation risk is a hundred to a thousand times greater than the ICRP standard. So your radiation standard, they are based on the ICRP model.

What you have not recognized is the synergistic effect of chemicals and radiation working together and that enhances the risk by at least ten times, maybe more, it depends on the chemicals and the radiation, and that low-level radiation also reduces the quality of life by ten percent.

The superlinear effect of radiation and chemical exposure, this is exposure to very low levels of chemicals and radiation, has proven that low-level radiation and low-level chemical exposure for certain chemicals is actually many, many times more harmful per unit of radiation than higher levels.

Now, I haven't heard any of these things mentioned by any of your experts. So having a Ph.D doesn't mean anything.

Thank you.

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: Thank you.

MS. MORET: I'm not through.

The drinking water standards, for example, for tritium is 1,000 picocuries per liter, means over a year that every cell in your body has the possible exposure of being exposed to tritium. That doesn't sound too safe to me.

This is all part of the cold war mortgage. The Lawrence Berkeley Lab, the Livermore Lab, 10,500 sites in the United States, are contaminated with radiation and chemicals. And that's out of a DOE publication.

There are at least five national superfund sites that can never be cleaned up. LBNL is not one of them. The Nevada test site, Hanford, the Savannah and Clinch Rivers.

The 1995 cost to clean up the environmental legacy of the nuclear weapons program is \$250 billion. It means that 2.3 million acres under DOE ownership and 120 million square feet of buildings are potentially contaminated. No wonder they don't want to do it, or they want to cut corners.

But I'm here tonight to tell you you're not going to get away with not cleaning up LBNL now and then ask us to relicense LBNL to contaminate us more.

We're in an active tectonic region, there are active faults from the sea coast inland from the plate tectonics. You don't know when it's fractured, faulted, you don't know where the micro faults are. You don't know anything about this environment because you sure haven't told us about them. And the risk of a major earthquake is one of the highest risks in the United States.

And you've come here to tell us you only want to clean up 20 percent. You want to leave 80 percent of the mess. It's not acceptable. We have to live here. You don't have to live here. Our children have to live here. There are people in this community who are sterile, they can never have children. You don't have the right, the government doesn't have the right to take our reproductive ability away from us. You don't have the right to kill and poison our children and our babies and the unborn. 1.3 billion people as a result of a nuclear weapon and a nuclear power project have been killed, maimed, and diseased around the world. Because in seven days what you're releasing here into the air goes around the world. I'm an expert on atmospheric dust.

You know, you're coming here to tell us you're going to clean it up, but it's a broken promise and it's been a broken process, and you need to listen to us. And we need to have a Community Action Committee. Because if we don't, you're not going to do it, our corrupt city council is not going to do it, our infiltrated CEAC Commission is not going to do it. We are going to insist on a community action committee, and we hope that you will work with us.

Now, it turns out your report and the DOE report, I'm going to point out, especially to the community, that Department of Energy report, and we have no authors, they have no peer review process, and the first thing to read when you open a DOE report is the disclaimer. They take no responsibility for anything in the report. And the one thing I learned at Livermore that I tell everyone and I will never forget is the day I was looking out the window of my laboratory and I said, my God, scientists are prostitutes for the military war preparations.

I had the great fortune because of my whistleblowing experience to become a citizen scientist, and I hope that some of you when you retire will do that and come and help us. Because our problems are your problems too. What's happening to us is happening to you.

MR. ZANGATO: Can I say something?

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: No you can't, sir. There is an order to this. If you would like to speak, you will get a chance later.

MS. MORET: Now, L.A. has asked me to speak about this --

MR. WOOD: No. I was saying about letting us speak.

MS. MORET: Oh, yes.

MR. WOOD: I don't know what kind of time we have here.

MS. MORET: Oh, I'm sorry. Okay.

And even no health studies have been allowed. The State of California Department of Health wanted to do a health study in Livermore because children had leukemia and there's very high rates of cancer there. The funds were cut.

I don't know if the Water Quality Control Board is measuring radiation in our drinking water, but I can tell you that at the Livermore Lab is measuring radiation washing out of the Sierras, the bomb testing fallout, the Chernobyl fallout, the Rancho Seco fallout, it's all in the Sierras and it's washing right through our bay. And actually Livermore measured it all the way down to the tip of Baja. The Marin County breast cancer cluster is a result of that contamination washing up in the meth lab of the Marin coastline.

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: Excuse me. At this point, can I get a show of hands of how many people who still would like to speak?

