



Alan C. Lloyd, Ph.D.  
Agency Secretary  
Cal/EPA



## Department of Toxic Substances Control

1001 "I" Street  
P.O. Box 806  
Sacramento, California 95812-0806



Arnold Schwarzenegger  
Governor

October 20, 2005

Mr. James Cunningham  
Secretary/Treasurer  
Committee to Minimize Toxic Waste  
1007 Miller Avenue  
Berkeley, California 94708

LAWRENCE BERKELEY NATIONAL LABORATORY: Approval of Corrective Measures  
Study Report and Remedy Selection

Dear Mr. Cunningham:

This in response to your September 30, 2005, petition for review of the Department of Toxic Substances Control's (DTSC) August 31, 2005, final decision for approval of the Corrective Measures Study Report and Remedy Selection (CMSR/RS) for the Lawrence Berkeley National Laboratory (LBNL).

I realize that you have filed this petition for review based upon the Notice of Final Decision, which indicates that persons who commented on the draft CMSR/RS may petition DTSC to review the final approval decision. However, the Notice of Final Decision was erroneous in stating that a petition for review process is available for this decision. While DTSC's regulations (California Code of Regulations, title 22, section 66271.18) provide a petition for review process for hazardous waste facility permit decisions, there is no provision in law for a petition for review or other administrative appeal of CMSR/RS approval decisions.

Therefore, I am unable to grant your petition for review. However, by copy of this letter, I am asking Ms. Barbara Coler, Chief, Permitting and Corrective Action Division, to review and respond to the concerns raised in your letter within 90 days from the date of this letter.

Mr. James Cunningham  
October 20, 2005  
Page 2

Please be advised that the Notice of Final Decision was also erroneous in indicating that the effective date of the CMSR/RS approval would be delayed if a review of the decision was requested. Since the law does not provide a petition for review process for this type of decision, or any other basis for staying or delaying the effective date of a CMSR/RS approval decision, DTSC's final decision for approval of the LBNL CMSR/RS is immediately effective.

If you have any questions, please contact me at (916) 322-3501 or Ms. Barbara Coler at (510)-540-3827.

Sincerely,



Watson Gin, P.E.  
Deputy Director  
Hazardous Waste Management Program

cc: Pamela Sihvola  
Committee to Minimize Toxic Waste  
P.O. Box 9646  
Berkeley, California 94709

Joan Levinson  
Committee to Minimize Toxic Waste  
1622 Buena Avenue  
Berkeley, California 94703

Jennifer Pearson  
Friends of the Strawberry Creek  
c/o 1250 Addison Street, Suite 107  
Berkeley, California 94702

Carole Schemmerling  
Friends of the Strawberry Creek  
c/o 1250 Addison Street, Suite 107  
Berkeley, California 94702

Jim Sharp  
2663 Le Conte Avenue  
Berkeley, California 94709