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RESPONSE TO COMMENTS LAWRENCE BERKELEY NATIONAL LABORATORY HAZARDOUS WASTE FACILITY PERMIT

November 17, 2006

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1. Reply Letter to Pamela, November 9, 2004
2. Order to deny Petition for Writ Mandate (CEQA), June 8, 1998

A. BACKGROUND

Lawrence Berkeley National Laboratory (LBNL) submitted a permit renewal application to the Department of Toxic Substances Control (DTSC) on November 1, 2002 for its Hazardous Waste Handling Facility (HWHF). DTSC informed the public of the receipt of the permit renewal application in January 2003. This announcement consisted of mailing copies of a Fact Sheet to the facility mailing list. The facility mailing list consists of approximately 2000 persons. DTSC also placed a display advertisement in the Berkeley Daily Planet and Oakland Tribune newspapers announcing the receipt of the permit renewal application.

DTSC reviewed the permit renewal application from November 1, 2002 to September 21, 2004. DTSC informed the public of a 60-day public comment period on the draft Permit on September 21, 2004. The public was informed by a display advertisement in Berkeley Daily Planet and Oakland Tribune newspapers. Copies of a Fact Sheet were mailed to the 2000 persons facility mailing list. A paid public notice announcing the public comment period was aired on Radio Station KDFC 102.1 FM. On October 20, 2004 at 6:30 P.M., DTSC held a public meeting and a hearing to receive comments on the draft permit. During the public meeting DTSC made a presentation about the project and answered questions from the attendees. During the public hearing DTSC received public comments on the Draft Permit Decision. The public meeting and the hearing were held at the North Berkeley Senior Citizens Center on 1901 Hearst Street, Berkeley. DTSC received oral testimony during the public hearing, which was recorded by a court reporter. The public comment period ended on November 19, 2004.

The following documents were made available to the public as a part of the Draft Permit Administrative Record.

1. *Draft Hazardous Waste Facility Permit*, September 21, 2004
2. *Facility Safety Analysis Document* for the Hazardous Waste Handling Facility at Lawrence Berkeley National Laboratory, April 10, 2001
3. *LBNL's California Environmental Quality Act Documentation – Minor Changes in Operation at the HWHF*, March 10, 2003
4. *Updated Risk Analysis* for Berkeley Laboratory Hazardous Waste Handling Facility, October 2002
5. *Public Notice, The California DTSC Announces a Public Comment Period and Public Hearing on a Draft Permit Renewal*, September 2004
6. *Fact Sheet, Draft Permit Available for Comments*, September 2004

B. GENERAL ISSUES AND CONCERNS

Common issues and concerns were raised by several commenters. The following are responses by DTSC to the general issues and concerns. A detailed response, including any cross-reference to these general issues and concerns, to all comments received during the public comment period is also provided later in this document.

B.1 GENERAL ISSUE 1: CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

B.1. (a) Lead Agency Designation

Several commenters asked why the University of California – Regents (UC Regents) are and have been the Lead Agency under CEQA for projects regarding the LBNL HWHF. In past actions, the UC Regents approved the construction and operation of the current HWHF, and various HWHF operational changes. The CEQA documents supporting these decisions are listed in the Request for an Environmental Impact Report portion of this RTC document. The CEQA Guidelines require that if a project is to be carried-out by

a public agency, that agency shall be the Lead Agency, even if carried out within the jurisdiction of another public agency. (Cal. Code Regs., tit. 14, § 15051, subd. (a).) In this case, the project is the continued operation of the LBNL HWHF by the University of California. Consequently, the UC Regents have the authority and responsibility to determine whether to prepare an Environmental Impact Report (EIR) or a Negative Declaration. (Cal. Code Regs., tit. 14, § 15050, subd. (c).) It is also the Lead Agency's responsibility under CEQA to perform the environmental evaluation required by CEQA. (Cal. Code Regs., tit. 14, § 15050, subd. (a).) The UC Regents delegated the preparation of the CEQA documents to LBNL. However, the UC Regents retained the final approval authority for the project. Each project is reviewed by a number of Responsible Agencies having discretionary approval authority over the project. (Cal. Code Regs., tit. 14, § 15381.) A Responsible Agency complies with CEQA by considering the EIR or Negative Declaration prepared by the Lead Agency, and by reaching its own conclusions on whether and how to approve the project involved. ((Cal. Code Regs., tit. 14, § 15096, subd. (a).) DTSC has permitting authority pursuant to Chapter 6.5 of the Health & Safety Code as it relates to the HWHF and, consequently, is a Responsible Agency under CEQA or this project.

B.1. (b) Request for an Environmental Impact Report

Several commenters also stated that an EIR should have been prepared for this HWHF permit renewal project. As discussed above, the UC Regents is the Lead agency under CEQA for this project and was responsible for preparing the appropriate environmental document for this project. In this regard, the UC Regents relied on previously certified documents to examine potential impacts associated with the current project. These documents included:

1. Lawrence Berkeley Laboratory Site Development Plan Draft Environmental Impact Report (December 1986) and Lawrence Berkeley Laboratory Site Development Plan Final Environmental Impact Report (SCH #85112610; August 1987); the Supplemental Environmental Impact Report for the Proposed Extension of the Contract Between the United States Department of Energy and the Regents of the University of California for Operation and Management of the Lawrence Berkeley Laboratory (SCH #91093068; September 1992); and the Supplemental Environmental Impact Report Addendum (PUB-5436; September 1997).
2. Construction of Replacement Hazardous Waste Handling Facility Final Environmental Impact Report (HWHF EIR;" SCH #89040416; June 1990)
3. Revised Tiered Initial Study for the Modification of Permitted Hazardous Waste Handling Facility Operations at LBL and Transportation of Hazardous and Mixed Wastes from an Offsite LBL-leased Building to LBNL's HWHF (SCH #93101048; Negative Declaration: May 1994).
4. Subsequent Mitigated Negative Declaration, Modification for HWHF Operations at the LBNL (SCH #96022062; May 1997) and Responses to Public Comments on LBNL Operations, including Comments on the Initial Study/Negative Declaration for Modification for HWHF Waste Operations (April 1997)
5. Final safety analysis document for HWHF operations at LBNL – April 1997
6. An updated risk analysis for permit renewal- October 2002.
7. An addendum to the EIR for permit renewal- March 2003
8. A CEQA Notice of Exemption for permit renewal that included minor changes in operations - March 10, 2003
9. A CEQA Notice of Determination for permit renewal that included minor changes in operations - March 10, 2003

The UC Regents made the following CEQA findings of potential environmental impacts related to the continued operation as part of the permit renewal project for the HWHF:

1. No reasonably foreseeable significant environmental impacts would result from the proposed changes.

2. There would be no changes to the currently permitted storage capacity or treatment methods.
3. There would be no changes in the total amount of waste that would be accepted .
4. There would be no change in the relative amounts of various types of wastes that would be accepted.

Pursuant to its obligations as a Responsible Agency under CEQA, DTSC considered the environmental effects of the project as shown in the above documents. Using its independent judgment, DTSC determined that these documents adequately addressed potential impacts to ensure that approval of the HWHF permit renewal would not result in significant adverse impacts to the environment. DTSC concurred with the above UC findings. DTSC will file a CEQA Notice of Determination (NOD) indicating the results of the above findings. This NOD will be filed upon the effective date of the renewed permit.

B.2. GENERAL ISSUE 2: JURISDICTIONAL AUTHORITY OF DTSC REGARDING MIXED WASTES

Several commenters raised questions about radioactivity and radionuclides at LBNL and at the HWHF in particular. DTSC does not have the legal authority to regulate radioactive materials present at LBNL. Under the Atomic Energy Act of 1954, as amended, DOE has the exclusive legal authority to regulate such radioactive materials. These materials include the radioactive component of the mixed waste. Also, DTSC does not have the legal authority to regulate all hazardous materials present at LBNL. DTSC's authority to regulate hazardous materials at LBNL is limited to the regulation of hazardous waste, as defined in the State Hazardous Waste Control Law (Health and Saf. Code, div. 20, ch. 6.5 (commencing with sec. 25100) and Cal. Code Reg., tit. 22, ch. 4.5 (commencing with sec. 66260.1)). This definition does not encompass the radioactive materials present in the mixed waste managed at LBNL. (Cal Code Regs., tit. 22 sec. 66261.4, subd.(a)(2).) Consequently, the HWHF permit only applies to the management of the hazardous components of the mixed waste.

There are specific Federal regulations designed to protect against risks posed by handling radioactive components overseen by DOE. The Department of Energy (DOE) regulates the use of radioactive materials by requiring compliance with 10 CFR 835, *Occupational Radiation Protection*; 10 CFR 830, *Nuclear Safety Management*, 10 CFR 820, *Procedural Rules for DOE Nuclear Activities*. In addition, DOE requires their contractors to follow all Department of Transportation, EPA, and Food and Drug Administration requirements for the transportation, emission, and human subject research of radioactive materials. The DOE requires and performs routine formal compliance audits as well as informal site reviews to ensure that the contractor is maintaining compliance with the applicable regulations.

B.3 GENERAL ISSUE 3: RISKS OF UPSETS ASSOCIATED WITH HWHF OPERATIONS

Several commenters raised issues related to the risks associated with operation of the HWHF. The Final Safety Analysis Document (FSAD) of the HWHF prepared in April 1997, updated in April 2001 and updated again in October 2002 concluded that with the use of procedures already in place at the HWHF, risks at the HWHF do not exceed applicable Occupational Safety and Health Administration (OSHA) and National Institute of Occupational Safety and Health (NIOSH) and other standard exposure criteria.

The HWHF FSAD evaluated the consequences of both normal operations and postulated accidents involving hazardous chemical wastes to ensure that the consequences would fall within federal guidelines. It specifically evaluated the health and environmental hazards of releases of hazardous chemical wastes during normal operations and potential accidents at the HWHF. They were intended to represent high risk chemical constituents of wastes handled at the HWHF.

In connection with the changes to HWHF operations currently proposed and the application to renew the HWHF permit, a safety analysis was performed on behalf of the LBNL by Parsons (Updated Risk Analysis

for Berkeley Lab's HWHF, October 2002), to evaluate whether the conclusions of the HWHF FSAD remain applicable to the set of chemical wastes that the HWHF currently accepts.

The updated Parsons analysis compared risks from normal operations and hypothetical accident scenarios at the HWHF to workers at LBNL against applicable Occupational Safety and Health Administration (OSHA), National Institute of Occupational Safety and Health (NIOSH), and other standard exposure criteria. For exposures to the public beyond the Lab fence line, the Level 2 value of the Emergency Response Planning Guidelines (ERPG-2) developed by the American Industrial Hygiene Association (AIHA- 1988-1995) was used. The updated analysis also determined whether exposures would exceed a hazard index of 1.0. The Parsons study utilized new information where appropriate, such as the revised USEPA atmospheric stability assumption. The updated analysis concluded that with the use of procedures already in place at the HWHF, risks at the facility do not exceed Occupational Safety and Health Administration (OSHA), National Institute for Occupational Safety and Health (NIOSH) and other standard exposure criteria for chemicals and radionuclides standards.

DTSC reviewed the Parsons Updated Risk Analysis dated October 2002 and found that the analysis followed sound science procedures and DTSC agrees with its conclusions. Copies of the FSAD and Parsons report are available for public review in the repositories for this project.

The following documents were included in the Draft Permit Administration Record.

1. Final Safety Analysis Document, April 1997
2. Final Safety Analysis Document, April 2001
3. Final Safety Analysis Document, October 2002

B.4 GENERAL ISSUE 4: EMERGENCY PLANS FOR FIRE FIGHTING

DTSC would like to note that decision on a specific site location of a hazardous waste facility is not controlled by DTSC. However, DTSC is responsible for ensuring protection of human health and the environment from its operation. In the case of LBNL, HWHF, DTSC recognizes that the facility location poses certain challenges regarding responding to fires and other emergencies. DTSC, however, believes that the Facility is well designed and meets applicable standards including response to fire and other emergencies.

B.4. (a) Emergency Firefighting Plan:

Several commenters raised questions about emergency firefighting plans and procedures in relationship to the HWHF. The HWHF has been designed with numerous fire safety features to meet current fire and safety regulations. In addition, LBNL's Vegetation Management Program has reduced the potential fuel load for a fire surrounding the facility, and larger fuel breaks have been created to prevent any hill fire from encroaching on the waste handling facility. DTSC has reviewed these emergency plans for firefighting at LBNL and believes that they are adequate.

B.4. (b) Risk Analysis:

The risk analysis (Final Safety Analysis Document, October 2002) considered the consequences of a release of entire contents of the HWHF in the event of facility becoming engulfed in flames as a result of a hill fire. Emergency planning at the LBNL is based on planning guidance contained in the master Emergency Plan. Credible emergency planning scenarios have been developed to tailor the on-site response plans, equipment and facilities. One credible scenario used in preparing the response plan is a significant earthquake resulting in multiple casualties, structural damage, fire and possible spills.

There are two water supply lines serving LBNL, neither of which crosses the Hayward Fault or any other active fault. The two lines are independent and connect to separate EBMUD storage tanks, each of which is located to the east of and at elevations above LBNL. The East Bay Hills were located in part by ancient seismic activity, and ancient inactive faults have been identified in many areas of the hills. It is unlikely that any of these inactive faults would become active. In any case, LBNL has engineered its water supply system in a conservative manner. LBNL water supply and distribution system has been engineered to reduce the risk of any water supply failure and to enable the Laboratory water distribution system to operate in the event that external supply is curtailed for any reason.

B.4. (c) Contract with Alameda County Fire Department:

LBNL also has a contract with Alameda County Fire Department (ALCO) regarding fire fighting support. Under this contract, LBNL has its onsite fully functional fire department – the 19th Engine Company in the Alameda County Fire Department, capable of responding to hazardous waste handling facility's emergencies in less than 5 minutes. The onsite fire department consists of a dedicated staff that is active 7 days a week 24 hours a day. As a part of this contract, in case of an emergency requiring additional back up, LBNL can access all ALCO fire stations support. Additionally, LBNL maintains a mutual aid agreement with the City of Berkeley fire department for support in emergencies. LBNL is also part of the California Master Mutual Aid Agreement whereby fire support may be requested through the local mutual aid coordinator or directly through the Oakland Fire Department.

The LBNL Emergency Plan has been reviewed by the LBNL Fire Marshal, LBNL Emergency Manager, LBNL Security and Emergency Operations Group Leader, DOE Berkeley Site Office, and Alameda County Fire Department. The Alameda County Fire Department also manages the mutual aid agreements for the county and is the only agency within the county with a 24 hour/day, 7 day/week hazardous materials response capability.

B.5. TERRORIST ATTACKS OR ACCIDENTS DURING TRANSPORTION OF MIXED WASTE:

B.5. (a) Several commenters raised concerns about a conventional explosive attack by terrorists during the transport of mixed waste that could become the equivalent of weapon of mass destruction.

DTSC does not agree that such an attack would create the equivalent of a weapon of mass destruction because the radioactive materials present in the mixed waste in transportation are not capable of causing a nuclear explosion. As discussed below, DTSC considers such a scenario unlikely to occur and, therefore, not reasonably foreseeable. In addition, DTSC is not aware of any credible, specific terrorist threats against mixed waste shipments from the HWHF.

The Homeland Security Act of 2002 (Pub.L. No.107-296 (Nov. 25, 2002) 116 Stat. 2319) delegated to the U. S. Department of Transportation (DOT) the responsibility to prescribe regulations for the security of hazardous materials (which include radioactive materials) in transportation. (See 68 Fed. Reg. 14510, 14511 (Mar. 25, 2003).) As a result of the terrorist attacks of September 11, 2001, and subsequent threats related to biological and other hazardous materials, the DOT Research and Special Programs Administration (RSPA) conducted a broad review of government and industry hazardous materials transportation safety and security programs. (See 67 Fed. Reg. 22028 (May 2, 2002).) As a result of this review, RSPA concluded that, while it is undeniable that hazardous materials in transportation are a *possible* target of a terrorist attack, the *probability* that hazardous materials in transportation will be targeted is, *at best*, a *guess*. According to RSPA, the threat of attack *is virtually impossible to assess from a quantitative standpoint* and the projected outcome of a terrorist attack cannot be precisely estimated. In view of these uncertainties, RSPA based its security review on the assumption that, given a

terrorist decision to attack the hazardous materials transportation system, terrorists will make choices that will maximize consequences and damages. (See 68 Fed. Reg. 14510, 14518 (Mar. 25, 2003).)