Okay. Four people.

MS. MORET: Okay. So I'm going to talk for one more minute and finish up.

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: Okay. Very good.

MS. MORET: So we need an oversight committee, the citizens need to be able to talk, they need to be able to know that you are listening. We need to have your answers to our comments. We have put a lot of time into research on this issue, many years, a great deal of effort, and in all due respect, you need to address our concerns.

We need an oversight committee because this chemical and radiation exposure is in addition to the burden that is already in the San Francisco Bay Area. Because of the rain, the fog, the pollution, we have higher levels of exposure, more is washed into our environment. The risk is unknown and the standard, the regulatory standards are based on false premises. This is obvious from, for instance, problems that people getting organ donations, they suddenly have discovered that chemicals and radiation are being passed on to patients, organ donor patients. And it's a risk that they were unaware of before. Climate variability will impact our water supply. We need to have a water supply here independent of the normal one. And potential x-rays on pregnant women of very low levels of radiation have a very serious impact on the fetus. In fact, they do permanent brain damage.

So all these new studies and new information about the impact of low levels of radiation and chemicals have not been taken into consideration, and we want to be sure these concerns are addressed. And at this time, we're living in a time that is going to have an increasing negative impact on the environment because our economy requires it.

So I thank you very much for listening, and I'm very thankful to the citizens who came tonight, and I would like to thank our Council Member, Chris Worthington, for coming this evening.

Thank you.

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: Thank you. Before anyone else speaks, because we want to give everybody a chance to speak, everybody -- sir, please sit down. Please sit down.

MR. ZANGATO: Is it open now?

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: No, not yet. Please sit down. You will get a chance, sir.

MR. ZANGATO: I will sit down.

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: Okay. The process we'd like to, in order to include everybody before we have to leave, we'd like to give you five to seven minutes for your comment, and then after that, we'll go on to another person, and then we'll come back to those who have more beyond the five to seven minutes, if time allows. Okay.

Now, the other thing is, of course, you have more time to put all your comments in writing and send them to us via e-mail or by US mail. You have a number of choices to communicate with us after this hearing tonight. So please do not feel that you cannot get what you have to say to us. We're more than happy to take written comments after this hearing tonight.

So without any further ado, we'd like to have the next person come up and I believe there is a gentleman, no, behind you, sir, the gentleman who has been waiting patiently. And, again, five to seven minutes, if you would, and then we'll come back to you, if we need to or can.

MR. KELLY: Good evening. My name is Tom Kelly. And the first thing I'd like to do is I'd really like to express my appreciation to all of the citizens of Berkeley who have really stuck with this issue over the last 10 or 12 years and doggedly so, and have done so with no compensation and at great personal expense and obviously taking great personal risks in a way to continue to go up against the Lab and what seems to me to be a very conflictual situation which of course all of us realize is not the way we like to lead our lives. So to these people I really want to say thank you very much, you've been very inspirational to me in terms of keeping me interested and following it up.

Up until just a couple of months ago, I worked at the California Department of Health Services in the Environmental Health Investigations Branch. And in some ways we're kind of a, I won't say a counterpart to DTSC, but they often work together. And one of the things that we have learned is that you need to get the community involved in these types of issues very, very early in the process, and you have to do that because that's the only way you're ever going to get a good outcome.

Now, you can avoid doing that and all of us have seen and I'm sure the folks at DTSC recognize it too that when you develop a resolution with someone like the Lab, if the community gets involved in that late in the inning, you run the risk of whatever process you developed being undermined, and often taking you right back to where you started from.

So with that in mind, I would also like to leave with you a copy of the letter that we at the Community Health Commission sent to the City Council, which essentially asks that the area that's being considered to be cleaned up to be the highest possible levels. And, you know, it makes sense. Think about it. I mean all of us when we were growing up, you know, we were told if you make a mess, clean it up. And essentially that is what the lab has done over the last 40 years. And I don't know if you can say that it's been due to its own negligence or even intentional.

I mean I don't understand how solvents and VOCs and PCBs and everything else actually get into our groundwater, the way they did here, unless someone wasn't paying attention or the best management practices at the time weren't being used. So with that in mind too, I hope you understand that that's some of the reasons why there's a great deal of distrust of the Lab and its motives and its willingness to follow through on the promises that they even make to DTSC.

