



Department of Toxic Substances Control



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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 is 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.

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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

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