Based on this assumption, DTSC has concluded that a shipment of mixed waste from the HWHF would not be a likely target should a terrorist actually decide to attack the hazardous materials transportation system. DTSC reaches this conclusion because a single shipment does not contain sufficient quantities of radioactive materials to present a high degree of radiological risk in the event of a successful attack, as shown by the amounts of radioactive material that RSPA, in its security review, concluded would be highly hazardous (and, therefore, attractive targets) in the event of potential terrorist attacks. Specifically, these amounts are the *highway route controlled* quantities of radioactive materials defined at 49 Code of Federal Regulations part 173.403. (See 68 Fed. Reg. 14510, 14513-14514 (Mar. 25, 2003) and 49 C.F.R. § 172.800(b)(1).) (The DOT Federal Motor Carrier Safety Administration (FMCSA) subsequently determined that highway route controlled quantities of radioactive materials would also be the thresholds above which safety permits would be required. (See 69 Fed. Reg. 39350, 39352 (June 30, 2004) and 49 C.F.R. § 385.403(a).) Highway route controlled quantities of radioactive materials are those quantities that DOT has determined would present a high degree of risk during motor transport. (See Sen.Rep. No. 101-449, 2nd Sess. (1990), reprinted in 1990 U.S. Code Cong. & Admin. News, pp. 4598-4599 and 4611.) Historically, LBNL has not shipped any highway route controlled quantity of radioactive materials. The waste shipped is at much lower levels. (See Nov. 17, 2005. email from LBNL (Roshan Shadlou) to DTSC (Sal Ciriello)). According to DOT, a quantity of radioactive material less than the highway route controlled quantity is among the group of hazardous materials that do not present a significant security threat in transportation. (See 68 Fed. Reg. 14510, 14514 (Mar. 25, 2003).)

LBNL has informed DTSC that the number of highway shipments of mixed waste from the HWHF varies each year, and has not exceeded 4 in any given year. The absence of a steady stream of regularly scheduled shipments of mixed waste from the HWHF makes the chance of a successful attack unlikely. In addition, since September 11, 2001 FMCSA has implemented additional security measures to reduce the possibility of a successful terrorist attack. Hazardous materials transport drivers and workers are required to review company's Security and Emergency Plans, be prepared for emergencies, be alert for unusual situations, and report suspicious and threatening behavior. Hazardous material transport companies are required to assess the need to implement increased security measures in times of heightened threats and promptly dispatch threat warnings and security tips to drivers and employees. These new procedures further reduce the possibility of terrorist incident occurrence during shipments of mixed wastes from LBNL.

B.5. (b) Several commenters also raised various concerns about the safety of transporting mixed waste through streets of Berkeley.

DTSC acknowledges that LBNL transports its hazardous and mixed wastes on Berkeley streets. LBNL uses registered haulers authorized by DTSC. The wastes are packaged and labeled in accordance with DOT requirements and in DOT-approved containers. These containers have to meet a strict series of tests under extreme conditions to be certified as DOT approved. These tests are established to ensure that containers do not lose their integrity. Further, these trucks are placarded according to DOT regulations. The route of these truck transports is the most direct route to Interstate 80. The route consists of LBNL internal roads from the HWHF to Blackberry Canyon Gate. The trucks then proceed down Hearst Street to connect with University Ave and then west to Interstate 80. DOE requires their contractors to follow all DOT, EPA, FDA requirements for the transportation of radioactive materials. All of these measures ensure the safety of the public during transport of mixed wastes from LBNL.

B.6. DELAY THE PERMIT DECISION UNTIL LONG RANGE DEVELOPMENT PLAN ENVIRONMENTAL IMPACT REPORT IS COMPLETED.

Due to a variety of reasons, the issuance of the final decision for the HWHF has been delayed. DTSC regrets this long delay. However, DTSC does not concur with the request by commenters to delay its decision on the issuance of the HWHF until the LRDP EIR is finalized. DTSC believes that the CEQA analysis associated with the HWHF is adequate and does not depend on nor should it be linked to the LRDP EIR. Conversely, the LRDP EIR should factor in the CEQA analysis associated with the permit renewal for the HWHF. Therefore, DTSC has decided not to delay its permit decision for the HWHF. LBNL has not completed the preparation of the Long Range Development Plan (LRDP) Environmental Impact Report (EIR) either during this delay period. As a University-owned facility, LBNL is required to maintain and periodically update its LRDP which is a planning document designed to establish direction for land use, growth, and development for all of LBNL's activities. LBNL began the planning process for a new LRDP in 2000. On October 28, 2003 LBNL issued a Notice of Preparation for LRDP EIR. A public scoping meeting was held on November 17, 2003. Since that time a draft EIR has been under preparation. Based on DTSC's latest communication with LBNL, the LRDP draft EIR will be circulated for public comments in January 2007. A public hearing, to be conducted by LBNL, is planned for the middle of February 2007.

C. RESPONSES TO SPECIFIC COMMENTS

The following provides responses to specific comments received during the public hearing held on October 20, 2004.

COMMENTS 1-1 THROUGH 6-1 WERE RECEIVED DURING PUBLIC HEARING . THE SIX (6) COMMENTERS AT THE PUBLIC HEARING WERE:

1. Roger Von Oystel
2. L.A. Wood
3. Mark McDonald
4. Supriya Goyle
5. Mark McDonald (on behalf of Pamela Sihvola)
6. Li Yang Chang

COMMENTS 7-1 THROUGH 20-6 WERE COMMENTS RECEIVED VIA LETTERS OR E-MAILS

C.1 MR. ROGER VON OYSTEL

COMMENT 1-1

My name is Roger Von Oystel. I'm a citizen of Berkeley more or less for 25 years, and I'm a neighborhood activist. And I'm a member of the Northside Association Steering Committee, which is the area, the neighborhood, north of the campus.

And I just have to say that I can't agree at all with your process. It's not really democratic. And like I said before, I've been shut out. All I can ask you is to issue an Environmental Impact Report, please.

RESPONSE 1-1

(a) Permitting Process:

DTSC respectfully disagrees with the commenter's opinion that our process is not democratic and that public has not been involved in our process. DTSC has conducted numerous public outreach activities. Those include (1) public notification of receipt of permit renewal application in January 2003, and (2) 60-day comment period beginning September 21, 2004, and a public hearing on October 20, 2004. In addition, please see Section A of this Response to Comments (RTC) document regarding additional outreach activities by DTSC at LBNL. Please see Response 2-6.

(b) Environmental Review:

DTSC respectfully disagrees that an EIR is required at this time. An EIR was prepared for the HWHF in the past, and the permit renewal project does not trigger any of the requirements to initiate a new EIR. DTSC has considered the environmental effects of the project and determined that CEQA documents adequately addressed potential impacts and ensured that approval of the HWHF permit renewal would not result in significant adverse impacts to the environment. DTSC has adopted the findings of the addendum to the EIR and plans to file a Notice of Determination with the Office of Planning and Research 30 days after the Permit Decision, provided no appeal is filed. Please see General Issue B.1 this RTC document.

COMMENT 1-2

I ask you to reconsider the route of the hazardous waste that goes through Hearst, because that's right in my neighborhood and that's not acceptable. And for the rest, it goes all the way to University Avenue, which is a risk for the city itself, and that's not acceptable. And there I ask you to reconsider the plan of the process. And I ask you that a third party will oversee the whole process from the beginning to the end, the beginning of the clean up until the hazardous waste in one way or another is past our city.

RESPONSE 1-2

(a) Route of Hazardous Waste Transportation:

Regarding the route of hazardous waste, LBNL transports its hazardous and mixed wastes on Berkeley streets using registered haulers authorized by DTSC. The wastes are packaged and labeled in accordance with DOT requirements and in DOT-approved containers. The placarding requirements are determined according to DOT regulations and followed when required. Approximately, ten trips are made per year by tractor trailer carrying hazardous or mixed wastes from the HWHF to authorized offsite treatment or disposal facilities. The route of these trailer truck transports is the most direct route to Interstate 80. The route consists of LBNL internal roads from the HWHF to Blackberry Canyon Gate. The trucks then proceed down Hearst Street to connect with University Ave and then west to Interstate 80. The document titled "Revised Tiered Initial Study for the Modification of Permitted Hazardous Waste Handling Facility Operations at LBNL and Transportation of Hazardous and Mixed Wastes from an Offsite LBNL-leased Building to LBNL's HWHF" dated May 1994 evaluated the risks associated with off site transportation of mixed and hazardous wastes. According to this report, the probability of a transportation accident resulting in a spill causing a release of contaminants to the air is estimated as 6.6 in 100,000. The probability of a transportation accident resulting in a fire causing a release of contaminants to the air is even less. The report evaluated exposures resulting from both radionuclides and hazardous chemicals in a spill scenario during transportation. The associated exposure levels were significantly below acceptable regulatory limits.

(b) Third Party Oversight:

Regarding a third party to oversee the whole process, DTSC has been authorized to implement and enforce the RCRA hazardous waste program by US EPA. DTSC is mandated by statute and regulations to make permit decisions that are protective of public health and the environment. DTSC exercises independent analyses and judgment in evaluating LBNL's submission and representations. Numerous documents are usually returned for revision prior to a final document being deemed acceptable to DTSC. Analyses by DTSC are conducted pursuant to DTSC and US EPA guidance documents and regulatory standards. DTSC exercises its independent assessment in making permit decisions and does not believe a third party oversight is necessary.

COMMENT 1-3

And number three, like I said, I ask you to pull out of the CEQA process because it's unacceptable that you make your own laws and be the judge over it at the same time. I mean this is just phony baloney the whole process.

The involvement in the process, what we as the citizens and myself, I just come here to raise my voice and that's all I can do because I know that further down the line I will have no impact at all about the process because that hand is already dealt, that ink is already played out from the beginning to the end.

RESPONSE 1-3

DTSC is required to comply with the CEQA requirements for this permit renewal project. DTSC disagrees with the assertion that we make our own laws and we are the judge at the same time. There is a due process for making such laws. DTSC abides by the rules and follows the law. DTSC appreciates and welcomes public participation in our process.

See General Issue B.1.b. regarding CEQA process or environmental review .

COMMENT 1-4

So the only thing I can do is, like I said, is I can only raise my protest and raise my deep concern about my neighborhood and the city that we live so close and next to a hazardous waste and that you are building up the whole LBL more and more while in the middle of a city, and you know on top of an earthquake fault.

RESPONSE 1-4

(a) Earthquake Faults Consideration:

Regarding earthquake faults and the HWHF, the 1990 EIR for the HWHF, and the 1996 IS/Negative Declaration for modification of the HWHF discussed potential adverse impacts due to seismic events. The 1996 Initial Study analyzed whether new, previously unconsidered or unidentified impacts would occur as a result of the proposed project changes, and determined that no new impacts would occur. The facility is not located within active fault zone. An active fault zone is defined by the California Division of Mines and Geology as being within 50 feet of an active fault. The closest known active fault is the Hayward Fault, which is about 3,700 feet from the site of the facility. The Wildcat Fault runs on the east face of the East Canyon and is about 600 feet from the facility site. The Wildcat Fault was studied by Harding and Lawson in 1980 and determined to be inactive. This was subsequently confirmed by field observation and geologic mapping by Williams, Holland and Collins during construction of the replacement waste handling facility access road and retaining wall. A fault investigation of the facility site

was conducted by GeoResources in 1994 and confirmed that the geologic features beneath the site are inactive.

There are hazards associated with storing hazardous and mixed wastes in a seismically active area. The 1997 Final Safety Analysis Document (FSAD) evaluated the consequences of both normal operations and postulated accidents involving hazardous chemical wastes to ensure that the consequences would fall within federal guidelines. The 1997 FSAD was updated in 2001 in relation to radionuclides. The October 2002 update of the FSAD evaluated whether or not the original chemicals listed in the 1997 FSAD were valid as the predominant high-risk chemical wastes handled at the HWHF. In anticipation of high ground motion resulting from a large earthquake on the Hayward Fault (design basis earthquake), the replacement waste handling facility structure was designed for a horizontal base shear of 0.28 g (for comparison, a Uniform Building Code-compliant design of the same structure would be designed for 0.17g).

(b) Design Standards:

The design and building standards applied to the hazardous waste facility reduce potential impacts associated with earthquakes. Information gained as a result of the Kobe earthquake does not provide evidence to suggest that a magnitude 7.0 earthquake on the Hayward fault would result in new significant impacts or impacts that would be substantially worse than analyzed in previous CEQA documents. The HWHF has been designed and constructed in conformance with the current version of the UBC; applicable portions of the USDOE general design criteria, which surpass the UBC standard for seismic zone 4; and the University of California policy on seismic safety.

(c) Risk of Upset:

The updated FSAD (2001 and 2002) risk analyses conclude that all releases that could occur during an earthquake are bounded by the other accident scenarios evaluated by the risk analysis. The other accident scenario was a firestorm scenario that assumed the entire HWHF is engulfed in flames and the entire contents are released. This means that the impacts of such an earthquake, in terms of potential releases from the waste handling facility, would be no greater than the consequences of the firestorm scenario analyzed.

COMMENT 1-5

You know, there is a fire danger, a high fire danger. There's a sliding danger too. And building more facilities and creating more waste is a very dangerous thing to do for our city and it shouldn't be allowed.

RESPONSE 1-5

Regarding building more facilities we would like to clarify that this DTSC permit would not authorize any new construction. It authorizes the continued operation of the existing HWHF. Regarding creating more waste LBNL has requested a permit renewal for the same storage and treatment capacities as the current permit. There has been no request for any increase in any of the permitted storage and treatment capacities.

(a) Siting Considerations:

Regarding HWHF being in an area that is subject to wild land fires and landslides, these factors were taken into consideration in the design and operation of the HWHF which is designed in accordance with the California Building Code (CBC) and the California Fire Code (CFC), other design criteria published by the National Fire Protection Association (NFPA), DOE Orders and DOE Guidance Standards. The main

building is constructed of reinforced concrete and fire-proof steel, and is constructed on rock and engineered fill compacted and buttressed by reinforced concrete retaining walls designed to resist seismic loading. The building foundations consist of drilled piers anchored into bedrock and the building's ground floor slab is reinforced concrete. The slab incorporates engineering specifications that are designed to prevent cracking of the floor during an earthquake. Additional fire resistive occupancy separation walls, and fire-rated doors are installed where the room contents and/or operations have a higher hazard. Each room that handles or stores any hazardous wastes is protected by automatic fire detection devices, such as heat or smoke detectors, and a high expansion foam fire suppression system, all with standby power.

(b) Fire Danger Considerations:

Regarding the fire danger, it should be noted that conditions on the Lab site are not as conducive to a firestorm as they were in the areas affected by the 1991 Oakland hills fire. That fire swept through residential neighborhoods densely populated with wood frame houses that in many cases also had wood exteriors and even wood shingle wood roofs. Many of the homes were surrounded by dense vegetation and/or highly flammable trees. The Lab site, by contrast, has buildings that are mostly constructed on non-flammable materials. They are for the most part spaced much farther than the residences engulfed in the Oakland fire. With implementation of the Lab's vegetation management program, many trees that represent potential hazards have been removed and fire breaks around buildings have been created. As part of the design considerations, open areas of at least 20 feet to 70 feet in width have been created around the main building of the hazardous waste handling facility. These provide defensible spaces and fuel breaks in the event of a fire in the hill. At the same time, any non-native vegetation such as eucalyptus or Monterey pine trees have been removed or thinned to further reduce the fuel loading on the hill. Native vegetation such as oak and redwood trees are planted at appropriate intervals for soil erosion protection purposes. The vegetation management program is an ongoing effort.

(c) Landslides Hazards:

Regarding landslide hazards, no landslides affecting the stability of the HWHF have occurred. During construction of the existing HWHF excavations were monitored by geotechnical engineers and no additional slides were observed. All fills at the sites of the existing and replacement waste handling facilities were engineered and are not subject to liquefaction. Monitoring by geotechnical engineers and geologists during site grading for the HWHF confirmed that there are no existing or potential landslides that might threaten the facility. The ground upslope of the facility is underlain by thin soils over bedrock. The facility is founded on piers emplaced into bedrock. The initial geologic study indicated that the access road to the waste handling facility might cross an ancient landslide mass. Observations during site grading confirmed that this mass is present. However, there is no historic evidence of movement of this slide.

COMMENT 1-6

And that's all I have to say. Thank you for your time. And also I have to tell you how I appreciate to let us speak up from you and inviting different organizations to come here tonight. It didn't happen before and I really -- I mean I have to thank you for that.

RESPONSE 1-6

Comment noted.

C.2 MR. L.A. WOOD

COMMENT 2-1

Certainly the issue of transportation is a serious one. I guess what puzzles me is that we're coming around ten years later to permit the Lab to continue a process and we're saying that there is no change. And the truth is that I've always found that the regulatory oversight, DTSC, EPA, you know, has always been pretty much isolated and that there isn't the kind of review process.