So the second thing that I want to ask is that you consider, well, actually recognize that you put together a citizens advisory group, and I'm sure you could figure out a way to make that work. I mean other than this advisory group, it would be made up of people who would necessarily be there to undermine this effort, but I think it could be structured in such a way that everybody would get off to the right foot and actually came out with enough good will that they all agreed that they would work to try to get the best outcome possible.

So this is a tough situation. People in Berkeley haven't given up, unlike most of the rest of the people in this country, and they still continue to demand involvement in the process, we're active in this process, and that's what democracy is all about. And so you can encourage that and maybe even help to foster a rebirth in the rest of this country if you could look beyond all this past acrimony and distrust and let's get started on a new footing and see if we can't work together as a team that will ultimately provide a better result for everybody.

So thank you very much, I appreciate it.

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: Thank you, sir.

Mr. Kelly, could you give us your letter.

MS. LEVINSON: My comment is --

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: I'm sorry, could you identify yourself, please.

MS. LEVINSON: I'm sorry. Joan Levinson, 1522 Buena Avenue. And I want an answer to the question I'm going to ask at the end of my two minutes.

My comment is that all of you who have come here tonight to tell us are clearly very smart, well-informed specialists in your field and you know what you're doing in the Lab and you know what you're talking about. And I suspect that all of you had an early impulse to get into this field because of 30 years ago and longer there was the idea that the environment is important and we should keep as much toxicity out of it as we can. And now 30 years later there is more than ever.

So my comment is what do you do in your very quiet alone moments when you remember original motivations and what you are doing now sounds not a little like Orwell's 1984, and it's very, very troublesome, extremely troublesome to we who have come in great honesty and sincerity asking simple questions that affect our lives and your lives and everybody else and we hit the fog.

In the context of that, I would like to give Nathan a copy of similar questions that were asked ten, nine years ago when you were applying for a permit to develop hazardous waste again, and yet nine years later it's all the same questions and the same nonanswers.

My question is, and you can write to me and tell me, to your knowledge, is there anything being done at the moment to prevent this horrible contamination situation with ongoing and new projects that are being developed at the Lab?

Thank you very much.

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: Thank you.
Sir. Use the microphone and could you state your name for the record, sir.

MR. ZANGATO: My name is Daniel Robert Zangato, and I'm proud of it.
Where did you sleep last night? I slept outside. And I have to sneak in where I have to sleep. I'm homeless. And you're talking about saving the environment. Screw the environment, you know. Hey, talk to me, you know. Like I said, I can say it in 20 seconds.

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: Next on the agenda, I'm sure there is somebody.

Go ahead.

MR. CUNNINGHAM: I'm Jim Cunningham. I live at 1007 Miller Avenue in Berkeley.
And just a couple quick comments. First of all, I do want to put it into the record and give you a copy of a letter that we sent to DTSC a couple of years ago. This has two elements that are very important about the subject we're talking about.

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: Thank you.

MR. CUNNINGHAM: And the other thing, I'm very happy to hear the people who commented about the positive nature of a citizen advisory group. I would hope that DTSC would realize that any rule that exists can be changed or whatever, and I would like that DTSC realize that a citizen group can be a help to this whole process. So I would like to have a positive response from you on that issue.

Thank you.

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: Thank you.

Ma'am, would you like to --

MR. WOOD: I don't know why you want to avoid me, Nathan, but I thought I would try to speak now, if that's okay with you.

MR. SANDHU: No, we're not avoiding you.

MR. WOOD: Okay.

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: And remember five to seven minutes, and then we'll get back to you if we have more time.

MR. WOOD: All right. Great.

My name is LA Wood and I sit on Berkeley's Environmental Commission. I have sat on that commission for four years. I have been involved with LBNL for almost the extent of the 15 years.

I want to speak to a number of things about this process. I will write written comments to some of the technical aspects of the project, because I do believe that it is under-investigated in certainly the areas of geology. I mean it's a no-brainer. And certainly the areas that we are most concerned about, you know, the report tracks around. But I think sooner or later I think with environmental restoration, I think the Lab looks at a good number of you folks here, that we need to figure out a way in the future for us to walk into this concerned community instead of running side by side with it, avoiding it.

