

FINAL ACTION MINUTES

I. Roll Call: Present – Clear, Hale, Harris, MacKusick, Moret, Wood. **Absent** – Toffel.
Acting Chair, Robert Clear. **Acting Secretary**, G. Fiedler. **Aide**, J. Tulloch.

II. Report From Chair: None.

III. Comments from the Public:

- **Gene Bernardi, Committee to Minimize Toxic Waste (CMTW)** – Addressed nanotechnology action voted on during December 6 City Council meeting. Suggested taking steps against possible deed restriction at Lawrence Berkeley National Laboratory (LBNL).
- **Jim Cunningham** – Questions on nanotechnology discussion and action within City Council and Commission meetings. Brown Act question was raised.
- **Pamela Sihvola, CMTW** – Commented on LBNL. Urged CEAC to send a recommendation on possible deed restriction to City Council.

IV. Toxics Management Division Staff Report

V. Discussion/Action

PRESENTATIONS

Iraj Javandel of LBNL participated in Q&A with CEAC on the deed restriction required for clean up. He indicated that no request for deed restriction on land by LBNL will be, or has been, made. He suggested Department of Toxic Substances Control (DTSC) present to CEAC on Deed Restriction issue. He also suggested that any deed restriction, if necessary, can be done only if MCLs and other clean up goals are not met. This may be in the very long term.

On Thursday, January 5, 2006, the CEAC took the following action:

- **SUBJECT: Minutes Review/Adoption**
Action: Motioned, seconded, failed (Clear/Harris. For: Harris, Clear, MacKusick, Hale Against: None. Abstain: Wood, Moret. Absent: Toffel.) to adopt December 2005 minutes with amendments.
- **SUBJECT: Potential deed restrictions due to impaired groundwater and soil at LBNL**
Action: Motioned, seconded, carried (Wood/Moret. For: MacKusick, Hale, Wood, Moret, Harris. Against: None. Abstain: Clear. Absent: Toffel)

CEAC requests that the City Council direct the City Manager to forward letter(s) to LBNL, DTSC, University of California Office of the President (UCOP), Department of Energy (DOE)
re: potential deed restrictions due to impaired groundwater and soil at LBNL

1. City to request a response from each, in writing, as to each party's:

- a) role;
- b) intent;
- c) clean up responses;
- d) timetable; and
- e) budget.

with respect to groundwater quality, remediation, and beneficial use;

2. City to include background on groundwater resource, and public and environmental benefits, etc.;

3. City to state that the city is not in favor of deed restrictions;
4. City to request, that should any party be considering a deed restriction, that it be denied to fullest extent permissible by law, to address and remediate the impaired groundwater and soil at LBNL and further that LBNL/DOE be required to clean up the groundwater to drinking water standard. Note: request to deny deed restriction to be specifically addressed to University of California Office of President Dynes, DTSC and DOE.

- **SUBJECT: Potential deed restrictions due to impaired groundwater and soil at LBNL**
This language was incorporated into the above motion.

That City Council direct the City Manager to write a letter to the University of California Office of President Dynes asking him to deny Lawrence Berkeley National Laboratory's (LBNL) request for deed restrictions on the use of groundwater at LBNL and further that LBNL/DOE be required to clean up the groundwater to drinking water standard.

VI. Announcements from Commissioners:

- None

VII. Requests:

- **Clear** – Add requests to Bayer from CEAC during December 2005 meeting to draft minutes, bring December minutes back to CEAC in February.
- **Wood** – Request that staff prepare a presentation to CEAC about the administrative closure policy, process, and procedures for contaminated sites, fuel and non-fuel. Give some clarification of what the responsibilities and authority of the roles DTSC, Regional Board, and Toxics Management play and how projects are assigned
- **Wood** – Proposal to have a RCRA community meeting in April.
- **Harris** – provide any physical documentation on deed restriction to CEAC.

Adjourn 9:05 PM.