RESPONSE 2-1

(a) Transportation:

All hazardous and mixed waste shipments from LBNL to disposal facilities are packaged in DOT approved containers. These containers have to meet a strict series of tests under extreme conditions to be able to be certified as DOT approved. These tests are established to ensure that containers do not lose their integrity during transportation and in case of accidents unless they are exposed to extreme conditions. LBNL also follows all packaging, labeling and placarding requirements per DOT. The route selected by LBNL is the most direct route to highway eliminating unnecessary detours in residential areas. Please also see Response 1-2 regarding transportation.

(b) Permit Review Process and Regulatory Oversight

DTSC evaluates all hazardous waste permit applications for conformance with applicable technical standards. If DTSC deems these applications consistent with regulations, a ten-year permit is issued. This is applied on a consistent and uniform basis to all hazardous waste facility permits. DTSC considers this approach protective of human health and the environment. Regarding changes requested by LBNL as part of this permit renewal please see Responses 1-1, and 2-5.

COMMENT 2-2

What you see going on up at the hill is you see a tremendous growth in LBNL. You see a tremendous growth in UC. On their long-range development, on UC's long-range development, on LBNL's long-range development, you see tremendous changes happening. And you know, the proposal is for building a tremendous amount up on the hill. Yet, we're going along as though there's no difference. And certainly if DTSC looks at the Lab at this particular moment, it would give the appearance that nothing has changed, but certainly we all know that things are changing up there and there is a lot of expansion.

RESPONSE 2-2

Whatever changes or expansions that are taking place are not expected to increase the amount of hazardous or mixed waste managed by HWHF. As part of the permit renewal process, there would be no changes associated with the currently permitted storage and treatment capacities, and only a minor change in one type of waste that would be accepted at the HWHF. Also see Response 2-5 regarding changes at LBNL.

COMMENT 2-3

I believe that the Lab should not be permitted for ten years. We should not have to wait ten years for another review of this process. I mean that part is just outrageous. You heard Jim Cunningham talk about the worst-case scenario. You know we need the kind of evaluations on accidents up there certainly given the nature of the world today and what we can expect.

RESPONSE 2-3

(a) Permit Duration and Permit Review:

Regarding permitting the HWHF for ten years, all hazardous waste treatment and storage facilities throughout the State of California are authorized for a ten-year period, after which a permit renewal is required. DTSC evaluates all hazardous waste permit applications for conformance with applicable technical standards. If DTSC deems these applications consistent with regulations, a ten-year permit is issued. This is applied on a consistent and uniform basis. DTSC considers this approach protective of human health and the environment.

(b) Accidents – Risks of Upsets:

The HWHF FSAD evaluated the consequences of both normal operations and postulated accidents involving hazardous chemical wastes to ensure that the consequences would fall within federal guidelines. It specifically evaluated the health and environmental hazards of releases of hazardous chemical wastes during normal operations and potential accidents at the HWHF.

In connection with the changes to HWHF operations currently proposed and the application to renew the HWHF permit, a safety analysis was performed on behalf of the LBNL by Parsons (Updated Risk Analysis for Berkeley Lab's HWHF, October 2002), to evaluate whether the conclusions of the HWHF FSAD remain applicable to the set of chemical wastes that the HWHF currently accepts.

Regarding the evaluation of accidents please refer to General Issue B.3 of this RTC document.

COMMENT 2-4

Certainly the environmental review is necessary up there. Again, we can't rely on old documents and old reviews and old exemptions. I think it's a little outrageous that the Lab and the University continues to bear projects in the last 15 years I've been following them, to continue to present themselves with any serious environmental review.

What we need is agencies like DTSC to come forward and to fight for us. Fight for the public so that these processes happen. And, as I said, unfortunately, you know, we don't see that.

RESPONSE 2-4

DTSC respectfully disagrees that an EIR is required at this time. An EIR was prepared for this HWHF in the past. The scope of operation at HWHF and this permit renewal project does not trigger any of the requirements to initiate a new EIR. DTSC has considered the environmental effects of the project and determined that the previous CEQA documents adequately addressed potential impacts and ensured that approval of the HWHF permit renewal would not result in significant adverse impacts to the environment. Please see General Issue B.1 of this RTC document.

COMMENT 2-5

Another thing that the permit should have included, that it did include, but yet tonight I have heard no one talk about any kinds of minimization going on at the Lab. I see an increase, I see increase, and I see increase. But instead what I should be seeing is a reduction, some efforts to reduce. Not to reduce the number of categories of chemicals, but to reduce the volume.

But the Lab is running loose and generating and is not being told reduce at all, basically we're allowing them to haul it out of town. And I think the environmental racism of taking and sending these materials to places like Utah instead of managing them here is outrageous. Science should not be creating problems, it should be solving problems.

And the Lab and other laboratories are creating the waste problems, regardless of the solution to it. And except for minimization, as I said, I don't see that going on at all. I think that we are concerned about the current inventories. I would like to see the Lab reduce, and I don't think we're seeing that.

RESPONSE 2-5

Senate Bill (SB)14 requires that hazardous waste facilities review all hazardous waste streams that comprise greater than 5% of the total hazardous waste generated. These facilities need to evaluate source reduction measures that are technically feasible and economically practicable. LBNL has significantly reduced the overall amount of hazardous waste (77%) and mixed waste (91%) since 1993. LBNL continues to review waste generating processes and look for additional opportunities. LBNL has put a program in place to substantially reduce waste generation where possible, increase recycling and purchase "Green Products" where possible. LBNL is working to reduce the amounts of hazardous and mixed wastes stored at the Lab by (1) reducing the generation of these wastes at the source, and (2) aggressively pursuing treatment and offsite disposal options that would reduce the need for temporary waste storage, in addition to routine assessments of the processes for waste minimization. Since 1955, LBNL has funded Return on Investment (ROI) projects. These projects assess special waste minimization opportunities. These projects have resulted in significant reductions in the generation of hazardous, mixed and radioactive waste from specific targeted sources.

LBNL has also made investments in developing technologies to reduce the need for radionuclide use. For example, LBNL researchers have changed some of their methods of experimentation to reduce or eliminate the need for using radioactive tracers, such as substituting luminescence techniques for radioactive tracers which resulted in reduction in generation of mixed wastes. All mixed waste generators at LBNL are required to focus on waste reduction, especially source reduction. Within the past two years, LBNL initiated a charge back system for management of mixed waste, which has resulted in significant reductions in the generation of routine mixed waste.

Regarding an increase in storage and treatment capacities, LBNL did not request nor does the DTSC permit authorize any increase in the maximum permitted storage and treatment capacities.

COMMENT 2-6

And, as I said, I'm going to reserve all the rest of my comments. I'll try to write you some comments to the process. But I do believe that my last comment to DTSC is that I'm a little critical of DTSC of the process, because I don't think it's been honest. I have been sitting here too long to be happy about this process and continue to look for DTSC creating a different type of process. LBNL has been sitting at your table as a client for two years with this permit, yet, the city of Berkeley has not and we haven't. We need to figure out somehow how we can interact with DTSC in the bid process in a more honest way. And I'm not saying that DTSC is dishonest. As you said, we're doing it by the letter of the law and I think DTSC should recognize that the community is not very happy. You know you keep coming to us, you come to us tonight to say what you came to us ten years ago or eleven years ago. And the community came forth with a lawsuit because we thought you did such a bad job and the Lab was overbearing. And, you know, that hasn't gone away, you know, that process has not disappeared.

And so, as I said, for me I do look forward – I realize that DTSC has had a couple of commission meetings on that and I see some potential come out of the public, but I do believe that the effort has to be

greater, because we do want participation and it needs to be greater. And the DTSC doesn't really make provision for the kind of public participation that our community needs. And I'll recognize that your information system is not community friendly. And as I said, I just hope that in your regulatory document that you use the base of the decision and have it easily accessible to us. And those continue to be a problem for us in our participation and continue to be a problem.

RESPONSE 2-6

DTSC believes that it has been quite open with the community regarding the permit renewal process. We have announced the status of permit renewal at different stages. Please read Section A of this RTC document for more details of our community outreach efforts. DTSC has received input from the public via telephone calls, e-mail, letters, and oral communications. We have also invited concerned members of the public to our office to listen to their concerns. We have conducted a survey of community concerns and posted a Response to Community Concerns Fact Sheet on DTSC's website. We have also incorporated suggestions made by the public on ways that we might enhance our communication. DTSC is always open to even more ways to improve public outreach or community involvement.

We would like to point out that both State and Federal regulations layout the basic elements of public involvement for our permit decision making. DTSC has gone beyond the regulatory requirements in reaching out to the Berkeley Community and we are sorry if certain individuals still feel that our process is not inclusive enough. In addition, we would like to point out that City of Berkeley, Toxics Management Program representative was included on the DTSC technical review team which also included a representative from the California Regional Water Quality Control Board.

C.3 - MR. MARK MCDONALD

COMMENT 3-1

I guess it's my turn. My name is Mark McDonald and I do work with the Committee to Minimize Toxic Waste. And I also serve on a city commission, the Peace and Justice Commission, although I am not speaking for them, I'm speaking for myself. I came down here to speak strongly for a full Environmental Impact Report and against the Negative Declaration. And I have to admit that I always learn things when I come here. I learned the part about the University actually deciding on the Negative Declaration really amazes me. I know that we're at this area on a lot of these issues, but I have too much respect for what I consider to be the intelligence level and the integrity of the people in this room to not recognize what a sham that is. I feel like I've been beaten in the past in a full Environmental Impact Review process, but at least there was some integrity to it. This I just don't understand. There's been so many changes at the Lab, to actually consider -- the only reason for it must be budgetary or something, I mean obviously it's not political, you don't have a room full of people shouting, so that's why you're going to try and make this whole thing again.

RESPONSE 3-1

DTSC respectfully disagrees that an EIR is required at this time. An EIR was prepared for this HWHF in the past. The scope of operation at HWHF and this permit renewal project does not trigger any of the requirements to initiate a new EIR. DTSC has considered the environmental effects of the project and determined that the previous CEQA documents adequately addressed potential impacts and ensured that approval of the HWHF permit renewal would not result in significant adverse impacts to the environment. Please also see General Issue B.1 of this RTC document.

COMMENT 3-2

But I mean with new technologies and the connection between the University and all these partners, the laboratories, and then the increasing congestion of the city which I do believe LBNL and UC is playing a role in terms of bringing people in to be a part of this. So actually I want people to understand that one of the reasons I'm here is I'm trying to prevent a disaster which could easily happen.

And so the process has to have some integrity, because nobody here wants a disaster. The thing is I heard nothing tonight about any kind of evacuation or emergency or anything like that, or notification or alert or anything like that. This facility does something significant enough that if something very bad happened to it, then I imagine the employees and the campus and the city would all like to find out real fast.

I want to say that there is a conception in the city about the LBNL essentially trying to roll over the city on these issues. They haven't been a good neighbor on a lot of issues. They go through the motions, but there's an old history of these problems, and I'm just going to cite one, involving toxic waste, the treatability studied earlier. I believe an accident could happen. At that time, the "study", quote, unquote, which we believe was after their process, was secret, we weren't even informed. It was happening right next to the Lawrence Hall of Science, a children's facility and museum. It was on autopilot and it was unattended when it had the accident. I mean it's these kinds of things that because we live here, you know, that's why we're here tonight, it's why we're concerned. And so the Laboratory and the DOE could do a lot better on this process.

And so I just wanted to say in conclusion that a full Environmental Review is really necessary at this time for what we're talking about here in this process and this facility.

RESPONSE 3-2

(a) Emergency Response:

Please note that Section VIII of the HWHF permit application (Contingency Plan) describes the emergency response procedures and reporting requirements applicable to the facility in case of an emergency. The contingency plan identifies the agencies that need to be notified and the time frame that notifications have to be completed in the event of an emergency posing a significant threat to human health or the environment.

LBNL's Master Emergency Plan addresses planning for responding to and recovery from emergencies or disasters that may overwhelm Laboratory sources. This plan describes the organization of the Emergency Command Center (ECC) and roles and responsibilities. The Public Information Department part of ECC has the responsibility to prepare and distribute information to the public during an emergency. The EH&S Division is responsible to notify the regulatory agencies.

LBNL updated the Contingency Plan in October 2005. Copies have been sent to the Berkeley Planning Department Toxic Management Program, Berkeley Fire Department, Alta Bates Hospital, University of California Police Department, Alameda County Office of Emergency Services, Onyx Environmental Services, and LBNL Emergency Services.

(b) Environmental Review:

DTSC respectfully disagrees that an EIR is required at this time. An EIR was prepared for this HWHF in the past. The scope of operation at HWHF and this permit renewal project does not trigger any of the requirements to initiate a new EIR. DTSC has considered the environmental effects of the project and

determined that the previous CEQA documents adequately addressed potential impacts and ensured that approval of the HWHF permit renewal would not result in significant adverse impacts to the environment. Please also see General Issue B.1 of this RTC document.

C.4 Ms. SUPRIYA GOYLE

COMMENT 4-1

My name is Supriya Goyle. I am a student at Berkeley. I am also a student researcher at Lawrence Berkeley Lab. I've certainly not lived in Berkeley long enough to understand the history of this whole process, and I certainly think that some of the things that have been talked about are very justified and they do have a right to know and understand everything that goes on. But at the same time, some people here have been blaming the Lab for being overbearing and noncommunicative. And I think that is a process which works both ways. And I don't want to say too much about it, I just want to say someone here mentioned something about nano-based technology.

And the Lab, they do organize these events where they hold meetings and talks to explain to people what nanotechnology is about and to discuss some of the myths about nanotechnology and how it's really -- I mean people here have been talking as though nanotechnology and nanoparticles are somewhat suspect and they are harmful.

So I would encourage citizens to attend these meetings that Berkeley Lab has because I think it's an effort on their part to reach out to the community and explain to them the sorts of things that go on in the Lab. So that's it.

RESPONSE 4-1

Comment noted.

C.5 - MR. MARK MCDONALD ON BEHALF OF MS. PAMELA SIHVOLA

COMMENT 5-1

I have a letter from a person from the Committee to Minimize, and she asked me if it would be okay if I read it. I believe you have a copy of this for the record, but I would like to read it if it's okay. It's very short.

"Dear Mr. Sandhu. I am sorry to miss the October 20th public hearing on the above-referenced matter, which is regarding LBNL's application, due to another party out of state.

I would appreciate it very much if you could provide answers to the following questions at your the October 20th hearing. I received the enclosed DTSC fact sheet, dated January 2003, and called DTSC staff both in Sacramento and Berkeley requesting to see the various documents that were listed to be available for public review at various Berkeley locations. And they are listed: The Draft Permit, the CEQA Initial Study, the Health Risk Assessment, the Negative Declaration, and the Permit Application. Finally, on August 11th, 2004, Mr. James Cunningham and I had a meeting with Mr. Waqar Ahmad, sorry if I butchered that, at DTSC to review these documents, but we were denied access to all but the Permit Application itself. Why? Are these documents available for public review now? Where? There was no reference to them in the most recent DTSC fact sheet dated September 2004. Why? The fact sheet referred to a 1997 Mitigated Negative Declaration, a 1997 Facility Safety Analysis document, and a Notice of Exemption without the date. Are these documents available for public review? Where?

We also requested to see the strike-out version of the Permit Renewal Application to better understand the proposed changes, but again we're told that it's not available. Why? Please provide answers to the above to me in writing as well as a copy of the NOE ASAP, as we are in the process of drafting written comments to you. Thank you very much"

RESPONSE 5-1

DTSC responded to Ms. Sihvola in a letter dated November 9, 2004. A copy of that letter is attached to this RTC document.

C.6 MS. LI YANG CHANG

COMMENT 6-1

I want to emphasize that Berkeley Lab has had a waste minimization program. It has been in place for more than ten years and all of the waste minimization results are published on our website and it's presently available. So I believe we do get some public support and also strong support from our researchers, scientists. They are all engaged in the waste minimization effort."

RESPONSE 6-1

Comment noted.

C.7 NABIL A AL-HADITHY, CITY OF BERKELEY (letter dated 11/04/04)

Please accept these comments to the Draft Hazardous Waste Facility Permit for Lawrence Berkeley National Laboratory (LBL) dated September 21, 2004.

COMMENT 7-1

The facility is in a geographical area prone to landslides, firestorms and earthquakes. TMD is concerned that during a major disaster, access to water for firefighting may become an issue if the supply line is severely impacted.

RESPONSE 7-1

Regarding supply lines for firefighting water, the water at LBNL is distributed throughout the site via underground pipelines. In the event of a fire, access to these pipelines is available from over 60 fire hydrants. There are sectional valves in these pipelines to assist in isolating portions of these pipelines if breaks should occur for any reason. In addition, there are three 200,000-gallon water storage tanks to provide a level of redundancy should the water supply from East Bay Municipal Utility District go down due to an earthquake, fire, or landslide. Also, the fire engine at LBNL carries a 500-gallon water tank and a 4-wheel drive brush patrol vehicle carries a 250-gallon water tank.