I do also want to support the community in their request for a CAG. And I want to bring to the public record some of the history. Unlike everyone in this room, I'm a Commissioner and I've sat at the environmental meetings so I can speak directly to them. I can tell you that over the course of the last four or five years that I'm probably the only commissioner who has sat at that table consistently for the four quarterly meetings, and that we haven't had commission participation. Oh, yes, we've had it at the top of our agenda announcing a meeting, but it has been very contentious the issue of bringing LBNL -- as a matter of fact, six months ago LBNL made a presentation or thereabouts. The question was asked, listen, you guys seem to be brain dead about responding to this issue, we want them to come. There was silence. In other words, even though our political arm of the city wants to extend this monitoring and have this commission be an oversight, it has expressed too that if the bodies come to the agreement that we don't want to, not that I'm not interested, and not that I'm not responding to you as a private citizen, but I'm not here as a commissioner tonight.

Also, you should also know that the citizen participation has been half-hearted and I wish there was more. I am grateful for people like Tom Kelly stated, it would be great if you could draw a line and not bring back the 2001 remembrance of being here. There are many, many reasons why the community has reacted to you the way that they have. And I know it hasn't pleased you, but the truth is that we have been disenfranchised by this process and that we only get brought into it a month or two or three before we have to come in for a meeting like this and sign off. And that's what this meeting is, it's a sign-off. And so we haven't had the kind of process that's necessary.

I was appalled at the fact that DTSC would dare send a letter to our city government regarding a community CAG. As I understand it, a CAG is driven by community members, not by the City of Berkeley, but by community members. Yet, we didn't even request to DTSC to have a CAG, but you were already responding politically to the City of Berkeley. That to me is indicative of how political this process is and how much we have sat in the back seat of this process and we are very, very concerned about that.

I know that I have been working now at the Richmond Field Station, and I recognize what happened out there. It found itself in this quagmire, regulatory quagmire, where you couldn't get responsibility out of anyone, no one was being responsible, no one was taking protective action. So what did they do, they went to Cal EPA and maybe that's what we need to do as a community group, go to Cal EPA and say, hey, we're an affected community, we've been standing here for 15 years trying to get the facts and can't get them. And I say that, and I look at this letter that you sent to the City Council saying, oh, we would prefer to deal with community groups.

Well, what we really need is for the community members to come together so you don't have to give the information to each of us one at a time. When I call your offices what response do I get? I get the sense that I'm wasting your time and I'm taking away your workday, and maybe I am, but if each one of us does that, do you see how problematic the education of the public is. And that is what this public participation component is all about, and we missed it. And as a matter of fact, six months ago I asked for some information regarding this process that I thought was critical that was public information. I waited over a week so that DTSC's attorney could make the determination that, yes, these documents should be given to me. And I would say that's a back seat that we don't like with DTSC.

We recognize how difficult it is to come and regulate a business when that business is the federal government, when that business is DOE. That is a very difficult thing. We know it because we live in a community where we have to go approach that business at the federal building, at DOE processes, and not just in a normal zoning process that we would normally deal with any business. So we meet them there. And so what I'm asking from you tonight, and I think a number of us are asking for, is for you to look at this. Look at this failed process. It has some elements that work. And for the people that are coming around, because, you know, we're known entities here and we are trying to educate ourselves piecemeal, and your workshops are only a product of a year ago when you came to the process and said, well, hey, it's not working here, and you said, well, if you sit down with us across the table so we could ask you questions, it would be great, and at least we had some of that happening today. But you know what the problem is, it's too little, too late. Fifteen years and here we are.

Accelerate the cleanup. Someone talked about the money. Damn right the money pushes this process. Don't be dizzy thinking it doesn't. This is a political process. Environmental protection is a political process. In 2000, I think I was over in San Francisco with some of the staff here at the DOE when you were talking about waste management saying, well, here comes Bush, we know what's going to happen to environmental protection. And that's what has happened to it, it's gone away, it hasn't been there to stand up. That's why we see some of the cleanup actions are non-cleanup actions. And it's fearful for us that we would have the cleanup process take place in a political time where we had someone who is not responsible for cleanup, because we know that we're still here with the contamination.

So, hey, don't clean it up now if you don't want, but what we want from you is a guarantee that you will clean it up and that you will monitor and track it and track the person that polluted it, because I think that's important. I think of all the things, solar energy and all of the magnificent science, things that come from the Lab, environmental protection is not one of them. It doesn't come. Environmental restoration. If you look up there at the last 30 years, you could write a book on failure, that's why I'm here tonight.

And also, I do want to mention one more thing about the radiation issue, because I'm not going to try to address that in my comment, because it's a serious issue. You've got the radiation just like this and you posture up one slope at one median and say it's not our jurisdiction and another. And tonight we've talked about it in two different terms and we need to have a different kind of process, we need to have the cooperation.