Please also see General Issue B.4 and Response 1-5 of this RTC document.

COMMENT 7-2

An additional road for access/egress to the facility would be a benefit in emergency situations.

RESPONSE 7-2

Berkeley Lab complies with the California Fire Code section 902.2.2.3 in regard to access roads to the HWHF. Section 902.2.23 deals with the turning radius of a fire apparatus on an access road. There is an alternate access road to the west of the HWHF accessible by certain Alameda County Fire Department vehicles.

Please also see General Issue B.4 of this RTC document.

COMMENT 7-3

The location and number of firefighting personnel able to respond in an emergency at the facility should be discussed with Alameda County Fire, which is the first responder. Specific fire fighting or hazardous materials response expectations of the Berkeley Fire Department should be identified and discussed. These questions have been posed in the past and we hope that they will be adequately addressed.

RESPONSE 7-3

The contingency plan identifies the agencies that need to be notified and the time frame that notifications have to be completed in the event of an emergency posing a significant threat to human health or the environment. LBNL updated the Contingency Plan in October 2005. Copies have been sent to the Berkeley Planning Department Toxic Management Program, Berkeley Fire Department, Alta Bates Hospital, University of California Police Department, Alameda County Office of Emergency Services, Onyx Environmental Services, and LBNL Emergency Services. LBNL maintains a mutual aid agreement with the City of Berkeley fire department for support in emergencies. LBNL is also part of the California Master Mutual Aid Agreement whereby fire support may be requested through the local mutual aid coordinator or directly through the Oakland Fire Department.

Please also see General Issue B.4 of this RTC document.

C.8 Ms. MAXINA VENTURA (e-mail dated 11/14/04)

I'm writing deeply concerned about the history of LBNL and radioactivity spread around Berkeley, particularly in the Strawberry Creek watershed and other nearby areas. LBNL clearly has a long history of endangering Berkeley residents and visitors.

COMMENT 8-1

I would request that any final decision regarding trying to get Department of Toxic Substances to renew its hazardous waste handling facility be put off until 2005, when environmental impacts can be included and analyzed in relation to LBNL's long range development plans which are, at present, in preparation for public review and comment.

RESPONSE 8-1

The operation and maintenance of the HWHF is an item that was identified for future evaluation in the October 28, 2003 Notice of Preparation (NOP) of Environmental Impact Report for the LBNL 2004 Long Range Development Plan. Regarding sub-item 1, LBNL issued a Revised Notice of Preparation (NOP) of the Long Range Development Plan (LRDP) Environmental Impact Report (EIR) on October 28, 2003. The NOP had a 30-day public comment period and a public scoping meeting on November 17, 2003. A new director for LBNL was appointed in 2004. According to LBNL the assumptions and direction of the LRDP

are still under review and therefore the draft EIR has not been prepared yet. The continued operation of the HWHF in relation to the LRDP would be evaluated in the draft EIR when it is prepared by LBNL. According to DTSC contacts with LBNL, the Draft Long Range Development Plan EIR is scheduled to be issued in the summer of 2006. The Final EIR is expected to be certified by the University of California Regents by the end of 2006. DTSC does not concur that the decision to renew the HWHF needs to be delayed until the LRDP EIR is finalized. In addition, please see General Issue B.1 this RTC document.

COMMENT 8-2

Many troubling questions need be answered. For instance, why is this being considered without an updated environmental review?

RESPONSE 8-2

DTSC respectfully disagrees that an EIR is required at this time. An EIR was prepared for this HWHF in the past. The scope of operation at HWHF and this permit renewal project does not trigger any of the requirements to initiate a new EIR. DTSC has considered the environmental effects of the project and determined that the previous CEQA documents adequately addressed potential impacts and ensured that approval of the HWHF permit renewal would not result in significant adverse impacts to the environment. Please also see General Issue B.1 of this RTC document.

COMMENT 8-3

What are the present and/ or proposed inventories of hazardous wastes and specifically radioactive waste described both in curies and gallons?

RESPONSE 8-3

The specific maximum permitted storage or treatment capacities for each unit at the HWHF are included in Part IV of the HWHF permit. The maximum permitted storage capacities are in gallons and the maximum treatment capacities are gallons per day. As stated in General Issue B.2 of this RTC document, the DOE has legal authority to regulate radioactive materials. Therefore, DTSC does not specify nor track information on the level of radioactivity, i.e. levels of curies, of the mixed wastes in storage at LBNL. The commenter should contact the DOE office in Oakland for information regarding inventories in curies at LBNL. The Berkeley Site Office contact is Roseann Pelzer, (510) 486-4377.

COMMENT 8-4

Tell us about planned routes through Berkeley, as well as times of day, and we need to be able to review emergency plans in case of accidents and disasters. This back-door maneuvering profits only those running LBNL; it does not benefit residents, workers, students, or other visitors to Berkeley. Where respect is due, we demand a slow-down in this process.

RESPONSE 8-4

(a) Transportation of Hazardous Waste:

Regarding the transportation of wastes through the City of Berkeley, all hazardous and mixed waste shipments from LBNL to disposal facilities are packaged in DOT approved containers. These containers have to meet a strict series of tests under extreme conditions to be able to be certified as DOT approved. These tests are established to ensure that containers do not lose their integrity during transportation and in case of accidents unless they are exposed to extreme conditions. LBNL also follows all packaging,

labeling and placarding requirements per DOT. The route selected by LBNL is the most direct route to highway eliminating unnecessary detours in residential areas. Regarding truck routes please see Response 1-2.

(b) Emergency Plans

Emergency plans and other facility documents are available in Berkeley Public Library. LBNL maintains mutual aid agreements. Under this contract, LBNL has its onsite fully functional fire department – the 19th Engine Company in the Alameda County Fire Department, capable of responding to hazardous waste handling facility's emergencies in less than 5 minutes. Additionally, LBNL maintains a mutual aid agreement with the City of Berkeley fire department for support in emergencies. LBNL is also part of the California Master Mutual Aid Agreement whereby fire support may be requested through the local mutual aid coordinator or directly through the Oakland Fire Department. Regarding emergency plans, please see Response 3-2.

C.9 MS. CAROLYN SCARR (e-mail dated 11/14/04)

COMMENT 9-1

I urge you to deny, or at least postpone the renewal of the permit for Lawrence Berkeley Lab's Hazardous Waste Handling Facility in Strawberry Canyon.

RESPONSE 9-1

DTSC does not believe there is a basis for either postponement of the permit renewal nor denial of the permit renewal. Please see Response 8-1.

COMMENT 9-2

An updated environmental review needs to be done before the permit is granted.

RESPONSE 9-2

DTSC has conducted an environmental review for this project. Please see General Issue B.1 of this RTC document.

COMMENT 9-3

I find the route along which the waste will be transported to be astonishing, running through a densely populated area and then along a twisty road in the hills. Sounds like a recipe for disaster.

RESPONSE 9-3

All hazardous and mixed waste shipments from LBNL to disposal facilities are packaged in DOT approved containers. These containers have to meet a strict series of tests under extreme conditions to be able to be certified as DOT approved. These tests are established to ensure that containers do not lose their integrity during transportation and in case of accidents unless they are exposed to extreme conditions. LBNL also follows all packaging, labeling and placarding requirements per DOT. The route selected by LBNL is the most direct route to highway eliminating unnecessary detours in residential areas. Please also see Response 1-2.

COMMENT 9-4

The location of the dump itself is very strange. It is not wise to store over 20 thousand gallons of poison next to an educational facility visited by hundreds of children on an ongoing basis. The people in the immediate neighborhood are endangered. And, as the old plumbers adage goes, "shit runs down hill". Strawberry Creek will carry any leakage -- and there will be leakage -- right past the educational and recreational facilities of Strawberry Canyon, through the University Campus, and through Berkeley to the Bay, where of course it will add to the toxicity of the Bay waters.

RESPONSE 9-4

The terminology of the HWHF at LBNL as a "dump" is inaccurate. This building and its management operations are in accordance to technical standards for hazardous waste management facilities. It is designed and operated in a manner that minimizes the potential for releases and containment of releases within the building structure in the event of any spills. Please see General Issue B.3 of this RTC document regarding risks to the immediate neighborhood.

COMMENT 9-5

As a citizen of Berkeley, and a downstreamer, I urge you to deny the permit for LBL to continue to run a toxic dump in Berkeley.

RESPONSE 9-5

DTSC does not consider the HWHF at LBNL to be a "toxic dump". The HWHF has been designed, constructed, and operated in accordance with technical standards which are considered protective of human health and the environment. There is no basis for denial of the permit renewal.

C.10 - MS. DEBBI MOORE (e-mail dated 11/14/04)

COMMENT 10-1

I'm requesting that the final decision on the renewal of the LBNL Hazardous Waste Handling Facility operating permit be postponed until early 2005 (when the environmental impacts of the proposed continuation could be included and analyzed in the LBNL long range development plan which is currently being prepared for public comment.) We need an updated environmental review. Why was none done? What times of day are these hazardous wastes driven through town, what routes do they take and what emergency plans have been made in case of accidents or disasters? What are the current inventories of hazardous, mixed including transuranic mixed, and radioactive wastes expressed in both curies and gallons?

RESPONSE 10-1

(a) Permit Decision Delay:

Due to a variety of reasons, the issuance of final decision for the HWHF has been delayed. DTSC regrets this delay. However, LBNL has not completed the preparation of the Long Range Development Plan (LRDP) Environmental Impact Report (EIR) either during this delay period. As a University-owned facility, LBNL is required to maintain and periodically update its LRDP which is a planning document designed to establish direction for land use, growth, and development for all of LBNL's activities. LBNL began the planning process for a new LRDP in 2000. On October 28, 2003 LBNL issued a Notice of Preparation for LRDP EIR. A public scoping meeting was held on November 17, 2003. Since that time a

draft EIR has been under preparation. Based on DTSC's latest communication with LBNL, the LRDP draft EIR will be circulated for public comments in January 2007. A public hearing, to be conducted by LBNL, is planned for the middle of February 2007. These dates are tentative and not under the control of DTSC.

b) Long Range Development Plan:

DTSC does not concur with request by commenters to delay its decision on the issuance of the HWHF until the LRDP EIR is finalized. DTSC believes that the CEQA analysis associated with the HWHF is adequate and does not depend on nor should it be linked to the LRDP EIR. Conversely, the LRDP EIR should factor in the CEQA analysis associated with the permit renewal for the HWHF. Therefore, DTSC has decided not to delay its permit decision for the HWHF any more.

(c) Environmental Impact Report:

DTSC respectfully disagrees that an EIR is required at this time. An EIR was prepared for this HWHF in the past. The scope of operation at HWHF and this permit renewal project does not trigger any of the requirements to initiate a new EIR. DTSC has considered the environmental effects of the project and determined that the previous CEQA documents adequately addressed potential impacts and ensured that approval of the HWHF permit renewal would not result in significant adverse impacts to the environment. Please see General Issue B.1 of this RTC document.

(d) Transportation of Waste:

All hazardous and mixed waste shipments from LBNL to disposal facilities are packaged in DOT approved containers. LBNL also follows all packaging, labeling and placarding requirements per DOT. The route selected by LBNL is the most direct route to highway eliminating unnecessary detours in residential areas. Please also see General Issue B. and Response 1-2 regarding transportation of wastes.

(e) Emergency Plans:

LBNL maintains mutual aid agreements. LBNL has a contract with Alameda County Fire Department (ALCO). Under this contract, LBNL has its onsite fully functional fire department – the 19th Engine Company in the Alameda County Fire Department, capable of responding to hazardous waste handling facility's emergencies in less than 5 minutes. The Alameda County Fire Department also manages the mutual aid agreements for the county and is the only agency within the county with a 24 hour/day, 7 day/week hazardous materials response capability. See Responses 3-2 and 8-4 regarding emergency plans.

(f) Hazardous waste Inventories:

The specific maximum permitted storage or treatment capacities for each unit at the HWHF are included in Part IV of the HWHF permit. See Response 8-3 regarding inventories of hazardous, mixed, and radioactive wastes.

COMMENT 10-2

Many activists in different groups that I am aware of here in Berkeley will protest visibly and actively if time is not taken to respond to these important questions. Please notify me when meetings are planned to address these issues and notify the press calendar listings so that others can attend.

RESPONSE 10-2

DTSC has a mailing list that we use to notify interested people of all meetings regarding LBNL. To make sure that your name and address is correct on this list, please contact Nathan Schumacher, Public Participation Specialist at toll free 866-495-5651 or by writing him at DTSC, 8800 Cal Center Drive, Sacramento, CA 95826. His email is NSchumac@dtsc.ca.gov. Of course, DTSC will respond to any concerns that you may have. Also, please see Responses 1-1 and 2-6 regarding public outreach. DTSC will e-mail you a copy of this Response to Comments and Notice of Final Permit Decision.

C.11 MS. JANE WELFORD (e-mail dated 11/16/04)

COMMENT 11-1

I am writing to you about the proposed continued operations of the Hazardous Waste Handling Facility (HWHF) in Strawberry Canyon in Berkeley and the permitting of it.

A new environmental impact statement of the proposed continued operations of the HWHF should be included and analyzed in the Lawrence Berkeley National Labs Long Range development plan which is currently being prepared for public comment in early 2005. I hope that the discussion of the permit can be postponed until this happens.

As the permit will cover the next ten years, and as more than 23 thousand gallons of waste can be stored there, right above the Botanical Gardens, where my son happens to work, and a few hundred meters from the Lawrence Hall of Science, and close to the residential neighborhoods of Panoramic Hill, Summit Road and Grizzly Peak Blvd, and because of the ongoing war on terror, and our vulnerability here, a new impact statement should be developed.

RESPONSE 11-1

(a) Environmental Review:

DTSC has conducted an environmental review for this project. DTSC has adopted the findings of the addendum to the EIR and plans to file a Notice of Determination with the Office of Planning and Research 30 days after the Permit Decision, provided no appeal is filed. Please see General Issue B.1 of this RTC document.

(b) Long Range Development Plan:

The operation and maintenance of the HWHF is an item that was identified for future evaluation in the October 28, 2003 Notice of Preparation (NOP) of Environmental Impact Report for the LBNL 2004 Long Range Development Plan. Based on DTSC's latest communication with LBNL, the LRDP draft EIR will be circulated for public comments in January 2007. A public hearing is planned for the middle of February 2007.

COMMENT 11-2

There should be a very serious emergency plan which the community could keep abreast of for any accident or disaster that could take place. The storage site is on an earthquake fault line, and sits on top of one of the lovely creeks that run down to the bay through the university and so many communities. We should be made aware of the times of the day and days of the week when hazardous waste will be shipped along Centennial Drive, through the Strawberry Creek Watershed and down Hearst Avenue through the North Side neighborhood and finally to I-80 via University Avenue. Do you know what are the

current inventories of hazardous, mixed including transuranic mixed, and radioactive wastes at this time? I know that they are being reduced as that is one of the conditions of the current permit. I'm wondering how successful the Waste Minimization has been.

RESPONSE 11-2

(a) Emergency Plan

LBNL has a contract with Alameda County Fire Department (ALCO). Under this contract, LBNL has its onsite fully functional fire department – the 19th Engine Company in the Alameda County Fire Department, capable of responding to hazardous waste handling facility's emergencies in less than 5 minutes. Additionally, LBNL maintains a mutual aid agreement with the City of Berkeley fire department for support in emergencies. The Alameda County Fire Department also manages the mutual aid agreements for the county and is the only agency within the county with a 24 hour/day, 7 day/week hazardous materials response capability. Please see Responses 3.2 and 8-4 regarding an emergency plan and notifications.

(b) Hazardous Waste Inventories:

The maximum permitted storage or treatment capacities for each unit at the HWHF are included in Part IV of the HWHF permit. Please see the Response 8-3 regarding inventories of hazardous, mixed and radioactive wastes.

(c) Waste Minimization:

In addition to routine assessments of the processes for waste minimization, LBNL is working to reduce the amounts of hazardous and mixed wastes stored at the Lab by (1) reducing the generation of these wastes at the source, and (2) aggressively pursuing treatment and offsite disposal options that would reduce the need for temporary waste storage. Please see Response 2-5 regarding Waste Minimization.

C.12 MS. JANE EISELEY (e-mail dated 11/16/04)

COMMENT 12-1

As someone who lives downstream on Strawberry Creek from LBNL I am naturally concerned to learn that the lab is applying for a Hazard Waste Handling Permit in the absence of a current environmental impact study. I think we need to know exactly what and in what quantities is present at the lab, and what processes are being carried out. I also think that permitting for 10 years is wrong, given the rapid changes in technology and the increases in our understanding of the dangers of radioactivity.

RESPONSE 12-1

(a) Environmental Review:

DTSC has conducted an environmental review for this project. DTSC has adopted the findings of the addendum to the EIR and plans to file a Notice of Determination with the Office of Planning and Research 30 days after the Permit Decision, provided no appeal is filed. Please see General Issue B.1(b) of this RTC document in response to request for an environmental impact study.

(b) Hazardous Waste Inventories:

The specific maximum permitted storage or treatment capacities for each unit at the HWHF are included in Part IV of the HWHF permit. Please see Response 8-3 regarding inventories of hazardous, mixed and radioactive wastes.

(c) Duration of Permit

DTSC evaluates all hazardous waste permit applications for conformance with applicable technical standards. If DTSC deems these permit applications consistent with regulations, a ten-year permit is issued. DTSC considers this approach protective of human health and the environment. Please see Response 2-3 regarding a ten-year hazardous waste facility permit.

(d) Facility Design:

DTSC believes that the Facility is well designed and meets applicable standards including response to fire and other emergencies. The HWHF has been designed with numerous fire safety features to meet current fire and safety regulations. In addition, LBNL's Vegetation Management Program has reduced the potential fuel load for a fire surrounding the facility, and larger fuel breaks have been created to prevent any hill fire from encroaching on the waste handling facility.

C. 13 MR. PATRICK KEHOE (e-mail dated 11/18/04)

COMMENT 13-1

I am writing to request that you postpone the Hazardous Waste Handling Facility operating permit until early 2005 when the environmental impacts of the proposed continuation could be included and analyzed in the LBNL long range development plan which is currently being prepared for public comment in early 2005.

RESPONSE 13-1

(a) Permit Decision Delay:

Due to a variety of reasons, the issuance of the final decision for the HWHF has been delayed. DTSC regrets this long delay. However, DTSC does not concur with request by commenters to delay its decision on the issuance of the HWHF until the LRDP EIR is finalized. DTSC believes that the CEQA analysis associated with the HWHF is adequate and does not depend on nor should it be linked to the LRDP EIR. Conversely, the LRDP EIR should factor in the CEQA analysis associated with the permit renewal for the HWHF. Therefore, DTSC has decided not to delay its permit decision for the HWHF. LBNL has not completed the preparation of the Long Range Development Plan (LRDP) Environmental Impact Report (EIR) either during this delay period. As a University-owned facility, LBNL is required to maintain and periodically update its LRDP which is a planning document designed to establish direction for land use, growth, and development for all of LBNL's activities. LBNL began the planning process for a new LRDP in 2000. On October 28, 2003 LBNL issued a Notice of Preparation for LRDP EIR. A public scoping meeting was held on November 17, 2003. Since that time a draft EIR has been under preparation. Based on DTSC's latest communication with LBNL, the LRDP draft EIR will be circulated for public comments in January 2007. A public hearing is planned for the middle of February 2007.

(b) Environmental Review:

DTSC respectfully disagrees that an EIR is required at this time. An EIR was prepared for this HWHF in the past, and this project does not trigger any of the requirements to initiate a new EIR. DTSC has considered the environmental effects of the project and determined that CEQA documents adequately addressed potential impacts and ensured that approval of the HWHF permit renewal would not result in significant adverse impacts to the environment. DTSC has conducted an environmental review for this project. Please also see General Issue B.1 of this RTC document.

C.14 MS. DONA SPRING, Berkeley City Councilmember (e-mail dated 11/18 /04)

COMMENT 14-1

I am writing to express concerns regarding the environmental impacts of the proposed continued operations of the LBNL Hazardous Waste Facility. As you may know, the Berkeley City Council has previously called for the removal of this dangerous hazardous waste facility in an disaster prone area in a very densely populated urban area.

I am requesting on behalf of many citizens of Berkeley that a full environmental impact study and report be conducted on the proposed continuance of the operation of this facility in this location. Please postpone the final decision on the permit until early 2005 when the environmental impacts of the proposed continuation could be included in analyze any LBNL Long Range Development Plan, which is currently being prepared for public comment in early 2005.

There is in need for updated environmental review. Why has not been done?

RESPONSE 14-1

(a) Facility Siting:

Regarding HWHF being in an area that is subject to wild land fires and landslides, these factors were taken into consideration in the design and operation of the HWHF which is designed in accordance with the California Building Code (CBC) and the California Fire Code (CFC), other design criteria published by the National Fire Protection Association (NFPA), DOE Orders and DOE Guidance Standards. Please see Response 1-5.

(b) Permit Decision Delay:

According to DTSC contacts with LBNL, the Draft Long Range Development Plan EIR is scheduled to be issued in the summer of 2006. DTSC does not concur that the decision to renew the HWHF needs to be delayed until the LRDP EIR is finalized.

(c) Long Range Development Plan

According to DTSC contacts with LBNL, the Draft Long Range Development Plan EIR is scheduled to be issued in the summer of 2006. The Final EIR is expected to be certified by the University of California Regents by the end of 2006. However, DTSC has no control over this project schedule. Please see Response 8-1 regarding the LBNL long-range development plan.

(d) Environmental Review:

DTSC has considered the environmental effects of the project and determined that CEQA documents adequately addressed potential impacts and ensured that approval of the HWHF permit renewal would not result in significant adverse impacts to the environment. Please see General Issue B.1 of this RTC document.

COMMENT 14-2

How will the hazardous-waste products be transferred to out city streets? What emergency plans has been made regarding accidents?

RESPONSE 14-2

(a) Transportation of Hazardous Waste:

All hazardous and mixed waste shipments from LBNL to disposal facilities are packaged in DOT approved containers. These containers have to meet a strict series of tests under extreme conditions to be able to be certified as DOT approved. These tests are established to ensure that containers do not lose their integrity during transportation and in case of accidents unless they are exposed to extreme conditions. LBNL also follows all packaging, labeling and placarding requirements per DOT. The route selected by LBNL is the most direct route to highway eliminating unnecessary detours in residential areas. Please also see General Issue B-5 regarding transportation of wastes.

(b) Emergency Plans:

LBNL has a contract with Alameda County Fire Department (ALCO). Under this contract, LBNL has its onsite fully functional fire department – the 19th Engine Company in the Alameda County Fire Department, capable of responding to hazardous waste handling facility's emergencies in less than 5 minutes. As a part of this contract, in case of an emergency requiring additional back up, LBNL can access all ALCO fire stations support. Additionally, LBNL maintains a mutual aid agreement with the City of Berkeley fire department for support in emergencies. LBNL is also part of the California Master Mutual Aid Agreement whereby fire support may be requested through the local mutual aid coordinator or directly through the Oakland Fire Department. Please also see General Issue B-4, Responses 3-2 and 8-4 regarding emergency plans.

COMMENT 14-3

Please give all the substances, including hazardous, mixed waste, transuranic mixed, and radioactive waste in curies and ounces.

RESPONSE 14-3

(a) Hazardous Waste Inventories:

The specific maximum permitted storage or treatment capacities for each unit at the HWHF are included in Part IV of the HWHF permit. Please Refer to Response 8-3.

COMMENT 14-4

What kind of animal research will be conducted? What kind of species of animals the Lab will use? Will have hazardous substances in them? How will their bodies be disposed?

RESPONSE 14-4

(a) Research Activities at LBNL:

DTSC has no regulatory jurisdiction regarding any research activities at LBNL. Accordingly, DTSC has no knowledge or information regarding animal research.

COMMENT 14-5

I am writing to express concerns regarding the environmental impacts of the proposed continued operations of the LBNL Hazardous Waste Facility. As you may know, the Berkeley City Council has previously called for the removal of this dangerous hazardous waste facility in an disaster prone area in a very densely populated urban area.

RESPONSE 14-5

(a) Environmental Review:

DTSC has considered the environmental effects of the project and determined that CEQA documents adequately addressed potential impacts and ensured that approval of the HWHF permit renewal would not result in significant adverse impacts to the environment. Also, please see General Issue B.1 of this RTC document.

(b) Facility Siting:

The design and building standards applied to the hazardous waste facility reduce potential impacts associated with earthquakes. The HWHF has been designed and constructed in conformance with the current version of the UBC; applicable portions of the USDOE general design criteria, which surpass the UBC standard for seismic zone 4; and the University of California policy on seismic safety. Please see Response 1-5.

C.15 MR. ROBERT MARSH, TREASURER ON BEHALF OF THE GREEN PARTY OF ALAMEDA COUNTY (letter dated 11/16/04)

We are writing to express the unanimous concerns of the elected council of the Green Party of Alameda County regarding the proposed continued operation of the Hazardous Waste Handling Facility (HWHF) in Strawberry Canyon in Berkeley and the permitting of it. We represent 16,000 registered Greens who are all concerned about their environment.

COMMENT 15-1

We understand that:

1. A New EIR/EIS of the proposed continued operations of the Hazardous Waste Handling Facility (HWHF) could be prepared for public consideration and comment in early 2005 as part of the Lawrence Berkeley National Labs (LBNL) Long Range Development Plan (LRDP).
2. LBNL has a long and spotty history that has led to the Federal Government putting some of its contracts up for bid and/or reevaluation before renewal.
3. 1997 Safety Analysis does not include a worse case scenario, and was prepared with a "pre-9/11" mindset.
4. One of the conditions of LBNL's current permit is Waste Minimization.

5. The operating permit is being renewed for an identical size facility, daily treatment capacities will not change and there is no requirement in the new permit for substantially less removal trips.
6. The LBNL HWHF operating permit is to be renewed for 10 years.

Are these understandings correct?

RESPONSE 15-1

(a) Environmental Review:

Regarding sub-item 1, LBNL issued a Revised Notice of Preparation (NOP) of the Long Range Development Plan (LRDP) Environmental Impact Report (EIR) on October 28, 2003. The NOP had a 30-day public comment period and a public scoping meeting on November 17, 2003. A new director for LBNL was appointed in 2004. According to LBNL the assumptions and direction of the LRDP are still under review and therefore the draft EIR has not been prepared yet. The continued operation of the HWHF in relation to the LRDP would be evaluated in the draft EIR when it is prepared by LBNL. Please also see General Issue B.1.

(b) Federal Contracts Renewal:

Regarding sub-item 2, DTSC has no involvement with the contractual relationship between LBNL and the Federal Government.

(c) Safety Analysis:

Regarding sub-item 3, the 1997 Final Safety Analysis Document (FSAD) evaluated the consequences of both normal operations and postulated accidents involving hazardous chemical wastes to ensure that the consequences would fall within federal guidelines. The 1997 FSAD was updated in 2001 in relation to radionuclides. The accident events that could potentially produce the most severe onsite and offsite consequences were analyzed in the 2001 FSAD. Although terrorist initiated events were not analyzed, events initiated by natural phenomena were analyzed. One such accident is an uncontrolled facility fire at the HWHF due to an area fire similar to that which occurred in the Oakland-Berkeley area in October of 1991. This fire scenario conservatively assumes that the entire radionuclide and hazardous waste inventories of the HWHF and surrounding storage units, including the flammable/combustible storage building (HW 14), are released to the environment. In view of this fact and other conservative elements of the analysis, DTSC considers the exposures projected in the analysis to bound those associated with facility fires initiated by other external events, including facility fires that might result from terrorist-initiated attacks, such as a 9/11-style airplane attack..

(d) Waste Minimization:

Regarding sub-item 4, LBNL has significantly reduced the overall amount of hazardous waste (77%) and mixed waste (91%) since 1993. LBNL continues to review waste generating processes and look for additional opportunities. LBNL has put a program in place to substantially reduce waste generation where possible, increase recycling and purchase "Green Products" where possible. All mixed waste generators at LBNL are required to focus on waste reduction, especially source reduction. Within the past two years, LBNL initiated a charge back system for management of mixed waste, which has resulted in significant reductions in the generation of routine mixed waste. Please also see Response 2-5..

(e) Permitted Capacities:

Regarding sub-item 5, the renewed permit does not change the maximum permitted storage and treatment capacities from those specified in the current permit. DTSC does not understand the commenter's statement "and there is no requirement in the new permit for substantially less removal trips".

(f) Permit Duration:

Regarding sub-item 6, yes the renewed permit would be for ten years.

COMMENT 15-2

We are concerned that there is a lack of a sufficient Emergency Plan by which the community could be informed of any accident or disaster that might take place related to the HWHF.

RESPONSE 15-2

(a) Emergency Plan:

LBNL maintains a mutual aid agreement with the City of Berkeley fire department for support in emergencies. LBNL is also part of the California Master Mutual Aid Agreement whereby fire support may be requested through the local mutual aid coordinator or directly through the Oakland Fire Department. The LBNL Emergency Plan has been reviewed by the LBNL Fire Marshal, LBNL Emergency Manager, LBNL Security and Emergency Operations Group Leader, DOE Berkeley Site Office, and Alameda County Fire Department. Please also see General Issue B.4, and Responses 3-2 and 8-4 regarding emergency plans.

COMMENT 15-3

We are concerned that the HWHF storage site is on earthquake fault that has a history of large seismic events.

RESPONSE TO 15-3

(a) Facility Design:

The HWHF has been designed and constructed in conformance with the 1992 version of the Uniform Building Code (UBC); applicable portions of the USDOE general design criteria, which surpass the UBC standard for seismic zone 4; and the University of California policy on seismic safety. Please see Response 1-4 regarding earthquakes.

COMMENT 15-4

We are concerned that Strawberry Creek might carry any leakage close to the educational and recreational facilities of Strawberry Canyon, through the University Campus, and through residential and commercial areas of Berkeley into the Bay.

RESPONSE 15-4

(a) Hazardous Waste Leakage and Spread:

As part of RCRA Corrective Action investigations at LBNL, it has been determined that there have not been any releases of chemical constituents of concern from the HWHF. Accordingly there is no technical

data that supports the assertion that there is leakage from the HWHF to Strawberry Creek and beyond. In addition, the HWHF is designed to prevent and contain any accidental spills and not cause releases to soil or groundwater below the HWHF.

COMMENT 15-5

We are concerned that the HWHF is located very close to an educational facility, the Lawrence Hall of Science, visited by hundreds of children on a daily basis.

RESPONSE 15-5

(a) Facility Design:

The Final Safety Analysis Document and the Updated Risk Analysis Report for the HWHF identified the maximum exposed offsite individual to be one who is located 100 meters south of the HWHF. That person would be outside of the Strawberry Gate at Cyclotron Road. The distance between the Lawrence Hall of Science and the HWHF is 570 meters and any risks to persons at the Lawrence Hall of Science would be much less than the individual located 100 meters from the HWHF.

Also, Please see General Issue B.3 of this RTC document.

COMMENT 15-6

We are concerned that a 23,320 gallon tank will be used instead of a substantially smaller tank.

RESPONSE 15-6

The commenter has confused the total authorized storage capacities of all containers with one large 23,320-gallon tank. There is no such tank at LBNL.

COMMENT 15-7

We are concerned that granting a 10 year permit before the Lawrence Berkeley National Labs (LBNL) Long Range development plan, and updated SAD and an updated EIR/EIS are released reminds us of when the Queen in "Alice in Wonderland" said "First the sentence, then the trial". We strenuously object to such a process.

RESPONSE 15-7

DTSC respectfully disagrees with the assertion that DTSC is issuing a permit prior to finalizing other technical documents. As we have pointed out in General Issue # B.6 that the completion of the LRDP EIR has no linkage with this permit renewal project. Please note that DTSC has reviewed an updated Facility Safety Analysis Document. DTSC has considered this document to be technically complete and adequate. A CEQA analysis was conducted, specifically for this permit renewal project. DTSC has concluded that this permit renewal project does not change our findings.

COMMENT 15-8

We are concerned that in this time when many citizens have serious concerns about terrorists bringing radioactive materials into the country, radioactive wastes will be transported along twisting roads in the Berkeley hills and through a densely populated area. Any conventional explosive attack by terrorists during this transport could become the equivalent of Weapon of Mass destruction.

RESPONSE 15-8

Regarding a conventional explosive attack on a truck transporting mixed (i.e. low level radioactive wastes) while enroute from the Hazardous Waste Handling Facility (HWHF) at LBNL to Interstate-80, DTSC does not agree that such an attack would not create a fission or fusion bomb, the equivalent of a weapon of mass destruction because the radioactive materials present in the mixed waste in transportation are not capable of causing a nuclear explosion. For reasons discussed below, DTSC considers such a scenario unlikely to occur and, therefore, not reasonably foreseeable.