In 1999 when our City Council unanimously supported us being involved in the environmental restoration program at LBNL, that would have been a perfect opportunity for you to allow a few of us, a commissioner, a few people from community groups to come forward to sit there instead of putting us to this point so I have to stand up here tonight and so we have to push against you and so I have to file public records requests or I have to call your phone and harass you because you won't even tell me that I call you too much. And that's what's wrong with public participation.

So if you want us to buy in, there's a lot you can do beyond just the program you put up on the table. I don't think the program you put on the table is an appropriate one for this community. I believe that you need to clean that site up to the way that you found it, and I think that that's the least that this community be owed and I believe that I -- and I respectfully request that DTSC look at this issue, a community action group, call it what you want, and set up a process so that we can essentially monitor it at least for the rest of the cleanup, and that, you know, we be a part of some of the fine tuned parts of the process after you just rubberstamp and go up there, and that we be a part of that process so we can monitor it. And that you take our comments seriously, because I feel as though I've made lots of comments through this process and I don't see one of my comments embraced by anything that LBNL has done over the last 15 years, and that's very disappointing to me that things that I've offered have not been obstructionist, they have been protectionist, and I don't see any of them.

Thank you.

MS. KELLY: Hi, my name is Jane Kelly, I'm a resident of Berkeley. I am very new to this discussion. I certainly have zero scientific credentials, and to be perfectly frank, I don't know much about the issue, the contamination, that we are talking about this evening.

However, I have spent the last seven years of my life working for a firm that specializes in community outreach and public participation. And as a neutral observer, I believe it's fair to say that this is not working. There is obviously a large measure of distrust from the community. This is not a functioning dialogue and I just wanted to say that we in my firm would strongly advocate the establishment of a citizens advisory group. It's a good thing. It is truly a good thing. I have seen it work extraordinarily well over the past seven years, I would ask you to embrace it. I'm sure nobody likes to have this conflict, I know you don't and I know these folks don't, and I really do believe that if you accept this and embrace it and form a citizens advisory group and set the past aside and start over, that this can truly be a good result.

So thank you.

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: You have been waiting patiently. Now is your time. We don't want to leave you out. Go ahead either one of you.

MS. GORDON: I'm Tuala Gordon at 1546 Milvia.

And on behalf of Save the Strawberry Creek Watershed, I would like to hand you a petition to save the Strawberry Creek watershed signed by over 400 individuals reflecting wide community concern over the contamination at LBNL, and wide community interest and support for the preservation, cleanup, and responsible management of the headwater areas of Strawberry Creek.

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: Thank you very much.

Please.

Thank you again for getting that for us.

MS. SHIVOLA: So I will start again.

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: Just as a word of caution, five to seven minutes, and then we'll come back to people.

MS SHIVOLA: My name is Pamela Shivola, and I co-chair on the Committee on Toxic Waste here in Berkeley.

We have followed the situation at LBNL, myself personally for over a decade, and the environmental condition since the early 1990s.

I will repeat what I said before. I believe the verification of risks. We heard from DTSC, it's indeed misleading, if all radioactive contamination and exposure has been involved. Also, as I said before, it appears that the methods used as a foundation for these investigations is flawed. It is based only on known contamination or known activities, and indeed if you are truly following the scientific process, a lot of the grounds and higher than the Strawberry Creek watershed should have a grid, and in each grid within a certain known distance from each other, monitoring wells to see if the contamination has spread beyond what these subjects that we are currently dealing with indicate.

The Strawberry Creek watershed has a very complex hydrogeology. And actually what I would like to do is to bring up the map. For many years we have asked the Lawrence Berkeley National Laboratory to provide a comprehensive site map that would include the entire watershed. What we did with the help of UC Berkeley, we put together several overlays which are based on the 1875 surveyor map of the vicinity. Everything in blue indicates the original historic creeks. Everything in red indicates the USGS fault lines in the canyon. Everything in that area is in the middle here. The black spots indicate the groundwater contamination plumes.

These red lines here, these are related to the east canyon Wildcat Fault which is a fault zone on the eastern side of the canyon, an LBNL site. This is the Hayward Fault Zone, and there are cross faults, the New Fault, and similar cross faults across the LBNL site.

You can see that the plumes have odd shapes. This is a plume here, it is flowing in an old creek bed of Chicken Creek, and I can't really -- I understand that anyone by looking at the shape of this one or this one or this one or this one, can you say that these plumes are contained? They clearly have moved. The source of contamination that sweeps forth right here and all of these that you see here is moving downstream, downstream along the old creek bed, and the canyon wall is here.

The water contamination is up here, so the BLC plume is also moving south to the canyon bottom. And then the other water here, which is in the Blackberry Canyon watershed, is moving along the north slope of Strawberry Creek, as are these other plumes.

In 2003, we met with Mohinder Sandhu and his staff, we sent them a letter requesting that DTSC request LBNL to provide for the benefit of the community a comprehensive map that would show all these elements, including slide zones, sewer lines, every possible element that will impact the site and the movement, and that would add to the contamination. They refused to do that. The DTSC said we are not going to ask LBNL to do that. Of course, we have asked LBNL to do it on our own. We don't see a comprehensive map here, everything is piecemeal. When you look at the site on the RSI report, they are all 8 1/2 by 11 sheets, 8 1/2 by 17 sheets. You don't get the comprehensive view. I'm asking that this be remedied before any final decision is made on these corrective measures. There should be a map that would show the whole entire site, all of the elements. And I will also add in more detail in my written comments.

And I would like to read for the record what I read before from a 1949 geologist's report for this site, where the Orinda formation is used as the foundation for not cleaning up these plumes. The Orinda formation, and I'm not going to read the whole thing here, the area as available is a four-acre site needs to be X-rayed, this is 1949 before the building was constructed, and leveled off. The bedrock beneath this beveled surface will be comprised of poorly consolidated marine sediments. The Orinda formation absorbs water freely and a lot of those features that are associated with it are also quite pervious so the whole mass is really saturated in the area adjoining the Lisbon Tract to the east, which is comprised of the same formation as those under consideration, all the Lisbon Tract.

They had 68 streams from which they once collected water for the domestic supply of Berkeley in the early days. There appears to have been considerable landsliding in this active area, and the appearance of heavy rainfall, the deep overburden and underlying marine sediment becomes quite soft from the

absorbed water, seeps come out of the ground in many places, and even while several inches of rain are falling, this was a stream in 1949. There are about four seeps issuing from the ground in the vicinity of the Bevatron.

There are two known permanent streams in the area where puddles have been at the old site, and pipes leading out from the paved entrances have been flowing water for many years. There is a sump pump in the basement of the Bevatron pumping water constantly. The former water reports water from each well, and it is these three wells here, all of which flow to Strawberry Creek.

The creeks don't seem to exist. The water goes somewhere and we need to see a comprehensive diagram that shows where all of these waters are going right at the moment, and indeed, the formation of a citizen advisory group, and we would like to call it citizen watershed advisory group, should be formed to include many citizens who are very interested in the three issues in the city of Berkeley.

The city of Berkeley has a policy of day-lighting creeks downstream. There is a proposal currently considered for the west campus site to open Strawberry Creek there. They are day-lighting sections all the way down to the bay. And there is community-wide interest in the creeks and the leveling of the creeks, and I think it is absolutely imperative that DTSC will sponsor a citizen watershed advisory group to address all of these issues to guarantee that we will have clean, good water in Strawberry Creek from here on and for years to come. It is very, very important, and I would comment, as I said, more in detail in my written comments.

But I ask you to consider for the group and those 400 signatures that you already have received, they are a foundation to show that there is wide community interest in this issue, and I hope that you will start helping us starting tonight.

Thank you.

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: Okay.

Thank you very much.

At this point, I have two comments I wanted to make just in terms of the process.

One, Ms. Shivola, could you make sure that we get a copy of the map book and record that you referred to.

MS. SHIVOLA: I will make that part of the written comments.

PUBLIC PARTICIPATION SPECIALIST SCHUMACHER: That would be very good, thank you. I appreciate that.

All right. We thank you all for coming. We appreciate your patience with us and we will hope that you will send any remaining questions and comments to us via e-mail or US mail.

Thank you very much. And we are hereby adjourned.

(Thereupon the public hearing was adjourned at 9:15 p.m. on May 26, 2005.)

CERTIFICATE OF SHORTHAND REPORTER

I, MICHAEL J. MAC IVER, a Shorthand Reporter, do hereby certify that I am a disinterested person herein; that I reported the foregoing Department of Toxic Substances Control proceedings in shorthand writing; that I thereafter caused my shorthand writing to be transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said Department of Toxic Substances Control proceedings, or in any way interested in the outcome of said Department of Toxic Substances Control proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of June 2005.

Michael J. Mac Iver
Shorthand Reporter