The Homeland Security Act of 2002 (Pub.L. No.107-296 (Nov. 25, 2002) 116 Stat. 2319) delegated to the U. S. Department of Transportation (DOT) the responsibility to prescribe regulations for the security of hazardous materials (which include radioactive materials) in transportation. (Please see 68 Fed. Reg. 14510, 14511 (Mar. 25, 2003).) As a result of the terrorist attacks of September 11, 2001, and subsequent threats related to biological and other hazardous materials, the DOT Research and Special Programs Administration (RSPA) conducted a broad review of government and industry hazardous materials transportation safety and security programs. (Please see 67 Fed. Reg. 22028 (May 2, 2002).) As a result of this review, RSPA concluded that, while it is undeniable that hazardous materials in transportation are a *possible* target of a terrorist attack, the *probability* that hazardous materials in transportation will be targeted is, *at best, a guess*. According to RSPA, the threat of attack *is virtually impossible to assess from a quantitative standpoint* and the projected outcome of a terrorist attack cannot be precisely estimated. In view of these uncertainties, RSPA based its security review on the assumption that, given a terrorist decision to attack the hazardous materials transportation system, terrorists will make choices that will maximize consequences and damages. (Please see 68 Fed. Reg. 14510, 14518 (Mar. 25, 2003).) Should terrorists actually target the shipment of mixed waste from the HWHF, they would not find a target rich environment wherein they could pick and choose the time and place of attack. LBNL has informed DTSC that the number of highway shipments of mixed waste from the HWHF varies each year, and has not exceeded 4 in any given year. Given the relatively few shipments and low-level of radioactivity of shipment contents, the LBNL mixed waste shipments would not be considered a target rich environment likely to be considered for a terrorist attack.

The RSPA is currently operating under the premise that, in today's terrorist threat environment, it is necessary to take reasonable measures to reduce the risk of successful attacks during the transportation of hazardous materials. The RSPA is currently considering the need for enhanced security requirements for the motor carrier transportation of hazardous materials.

Security measures being considered include notification of local authorities prior to the transportation of certain hazardous materials through their jurisdictions. Though not currently required by federal regulations, LBNL's policy is to notify the City of Berkeley Fire Department prior to the shipment of mixed waste from the HWHF. These notifications provide City of Berkeley emergency responders.

Please also see response to General Issue B.5.

COMMENT 15-9

We are concerned that there are many other questions from community members and city officials that need to be answered before a permit is granted or renewed. Therefore we request that any discussion of the HWHF permit be postponed until at least after any re-consideration that should take place as part of the LRDP process, and until there are some other updated environmental and safety reviews with public consideration and comment.

RESPONSE 15-9

Due to a variety of reasons, the issuance of the final decision for the HWHF has been delayed. DTSC regrets this delay. However, DTSC does not concur with request by commenters to delay its decision on the issuance of the HWHF until the LRDP EIR is finalized. DTSC believes that the CEQA analysis associated with the HWHF is adequate and does not depend on nor should it be linked to the LRDP EIR. Conversely, the LRDP EIR should factor in the CEQA analysis associated with the permit renewal for the HWHF. Therefore, DTSC has decided not to delay its permit decision for the HWHF.

LBNL has not completed the preparation of the Long Range Development Plan (LRDP) Environmental Impact Report (EIR) either during this delay period. As a University-owned facility, LBNL is required to maintain and periodically update its LRDP which is a planning document designed to establish direction for land use, growth, and development for all of LBNL's activities. LBNL began the planning process for a new LRDP in 2000. On October 28, 2003 LBNL issued a Notice of Preparation for LRDP EIR. A public scoping meeting was held on November 17, 2003. Since that time a draft EIR has been under preparation. Based on DTSC's latest communication with LBNL, the LRDP draft EIR will be circulated for public comments in January 2007. A public hearing is planned for the middle of February 2007. Please also see Response 8-1 regarding the LBNL long range development plan and postponement of the HWHF permit.

C.16 RALPH WALBRIDGE (letter dated 11/17/04)

COMMENT 16-1

It has been brought to my attention that a permit for storing more hazardous waste at the Berkeley Lab. As I live nearby on Derby road, I am very concerned that we live near to the lab at risk should there be an accident or earthquake. I'm sure that you are aware that the Hayward fault line runs below Strawberry canyon and quake of any magnitude would effect the watershed, Botanical gardens, and, of course all the residents nearby.

RESPONSE 16-1

(a) Facility Design:

DTSC believes that the Facility is well designed and meets applicable standards including a response to a fire and other emergencies. The HWHF has been designed with numerous fire safety features to meet current fire and safety regulations. Credible emergency planning scenarios have been developed to tailor the on-site response plans, equipment and facilities. One credible scenario used in preparing the response plan is a significant earthquake resulting in multiple casualties, structural damage, fire and possible spills. LBNL maintains mutual aid agreements. LBNL has a contract with Alameda County Fire Department (ALCO). Additionally, LBNL maintains a mutual aid agreement with the City of Berkeley fire department for support in emergencies. LBNL is also part of the California Master Mutual Aid Agreement whereby fire support may be requested through the local mutual aid coordinator or directly through the Oakland Fire Department.

COMMENT 16-2

Then accidents are always possible transporting hazardous materials from location to another. I would like to request that you put off making any decision on this most important matter until 2005.

RESPONSE 16-2

(a) Delay of Permit Decision:

DTSC does not concur that the decision to renew the HWHF needs to be delayed until the LRDP EIR is finalized. Please see General Issue B.6 regarding delaying permit decision.

(b) Hazardous Waste Transportation:

The DOE requires their contractors to follow all DOT, EPA, and Food and Drug Administration requirements for the transportation of radioactive materials. LBNL transports its hazardous and mixed waste using registered haulers authorized by DTSC. The wastes are packaged and labeled in accordance with DOT requirements and in DOT-approved containers. These containers have to meet a strict series of test under extreme conditions to be certified as DOT approved. These tests are established to ensure that containers do not lose their integrity during transportation and in case of accidents unless they are exposed to extreme conditions. Please see General Issue B.5, and Response 1-2 and 8-4.

(c) Emergency Plan

Local authorities are notified prior to the transportation of certain hazardous materials through their jurisdictions. LBNL's policy is to notify the City of Berkeley Fire Department prior to the shipment of mixed waste from the HWHF. These notifications provide City of Berkeley emergency responders with an opportunity to prepare in advance for a potential emergency or accident. They also enable local authorities to restrict traffic or take other precautions along the affected route.

C.17 MS. RUTH MICHAELS, Ph.D. (e-mail dated 11/19/04)

COMMENT 17-1

I live in the vicinity of LBNL and am very concerned about the storing and transportation of hazardous wastes in my neighborhood. Why has there not been an updated environmental review?

RESPONSE 17-1

(a) Hazardous Waste Transportation

All hazardous and mixed waste shipments from LBNL to disposal facilities are packaged in DOT approved containers. LBNL also follows all packaging, labeling and placarding requirements per DOT. The route selected by LBNL is the most direct route to highway eliminating unnecessary detours in residential areas. Please see General Issue B.5 and Response 1-2 regarding transportation.

(b) Environmental Review

DTSC has conducted an environmental review for this project. DTSC has adopted the findings of the addendum to the EIR and plans to file a Notice of Determination with the Office of Planning and Research 30 days after the Permit Decision, provided no appeal is filed. Please see General Issue B.1 of this RTC document.

COMMENT 17-2

I request that the final decision on the ten year permit be postponed until early 2005 when the environmental impacts of the proposed continuation could be included and analyzed as part of your long range development plan. A public hearing about all of this has been promised in early 2005.

RESPONSE 17-2

Due to a variety of reasons, the issuance of the final decision for the HWHF has been delayed. DTSC regrets this delay. However, DTSC does not concur with request by commenters to delay its decision on the issuance of the HWHF until the LRDP EIR is finalized. DTSC believes that the CEQA analysis associated with the HWHF is adequate and does not depend on nor should it be linked to the LRDP EIR. Conversely, the LRDP EIR should factor in the CEQA analysis associated with the permit renewal for the HWHF. Therefore, DTSC has decided not to delay its permit decision for the HWHF. LBNL has not completed the preparation of the Long Range Development Plan (LRDP) Environmental Impact Report (EIR) either during this delay period. As a University-owned facility, LBNL is required to maintain and periodically update its LRDP which is a planning document designed to establish direction for land use, growth, and development for all of LBNL's activities. LBNL began the planning process for a new LRDP in 2000. On October 28, 2003 LBNL issued a Notice of Preparation for LRDP EIR. A public scoping meeting was held on November 17, 2003. Since that time a draft EIR has been under preparation. Based on DTSC's latest communication with LBNL, the LRDP draft EIR will be circulated for public comments in January 2007. A public hearing is planned for the middle of February 2007. Please also see General Issue B.6 regarding delaying permit decision.

C.18 MR. L A WOOD (e-mail dated 11/19/04)

First, I want to thank you for conducting the public hearing in Berkeley last month on the permit review for the Hazardous Waste Handling Facility (HWHF) operated by the Lawrence Berkeley National Laboratory (LBNL).

COMMENT 18-1

I believe it is important to give the public opportunity to review the HWHF permit. Perhaps next time, DTSC will conduct a workshop before the public hearing. This would have been helpful for me because not all of my questions could be addressed by your staff.

Here are several written comments I would like to be included along with my public testimony given at the North Berkeley Senior Center on October 20, 2004. Please consider the following:

RESPONSE 18-1

Please note that DTSC started public comment period on the Draft Permit on September 21, 2004. DTSC also held a workshop prior to public hearing on October 20, 2004. DTSC responded to comments during workshop questions /answer period. DTSC believes that it adequately addressed those questions. DTSC informed to the public that comments that have not been addressed at the workshop to commenter's satisfaction should be recorded in formal public hearing. This way, DTSC would respond in writing to those comments.

COMMENT 18-2

The location of the HWHF in Strawberry Canyon has always raised deep concerns over the possibility of both earthquake and fire impacting the waste storage facility. It should be noted that just prior to the

construction of the HWHF in 1994, the City of Berkeley's Fire Chief publicly stated that building a waste facility in the canyon was a very dangerous proposition. He stated that in the likely event of a severe earthquake, moving trucks up and down Centennial Drive would be very difficult, if not impossible. He also said it would be very difficult to fight a canyon fire like those in the Oakland/Berkeley Firestorm of 1991. If the request by LBNL to expand its waste capacity at the HWHF is granted, then there should be a provision within the permit renewal to require expanded fire protection.

RESPONSE 18-2

(a) Facility Design:

The HWHF has been designed and constructed in conformance with the 1992 version of the UBC; applicable portions of the USDOE general design criteria, which surpass the UBC standard for seismic zone 4; and the University of California policy on seismic safety. Please see Response 1-4 regarding the HWHF and earthquakes.

(b) Emergency Plans

The HWHF facility has been designed with numerous fire safety features to meet current fire and safety regulations. In addition, LBNL's Vegetation Management Program has reduced the potential fuel load for a fire surrounding the facility, and larger fuel breaks have been created to prevent any hill fire from encroaching on the facility. Please see General Issue B.4 of this RTC document.

COMMENT 18-3

Historically, LBNL has depended heavily upon the fire protection services of the City of Berkeley while continuing to under staff their own fire unit on the hill. Moreover, it is likely that some Berkeley fire protection services may be reduced because of budget concerns. If this comes to pass, how will LBNL guarantee that fire protection levels are maintained?

RESPONSE 18-3

LBNL has its own fire department to handle the needs at the facility. LBNL does have adequate fire handling capabilities and utilizes a mutual aid agreement when necessary. Please also see General Issue B.4.c.

COMMENT 18-4

It is disappointing to see that DTSC has not moved forward to request an updated environmental review under CEQA or NEPA for the permit renewal. The canyon area surrounding the waste facility is being rapidly developed. Since the canyon is zoned for residential housing and there are residential projects under consideration, why hasn't this change in the area been factored into the HWHF waste storage and operations? Before DTSC approves any waste renewal permit for the HWHF, LBNL should be required to update its environmental reviews for both CEQA and NEPA with regard to the HWHF's impact on canyon development, especially the proposed housing. This should be a condition of their waste permit renewal.

RESPONSE 18-4

(a) Environmental Review:

Regarding an updated environmental review, as stated in the General Issue B.1 of this RTC document, the University of California-Regents are and have been the Lead Agency under CEQA for projects

regarding the LBNL HWHF. The UC Regents were responsible for preparing the appropriate environmental document for this project. In this regard, the UC Regents relied on previously certified documents to examine potential impacts associated with the current project. A list of those documents is provided in General Issue B.1 of this RTC document. It should be noted that the National Environmental Policy Act does not apply to the UC Regents or DTSC's decision making relative to the continued operation of the HWHF under the renewed permit.

(b) Residential Development:

Regarding residential development in Strawberry Canyon, DTSC would like to clarify that there would not be any difference in the evaluation of any potential effects associated with the continued operation of the HWHF with those possible future residents. The Final Safety Analysis Document Section 2.3 (prepared in April 1997, updated in April 2001, and updated again in October 2002) concluded that the maximum exposed individual in the event of any accidental releases from the HWHF would be within 99 meters of the HWHF. That distance of about 99 meters is within the LBNL fenceline property limits. Any individual, such as a future resident in Strawberry Canyon, would have less potential risks than an individual at the 99 meter distance. Therefore, future residential housing and projects have been factored into the evaluation of the HWHF operations. In addition, please see General Issue B.3 of this RTC document.

COMMENT 18-5

In 1994, the University of California Berkeley (UCB) abandoned plans to reconstruct its own waste facility, located within a quarter mile of the HWHF. Certainly one major reason UCB chose to relocate its waste facility onto the central campus was the difficulties of transporting waste through the canyon and city. The difficulties of the HWHF's waste transportation are clearly seen in the attached newspaper article that describes LBNL's attempt to move radioactive waste down University Avenue, Berkeley's main street during rush hour. (Please see attachment: Rush Hour Radioactive Shipment Riles City By Will Harper, Berkeley Voice, July 4, 1996) With the growth of both LBNL and UCB operations in the last ten years, it has become even more important now to define and limit their waste transportation, particularly the movement of waste from the UCB central campus area and into the canyon. LBNL should be made to update its waste transportation plan to provide for better notification to the City of Berkeley and its residents when moving hazardous and radioactive waste from the HWHF through the city streets of Berkeley. This should be a condition of their HWHF permit renewal.

RESPONSE 18-5

(a) Hazardous Waste Transportation:

DTSC is aware that in 1994 the University of California – Berkeley decided not to construct a hazardous waste storage facility in the Strawberry Canyon area of their campus. However, in regards to the transportation of low-level radioactive and mixed wastes from the HWHF at LBNL, DTSC would like to clarify that those shipments are not via Centennial Drive through Strawberry Canyon. All low-level and mixed waste shipments are made through Blackberry Gate onto Hearst Avenue. All hazardous and mixed waste shipments from LBNL to disposal facilities are packaged in DOT approved containers. These containers have to meet a strict series of tests under extreme conditions to be able to be certified as DOT approved. These tests are established to ensure that containers do not lose their integrity during transportation and in case of accidents unless they are exposed to extreme conditions. LBNL also follows all packaging, labeling and placarding requirements per DOT. The route selected by LBNL is the most direct route to highway eliminating unnecessary detours in residential areas. Please see Response 1-2 regarding transportation.

(b) Mutual Aid Agreement

In October 1196, the City of Berkeley and LBNL entered into a voluntary agreement that specified the transportation route by the City of Berkeley's traffic engineer for radioactive and mixed waste shipments. Hazardous waste transporters also follow this route when transporting waste from LBNL to offsite treatment, storage and disposal facilities. In addition, LBNL agreed to voluntarily notify City of Berkeley personnel of radioactive and mixed waste shipments. These notifications are for emergency purposes only.

COMMENT 18-6

Prior to initial approval to operate the HWHF, our community asked for a minimization program that would actually begin to reduce HWHF waste storage needs. Instead, LBNL is now asking for a huge increase in waste storage capacity. Where is the minimization program for the LBNL HWHF and operations? LBNL should be required to show that they have an active minimization program in place and that an accounting for this effort should be documented annually. This requirement for a waste minimization program reporting should be a condition of the permit renewal. Moreover, LBNL should be held to its current permitted regulatory waste storage levels, not increased. This will insure that in the future LBNL will begin to address waste minimization in their operations.

Shipping hazardous and radioactive waste off site to landfills or treatment is not environmentally responsible. LBNL now moves much of its waste out of state to waste treatment facilities near other communities. This practice of relocating LBNL-generated waste and potentially exposing other communities raises numerous questions of environmental justice and is simply wrong. A minimization program can provide an alternative to this "out of sight...out of mind" waste disposal practice. It is certainly another good reason to require minimization of waste generation at HWHF. It's time that LBNL be more environmentally responsible in their approach to waste management.

RESPONSE 18-6

DTSC would like to point out that LBNL has not requested any increase in hazardous or mixed waste storage capacities as part of this permit renewal. LBNL has significantly reduced the overall amount of hazardous waste it generates (77%) and mixed waste (91%) since 1993. LBNL continues to review waste generating processes and look for additional opportunities. LBNL generates, treats and transports its wastes to facilities which are designed to store or treat these wastes indefinitely. LBNL has a waste minimization plan in place in accordance with applicable laws and regulations. Please see Response 2-5 regarding waste minimization.

DTSC recognizes the comment regarding off-site disposal and the impacts associated with it. However, it is neither practical nor possible for LBNL to be able to treat all its hazardous waste and dispose it onsite. There are no hazardous waste landfills in the City of Berkeley, Alameda County or the State of California, where mixed waste can be land disposed. So there is no other option, but to transport this mixed waste for offsite disposal. Please also see Response 2-5 regarding waste minimization.

COMMENT 18-7

As mentioned above, Strawberry Canyon is under active development and is likely to continue its growth over the next couple of decades. This fact is reflected in the Long-range Development Plans (LRDP) for both LBNL and UCB. Currently each institution is reviewing its own plan. The HWHF permit review process should be sensitive to these active plan reviews, and hence, shorten the time period designated for the next review of the HWHF permit. The HWHF review should be required in five years, not ten years, allowing for the LRDPs of both LBNL and UCB to be completed and their impact considered. The HWHF

permit renewal and future expanded operations should not be approved at this time, especially in light of this current planning vacuum.

RESPONSE 18-7

All hazardous waste treatment and storage facilities throughout the State of California are authorized for a ten-year period, after which a permit renewal is required. DTSC evaluates all hazardous waste permit applications for conformance with applicable technical standards. If DTSC deems these applications consistent with regulations, a ten-year permit is issued. This is applied on a consistent and uniform basis. DTSC considers this approach protective of human health and the environment.

Please also see General Issue B.6 and Response 8-1 regarding the LBNL long range development plan.

C.19 - PAMELA SIHVOLA, MARK MCDONALD, AND JAMES CUNNINGHAM, COMMITTEE TO MINIMIZE TOXIC WASTE (letter dated 11/19/04)

COMMENT 19-1

The Committee to Minimize Toxic Waste (CMTW) adamantly requests that the Department of Toxic Substances Control (DTSC) require the Lawrence Berkeley National Laboratory (LBNL) to include a review of the environmental impacts from the proposed continued operations of their Hazardous Waste Handling Facility (HWHF) in LBNL's Long Range Development Plan Environmental Impact Review (LRDP EIR) and that the DTSC postpone its decision regarding the HWHF permit renewal application until after the LRDP EIR process is completed.

RESPONSE 19-1

DTSC respectfully disagrees that an EIR is required at this time. An EIR was prepared for this HWHF in the past, and this project does not trigger any of the requirements to initiate a new EIR. DTSC has considered the environmental effects of the project and determined that CEQA documents adequately addressed potential impacts and ensured that approval of the HWHF permit renewal would not result in significant adverse impacts to the environment. DTSC has conducted an environmental review for this project. DTSC has adopted the findings of the addendum to the EIR and plans to file a Notice of Determination with the Office of Planning and Research 30 days after the Permit Decision, provided no appeal is filed. Please also see General Issue B. and Response 8-1 the LBNL long-range development plan and postponement of the HWHF permit.

COMMENT 19-2

There was no updated environmental review under the California Environmental Quality Act (CEQA) or the National Environmental Policy Act. DTSC allowed LBNL to rely on a 1997 Subsequent Mitigated Negative Declaration (which at the time was so opposed, and the extensive public outcry was so great, LBNL was unable to meet its deadline to respond to all the comments. DTSC conveniently issued a Consent Order, allowing increased storage of "mixed" i.e. radioactive/hazardous waste. Following issuance of Negative Declaration a lawsuit was filed supported by both the cities of Berkeley and Oakland!).

RESPONSE 19-2

Please note that Negative Declaration prepared by DTSC in 1996 was for a Class 2 Permit Modification and not for the initial permit issuance of HWHF. DTSC would like to clarify that LBNL evaluated the environmental impacts for the HWHF permit renewal in environmental documents as listed in General

Issue B.1(b) and not only the 1997 Subsequent Mitigated Negative Declaration as cited by the commenter. Please refer to General Issue B.1 which provides more details regarding compliance with CEQA for HWHF permit renewal.

In 1998, Group To Eliminate Toxics, an unincorporated association, filed an appeal against University of California; LBNL (Respondents and Defendants). On June 18, 1998, Superior Court of the State of California in and for the County of Alameda reviewed the records of respondent's proceedings in this matter, the briefs submitted by counsel, and the arguments of counsel. The Court found that the respondent's decision to prepare and certify the Subsequent Mitigated Negative Declaration was supported by substantial evidence. The Writ of Mandate was denied. Please see General Issue B.1 of this RTC document for DTSC's rationale for CEQA on this project.

COMMENT 19-3

Members of the CMTW were denied by you, Dr. Ahmad, access to the 1997 Negative Declaration, the CEQA Initial Study and the Health Risk Assessment despite your notice stating "the full administrative record is available at: DTSC File Room, 700 Heinz Ave., Berkeley, CA 94710" where they met you for the purpose of reviewing these documents. (Please see enclosed 10/15/04 letter to Mohinder Sandhu from Pamela Sihvola and p.4 DTSC notices.)

RESPONSE 19-3

This issue of accessibility to documents was addressed in DTSC's letter dated November 9, 2004 to Ms. Pamela Sihvola (a copy of this letter is attached to this RTC document).

COMMENT 19-4

Since 1997 important events have taken place that LBNL's permit, especially the continued threat of terrorists attacks on NUCLEAR FACILITIES (or in the case of LBNL's HWHF, a non-nuclear facility storing nuclear waste! See 4. below) LBNL and its HWHF are a prime target with thousands of gallons of radioactive, mixed and hazardous waste being stored within the city limits of Berkeley and Oakland, surrounded by residential neighborhoods and University of California dormitories! A careful analysis must be provided as to what the health and the environmental impacts would be if a plane flew into the HWHF when it was filled up to its storage capacity with radioactive, mixed and hazardous waste. The 1997 Safety Analysis Document (SAD) reviewed by DTSC, does not provide such worse case scenario.

RESPONSE 19-4

Although terrorist initiated events were not analyzed, events initiated by natural phenomena were analyzed. One such accident is an uncontrolled facility fire at the HWHF due to an area fire similar to that which occurred in the Oakland-Berkeley area in October of 1991. This fire scenario conservatively assumes that the entire radionuclide and hazardous waste inventories of the HWHF and surrounding storage units, including the flammable/combustible storage building (HW 14), are released to the environment. In view of this fact and other conservative elements of the analysis, DTSC considers the exposures projected in the analysis to bound those associated with facility fires initiated by other external events, including facility fires that might result from terrorist-initiated attacks, such as a 9/11-style airplane attack. Please refer to General Issue B.5 regarding a terrorist attack.

COMMENT 19-5

There are serious safety issues with the Hazardous Waste Handling Facility (HWHF). The EIR done in 1989/90 for the current HWHF (then called HWHF) was for a nuclear facility. However, in the spring of 1994 LBNL decided, without benefit of a new EIR, to instead build a non-nuclear facility for the storage of nuclear wastes (e.g. radioactive and "mixed", i.e. radioactive/hazardous) and hazardous waste. At that time LBNL had close to 39,000 curies of tritium (radioactive hydrogen) in inventory.

RESPONSE 19-5

The EIR for the Construction of the Replacement Hazardous Waste Handling Facility, June 1990, addressed the storage and handling of radioactive, mixed and hazardous waste and found there would be no significant impacts. A letter dated March 9, 1994 from David McGraw to James Davis, DOE Oakland Operations Office requested concurrence with the category of "non-nuclear" for the new HWHF. On April 5, 1994 a response was received in a letter from Alex Dong, DOE Oakland Operations Office to Joe Boda, DOE Headquarters stating that they have designated the HWHF as a non-nuclear facility. The HWHF operations were evaluated to categorize the facility according to DOE Order 5480.23. This analysis indicated that the replacement HWHF would be classified as a category 3 non-reactor nuclear facility based on the existing inventory of tritium-contaminated wastes. LBNL shipped these wastes for disposal, examined the previous assumptions, and projected generation rates for radioactive waste and concluded that the new facility would be able to operate below category 3 thresholds, thus categorizing the HWHF as a non nuclear facility. Therefore, a new EIR as suggested by the commenter was not necessary.

Please see General Issue B.2 of this RTC document regarding radioactivity.

COMMENT 19-6

The total maximum permitted storage capacity for "mixed" (radioactive/hazardous) waste should be reduced because the National Tritium Labeling Facility, which produced the majority of the radioactive/hazardous waste, has been closed.

RESPONSE 19-6

Between 1993 and 2005, mixed waste generation has decreased approximately 91% and hazardous waste has decreased approximately 77%, however legacy mixed waste streams remains at the HWHF awaiting shipment to offsite treatment and disposal facilities. LBNL has not requested reducing its mixed waste or hazardous waste capacity so that its capability to support new and changing research can be accommodated.

Please see Response 2-5 regarding waste minimization which factored in the closing of the National Tritium Labeling Facility as well as site wide waste reduction at LBNL .

COMMENT 19-7

Of all the National laboratories and other Federal facilities that generate, handle or store hazardous chemicals, radioactive waste, organic waste and mixed waste, LBNL is conspicuous by the lack of a normal and prudent buffer zone, a fundamental and essential component for operational safety. LBNL's location in a high density residential area prone to fire conflagrations like the one that destroyed around 3000 homes in 1989, and situated directly on the active Hayward seismic fault require an honest and rigorous investigation of any facility handling the amounts and types of materials the HWHF currently does.

RESPONSE 19-7

(a) Facility Siting

The HWHF is located within a buffer zone surrounded by UC property. The HWHF is not located on any active fault.

(b) Risk of Upset:

The HWHF FSAD evaluated the consequences of both normal operations and postulated accidents involving hazardous chemical wastes to ensure that the consequences would fall within federal guidelines. The HWHF facility has been designed with numerous fire safety features to meet current fire and safety regulations. In addition, LBNL's Vegetation Management Program has reduced the potential fuel load for a fire surrounding the facility, and larger fuel breaks have been created to prevent any hill fire from encroaching on the facility. Please see Sections B.3 and B.4 of this RTC document.

(c) Facility Design:

LBNL has been designed to LBNL has prepared emergency plans that have been reviewed by local agency. LBNL has a mutual aid agreement with the City of Berkeley.

Please also see General Issue B.4 of this RTC document.

COMMENT 19-8

One of the conditions of LBNL's current permit is WASTE MINIMIZATION. Therefore, why not limit the storage capacity to 5000 gallons and ask LBNL to provide data showing how successful the WASTE MINIMIZATION program is with respect to hazardous, mixed and radioactive waste, division by division, with specific goals and milestones presented quarterly.

RESPONSE 19-8

(a) Permitted Capacity

Even though LBNL has implemented a successful waste minimization program, it has requested the same storage capacity for hazardous and mixed waste to maintain operational flexibility in the advent of changing research. Flexibility is also required to accommodate wastes generated by demolition activities. Facility is designed to safely manage the requested capacity and DTSC does not have a good reason to require LBNL to request reduced capacity.

(b) Waste Minimization

LBNL has put a program in place to substantially reduce waste generation where possible, increase recycling and purchase "Green Products" where possible. LBNL has also made investments in developing technologies to reduce the need for radionuclide use. For example, LBNL researchers have changed some of their methods of experimentation to reduce or eliminate the need for using radioactive tracers, such as substituting luminescence techniques for radioactive tracers which resulted in reduction in generation of mixed wastes. All mixed waste generators at LBNL are required to focus on waste reduction, especially source reduction.

Please see Response 2-5 regarding waste minimization.

COMMENT 19-9

What are the current inventories of hazardous waste, mixed, including transuranic mixed and radioactive wastes at LBNL's HWHF expressed both in curies and gallons? Please include curies and gallons for transuranic (TRU) mixed waste which contains the following isotopes: Americium 241, 243, Californium 249, Cesium 137, Cobalt 57, Curium 243, 244, 248, Hydrogen 3, Manganese 54, Neptunium 237, Plutonium 238, 239, 240, 241, Protactinium 231, Thallium 204, Uranium 235.

RESPONSE 19-9

The specific maximum permitted storage or treatment capacities for each unit at the HWHF are included in Part IV of the HWHF permit. Please see Response 8-3.

COMMENT 19-10

What are the main transportation routes for the wastes referenced above? What time of the day are the waste shipments passing through numerous Berkeley neighborhoods? If during the day and during rush hour, this must be reevaluated.

RESPONSE 19-10

(a) Hazardous Waste Transportation

Pursuant to the voluntary agreement with the City of Berkeley, the City of Berkeley Fire Department is notified prior to shipments of radioactive and mixed waste for the purposes of emergency response only. The route of vehicles containing radioactive and mixed wastes is prescribed by the City of Berkeley and followed by LBNL. Hazardous waste transporters also follow this route. LBNL attempts to ship waste streams between the hours of 8:00 AM and 4:00 PM Monday through Friday.

All hazardous and mixed waste shipments from LBNL to disposal facilities are packaged in DOT approved containers. These containers have to meet a strict series of tests under extreme conditions to be able to be certified as DOT approved. These tests are established to ensure that containers do not lose their integrity during transportation and in case of accidents unless they are exposed to extreme conditions. LBNL also follows all packaging, labeling and placarding requirements per DOT. The route selected by LBNL is the most direct route to highway eliminating unnecessary detours in residential areas. Please see Response 1-2 regarding transportation.

COMMENT 19-11

Does the hazardous and radioactive mixed waste, generated by the Bevatron deconstruction, and its transportation, fall under the RCRA Part B permit and DTSC's jurisdiction? If not, under which agencies does it fall?

RESPONSE 19-11

DTSC does not have any regulatory jurisdiction regarding the demolition of the Bevatron. DTSC is not aware of any other governmental agency for which authorization is required to demolish the Bevatron and associated buildings. Any hazardous or mixed wastes generated during the demolition of the Bevatron and associated buildings could be stored in the HWHF. The decision to store these wastes at the HWHF, similar to any other hazardous or mixed wastes generated by LBNL activities, is solely the decision of LBNL.

COMMENT 19-12

In the event of a release of chemical, radioactive, organic or mixed waste from the HWHF by accident or terrorist intent, what alarm or notification systems would be deployed to protect LBNL personnel, UC staff and students, local residents and surrounding communities?

RESPONSE 19-12

(a) Memorandum of Agreement

In October 1996, the City of Berkeley and LBNL entered into a voluntary agreement that specified the transportation route by the City of Berkeley's traffic engineer for radioactive and mixed waste shipments. Hazardous waste transporters also follow this route when transporting waste from LBNL to offsite treatment, storage and disposal facilities. In addition, LBNL agreed to voluntarily notify City of Berkeley personnel of radioactive and mixed waste shipments. These notifications are for emergency purposes only. Please see Response 18-4 regarding notification to local residences.

(b) Emergency Plan and Public Notification

The Final Safety Analysis Document (FSAD) of the HWHF updated in October 2002 concluded that with the use of procedures already in place at the HWHF, risks at the HWHF do not exceed applicable Occupational Safety and Health Administration (OSHA) and National Institute of Occupational Safety and Health (NIOSH) and other standard exposure criteria. Regarding accidental releases from the HWHF, Please see Sections B.3 and B.4

(c) Risk of Upsets

The HWHF FSAD evaluated the consequences of both normal operations and postulated accidents involving hazardous chemical wastes to ensure that the consequences would fall within federal guidelines. It specifically evaluated the health and environmental hazards of releases of hazardous chemical wastes during normal operations and potential accidents at the HWHF. They were intended to represent high risk chemical constituents of wastes handled at the HWHF. Please see General Issue B.3 of this RTC document.

Please see General Issue B.5 regarding a terrorist attack.

COMMENT 19-13

What is the process by which LBNL decides to activate these alarms, if any?

What plans for emergency evacuation of the laboratory, UC and affected or at risk local neighborhoods does LBNL have in the event of an accidental or intentional release of these substances?

Have these plans been shared with UC, local city governments and the public?

Has there been any planning or coordination with the city governments of Berkeley, Albany, Oakland, Kensington, El Cerrito or any other cities which may be affected by a release of the materials stored at the HWHF?

RESPONSE 19-13

(a) Emergency Plan:

LBNL maintains a mutual aid agreement with the City of Berkeley fire department for support in emergencies. LBNL is also part of the California Master Mutual Aid Agreement whereby fire support may be requested through the local mutual aid coordinator or directly through the Oakland Fire Department. The Alameda County Fire Department also manages the mutual aid agreements for the county and is the only agency within the county with a 24 hour/day, 7 day/week hazardous materials response capability.

The LBNL Emergency Plan has been reviewed by the LBNL Fire Marshal, LBNL Emergency Manager, LBNL Security and Emergency Operations Group Leader, DOE Berkeley Site Office, and Alameda County Fire Department.

(b) Emergency Plans Coordination

LBNL participates in a number of Alameda County-wide organizations that plan for local emergencies including hazardous material releases. LBNL participates in the Alameda County Emergency Managers Association that includes representatives from all 14 cities in Alameda County, the Universities, National Laboratories and Utility companies. This organization plans for emergencies at a county and regional level including hazardous material releases. In addition, LBNL participates monthly in the Hills Emergency Forum, a consortium of public agencies formed in response to the 1991 Oakland Hills fire. This forum included all the First Responders for this region. This forum focuses on collecting, assessing and sharing information on hazard mitigation including emergency response. Periodically, drills or tabletop exercises are held at LBNL that have involved various local agencies and hospitals. Please see Response 3-2 regarding emergency plans for the HWHF.

Please see General Issue B.4(a) of this RTC document.

C.20 MS. NANCY ROTHERMICH, WASTE MANAGEMENT GROUP LEADER, LBNL (letter dated 11/19/04)

COMMENT 20-1

With this letter, Lawrence Berkeley National Laboratory (Berkeley Lab) is submitting its comments on the Draft Permit for Berkeley Lab's hazardous waste handling facility (HWHF). In Section II.C. – Operations, the maximum storage capacity for both hazardous and mixed wastes is listed as 23,200 gallons. The fact sheet distributed by DTSC lists the aggregate capacity as 23,320 gallons which is the correct volume. Please correct the discrepancy.

RESPONSE 20.1

Comment accepted. The maximum storage capacity for both hazardous and mixed wastes in Section II.C – Operations, has been revised from 23,200 gallons to 23,320 gallons.

COMMENT 20-2

In Section IV.B – Identification of Permitted Treatment and Storage Units, each subsection identifies specific attributes of each room. However there is inconsistency in the information provided. It is recommended that these descriptions be consistent in the attributes described and accurate in the information. In IV.B.4 HW4, the fire detection system is listed as a smoke detector. While this is accurate, all rooms have heat sensors as the detection system, yet this is not listed consistently. In IV.B.7, HW7, a paragraph describes the internal fire rated walls and chemical resistant membranes. These features are common to all rooms at the HWHF and if noted here, should be noted in the other room descriptions as well. In IV.B.HW14, describes the racks as having a foam sprinkling system. This

should be changed to identify the aqueous film forming foam fire suppression system. In some units, the fire suppression system is identified, where in others it is not.

RESPONSE 20-2

Comment accepted. Part IV.B of the final permit has been revised to consistently note that all rooms have heat sensors. The descriptions of all rooms has been changed to include description of internal fire rated walls and chemical resistant membranes. The type of fire suppression system for all units has been changed to aqueous film forming foam fire suppression systems.

COMMENT 20-3

In the same section, there are inaccuracies that must be corrected. In IV.B.3 HW3, the fire suppression system listed is fire extinguishers. This should be corrected to identify high expansion foam as the fire suppression system.

RESPONSE 20-3

Comment accepted. Part IV.B.3 HW3 of the final permit has been changed to identify high expansion foam as the fire suppression system.

COMMENT 20-4

In reviewing Section IV.B – Identification of Permitted Treatment and Storage Units, two process codes appear to have inadvertently omitted. The process codes are identified in Table 4 of the Draft Permit. The codes inadvertently omitted from the Draft Permit text are process codes 16 and process code 20, both of which describe consolidation processes.

Table 4 of the Draft Permit describes process code 16 as “Consolidation in small and 55 gallon containers” and process code 20 as “Consolidation of lab pack chemicals”.

Consolidation at HWHF takes place in 4 treatment units. Consolidation of hazardous waste can be done in HW7 and HW9. Consolidation of mixed waste can be done in MW6 and MW7. HW9 and MW7 are used for consolidation in large containers. HW7 and MW6 fume hoods are used for consolidation in small containers. Lab pack material, depending on their quantity can be consolidated in small or large containers. As such, for all four treatment units, the text of the Draft Permit should be updated to reflect both process codes. The exact sections of the Draft Permit and the corrections that need to be made are as follows:

Section B.7. HAZARDOUS WASTE UNIT HW7:
Treatment Processes: Process Codes 1 through 20

Section B.8. HAZARDOUS WASTE UNIT HW9:
Treatment Processes: Process Codes 16 and 20

Section B.19. MIXED WASTE UNIT MW6:
Treatment Processes: Process Codes 1 through 20

Section B.20. MIXED WASTE UNIT MW7:
Treatment Processes: Process Codes 16, 19, and 20

RESPONSE 20-4

Comment accepted. Sections B.7 and B.19 of the final permit have been revised to allow process codes 1 through 20. Section B.8 has been revised to allow process codes 16 and 20. Section B.20 has been revised to allow process codes 16, 19, and 20.

COMMENT 20-5

Section IV.B. "Newly Identified Releases"

As written, the proposed language would require that LBNL report all environmental releases to DTSC, no matter how small or insignificant. i.e., even if below a reportable quantity; to any environmental medium, including air; even if consisting of radioactive-only release not within DTSC's jurisdiction; even if already reported to the Office of Emergency Services; and even if federally permitted or state-authorized. This appears to be outside of DTSC's jurisdiction and beyond its statutory authority and is not consistent with state law as described in Health and Safety Code Section 25359.4. It is recommended that Section IV.B.1 be revised as follows:

In the event the Permittee identifies a new Solid Waste Management Unit (SWMU) not previously identified, the Permittee shall notify DTSC within 24 hours of discovery and notify DTSC in writing within 10 days of such discovery if the discovery poses an imminent threat to human health and/or the environment. For all other discoveries the Permittee shall notify the DTSC within 10 days and submit a written report within 30 days. The report shall summarize the findings including the immediacy and magnitude of potential threat to human health and/or the environment.

RESPONSE 20-5

Section VI of the draft permit implements Health and Safety Code section 25200.10, which addresses corrective actions at Solid Waste Management Units (SWMUs). Consequently, condition VI.B.1 only relates to releases from SWMUs. This includes both SWMUs that have been identified and SWMUs that are identified in the future.

Condition VI.B.1 does not apply to releases of radioactive materials. Consistent with Health and Safety Code section 25200.10, the plain language of condition VI.B.1 limits its applicability to releases of hazardous waste and/or hazardous constituents.

EPA's corrective action authority is equivalent to U. S. EPA's corrective action authority under the Resource, Conservation and Recovery Act (Please see 42 U.S.C. 6924(u).) Consequently, condition VI.B.1 applies to releases of hazardous waste and/or hazardous constituents to any environmental medium.

Health and Safety Code section 25200.10 authorizes DTSC to require reporting of all such releases from SWMUs, regardless of the quantity of waste and/or hazardous constituents released. DTSC requires such information to determine if corrective action is necessary to protect human health and the environment. LBNL was required to provide similar information about all identified releases as a part of its permit application pursuant to California Code of Regulations, title 22, section 66270.14, subdivision (d)(2). Consequently, a continuing obligation to do the same during the life of the permit is not unreasonable. The reportable quantity limitations applicable to reporting releases pursuant to Health and Safety Code section 25359.4 do not apply here.

Accordingly, Section VI.B.1 "Newly Identified Releases" of the draft permit has not been revised.

COMMENT 20-6

In addition, it is recommended that a definition of "Solid Waste Management Unit" be added.

RESPONSE 20-6

Please see the Response 20-5 wherein a reference to CCR, title 22, section 66260.10 has been added to after the phrase "Solid Waste Management Unit".

C.21 MS. MARCELLE JACOBS (letter dated 11/16/04)

COMMENTER 21-1

I am very concerned re: the process of trying to get approval from the Department of Toxic Substances Control for the renewal of its Hazardous Waste handling Facility Operating Permit through 2014.

I feel we need an updated environmental review, also what times of day are these hazardous wastes driven through Berkeley, what are the routes and emergency plans in case of accidents or disasters?

RESPONSE 21-1

(a) Permit Process:

DTSC has reviewed LBNL's Part B Application and determined it to be technically complete. DTSC has issued a 10-year permit in accordance with California Code of Regulations, title 22, section 66270.50.

(b) Environmental Review:

DTSC has conducted an environmental review for this project. DTSC has adopted the findings of the addendum to the EIR and plans to file a Notice of Determination with the Office of Planning and Research 30 days after the Permit Decision, provided no appeal is filed. Please see General Issue B.1(b) of this RTC document regarding request for an environmental impact report.

(c) Transportation:

LBNL attempts to ship waste streams between the hours of 8:00 AM and 4:00 PM Monday through Friday. Regarding notification procedures, please see response 19-10. Please see Response 1-2.

(d) Emergency Plans:

LBNL maintains a mutual aid agreement with the City of Berkeley fire department for support in emergencies. LBNL is also part of the California Master Mutual Aid Agreement whereby fire support may be requested through the local mutual aid coordinator or directly through the Oakland Fire Department. The LBNL Emergency Plan has been reviewed by the LBNL Fire Marshal, LBNL Emergency Manager, LBNL Security and Emergency Operations Group Leader, DOE Berkeley Site Office, and Alameda County Fire Department. The Alameda County Fire Department also manages the mutual aid agreements for the county and is the only agency within the county with a 24 hour/day, 7 day/week hazardous materials response capability.



Department of Toxic Substances Control



Terry Tamminen
Agency Secretary
Cal/EPA

700 Heinz Avenue, Suite 200
Berkeley, California 94710-2721



Arnold
Schwarzenegger
Governor

November 9, 2004

Certified Mail No: 70021000000466120087

Pamela Sihvola, Co-Chair
Committee to Minimize Toxic Wastes
P.O. Box 9646
Berkeley, California 94709

LAWRENCE BERKELEY NATIONAL LABORATORY, HAZARDOUS WASTE
HANDLING FACILITY, PERMIT RENEWAL APPLICATION, ONE CYCLOTRON
ROAD, BERKELEY, CALIFORNIA EPA ID No. CA 4890008986

Dear Ms. Sihvola:

The Department of Toxic Substances Control (DTSC) received your letter dated October 15, 2004 during the public hearing on October 20, 2004, regarding availability of documents concerning the Lawrence Berkeley National Laboratory's (LBNL) permit renewal decision.

Your letter stated that upon receipt of the DTSC Fact Sheet dated January 2003, you called DTSC staff requesting to see the various documents listed in the Fact Sheet to be available for public review. Specifically, you requested copies of the draft permit, CEQA Initial Study, Health Risk Assessment, Negative Declaration, and permit application. Your letter referred to a meeting on August 11, 2004 with Mr. Waqar Ahmad of our staff to review these documents.

On August 11, 2004 Mr. Waqar Ahmad clarified that the purpose of the January 2003 Fact Sheet was to inform the public that LBNL had submitted a permit renewal application to DTSC. The reference to a draft permit, CEQA Initial Study, Health Risk Assessment, and Negative Declaration in the January 2003 Fact Sheet was an error on our part.

On August 11, 2004 Mr. Waqar Ahmad provided you an electronic version of the LBNL permit renewal application on compact disk. He also provided you a hardcopy of the Risk Analysis for Berkeley Laboratory Hazardous Waste Handling Facility. On August 11, 2004 the LBNL draft permit was undergoing internal DTSC review by the Office of Legal Counsel. Similarly, review of CEQA documentation prepared by The Regents of the University of California for this project was also under internal DTSC review. Accordingly, we could not provide you a copy of the draft permit and CEQA

Pamela Sihvola
November 9, 2004
Page 2 of 3

documentation on that date. However, the draft permit and CEQA documentation were placed in the public repositories on the start of the public comment period on September 21, 2004. In addition, these documents have also been available with the full administrative record at DTSC's office at 700 Heinz Avenue in Berkeley since September 21, 2004. These documents were also posted on our website on October 1, 2004.

Your letter also stated that there is no reference to these documents in the September 2004 Fact Sheet. Please refer to page 4 of the September 2004 Fact Sheet which states where the draft permit, permit application, and the full administrative record are available. All documents related to the CEQA review are also available at our office.

Your letter also stated that you requested to see the strike-out version of the permit renewal application. This type of document is not required to be submitted by LBNL and accordingly was not therefore available.

Enclosed for your convenience, are copies of the draft permit and CEQA documentation that includes (1) LBNL Notice of Determination, (2) LBNL Notice of Exemption, March 2003, and (3) LBNL Project Approval, Addendum to the Construction of Replacement Hazardous Waste Handling Facility Final Environmental Impact Report, March 2003, A copy of the Updated Risk Analysis for Berkeley Laboratory Hazardous Waste handling Facility, dated October 2002, was already provided to you on August 11, 2004.

In closing, I would like to assure you that DTSC is fully committed to an open public process for our permit decision making. Any constructive comments and suggestions you may have are welcome. We will make every effort within our regulatory framework and available resources to implement your suggestions. Thank you for your continued participation and I look forward to working more effectively with you and other concerned members of the Berkeley community on matters related to LBNL hazardous waste operations. If you would like to review the full administrative record at our office, please contact Sal Ciriello at (510) 540-3972.

Sincerely,



Mohinder S. Sandhu, P.E., Chief
Standardized Permitting and Corrective Action Branch

Enclosures

cc: Mark MacDonald
Committee to Minimize Toxic Wastes
1815 Parker St.
Berkeley, CA 94703

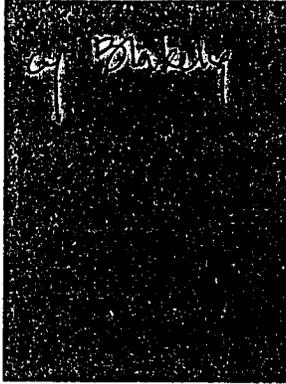
Pamela Sihvola
November 9, 2004
Page 3 of 3

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**ENDORSED
FILED
ALAMEDA COUNTY**

JUN 18 1998

**RONALD G. OVERHOLT, Exec. Off./Clerk
By JaNel Plowman, Deputy**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA**

RECEIVED

JUN 23 1998

**LABORATORY COUNSEL
LAWRENCE BERKELEY NATIONAL LABORATORY**

GROUP TO ELIMINATE TOXICS, an
unincorporated association,

Petitioner and Plaintiff,

v.

UNIVERSITY OF CALIFORNIA; REGENTS
OF THE UNIVERSITY OF CALIFORNIA;
ERNEST ORLANDO LAWRENCE
BERKELEY NATIONAL Laboratory, and
DOES I-X,

Respondents and Defendants.

No. 784467-0

**ORDER DENYING PETITION FOR WRIT
OF MANDATE**

(California Environmental Quality Act Case)

Date: June 9, 1998
Time: 9:15 a.m.
Dept.: 81

This matter came on regularly for hearing on June 9, 1998 in Department 81 of this Court, the Honorable Henry Needham presiding. Petitioner and respondent appeared at the hearing through counsel of record.

The Court having reviewed the record of respondent's proceedings in this matter, the briefs submitted by counsel, and the arguments of counsel, and the matter having been submitted for decision, the Court finds that the respondent's decision to prepare and certify the Subsequent

1 Mitigated Negative Declaration is supported by substantial evidence in light of the whole record.

2 Therefore, the Writ of Mandate is hereby denied.

3

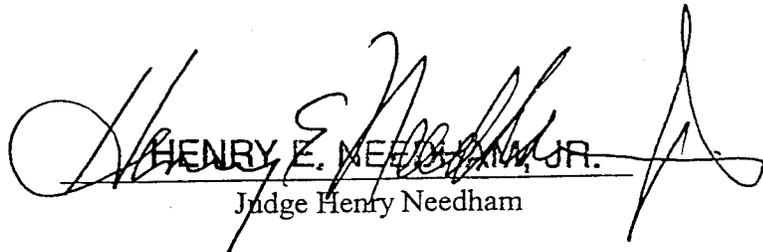
4 For good cause shown, IT IS SO ORDERED.

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Dated: June 18, 1998



HENRY E. NEEDHAM, JR.
Judge Henry Needham

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DECLARATION OF MAILING

I certify that I am not a party to this cause and that on the date stated below I mailed (first class, postage pre-paid) a copy of this notice to the persons thereto, addressed as follows:

Michael Freund, Esq.
1915 Addison Street
Berkeley, CA 94704-1101

Michael H. Zischke, Esq.
Ted Stevens, Esq.
LANDELS RIPLEY & DIAMOND, LLP
350 The Embarcadero
San Francisco, CA 94105-1250

Nancy W. Shepard, Esq.
Glenn R. Woods, Esq.
Ernest Orlando Lawrence Berkeley National Laboratory
1 Cyclotron Road
Berkeley, CA 94720

I declare under penalty of perjury that the same is true and correct. Executed on
June 18, 1998.

By: JaNel Plowman
JaNel Plowman, Clerk Dept. 81