

| <b>Department of Toxic Substances Control</b>                       |  |                      |
|---|--|----------------------|
| <b>Responses to letter from Steven Ross dated November 29, 2007</b> |  |                      |
| No.   | Comments   | Response to Comments |
| <b>General Comments</b>   |  |                      |
| 1   | <u>5-Year Review.</u> CERCLA 5-year review requirements are not uniformly identified for some of the remedial alternatives. For the Proposed Plan, if a selected alternative identifies a remedial system where waste remains, 5-year review evaluations will become necessary to ensure the implemented remedy remains protective.  | Comment noted.       |
| 2   | <u>ARARs Definition.</u> At the time of the Record of Decision (ROD), DTSC intends to review the State Applicable Relevant and Appropriate Requirements (ARARs) for the selected remedial action(s). DTSC requests inclusion in the ROD of the following key word or phrases identified in the FS where ARARs definitions are discussed: a) Applicable requirements are "any promulgated standard, requirement, criteria, or limitation under ....." state "environmental" law ..... b) Relevant and Appropriate ...." while determined not applicable for a specific release, may still be relevant and appropriate to the circumstances of the release. In evaluating relevance and appropriateness, the factors in Section 300.400(g)(2)(i) through (viii) shall be examined where pertinent, to determine whether a requirement addresses problems or circumstances of the release or remedial action contemplated, and whether the requirement is well-suited to the site, and therefore is both relevant and appropriate." | Comment noted.       |

| <b>Department of Toxic Substances Control<br/>         Responses to letter from Steven Ross dated November 29, 2007</b> |  |                       |
|---|--|-----------------------|
| No.   | Comments   | Response to Comments  |
| 3   | <p><u>Specific ARARs.</u> For specifying the ARARs for the remedial actions in the ROD, add the following: a) If hazardous waste is generated, identify H&amp;SC 251 59.1 0 which prohibits underground injection. The statute indicates the inadequacy of federal law to protect California groundwater supplies from hazardous waste injection. The statute defines "hazardous waste" and "injection well". b) Some of the entries in the FS ARAR Category table appear to be promulgated Applicable standards as opposed to Relevant and Appropriate (e.g. Safe Drinking Water Act; Title 22 64431-64445; Title 27 20400; Title 27 20430, Title 27 21 090; Title 27 20090) c) For CEQA, DTSC requests inclusion in the ROD of the following key words or phrases: i) CEQA is a statute .... agencies "making discretionary action on projects proposed to be carried out, funded or approved by a public agency identify ...." ii) A "discretionary project" is a project that requires the exercise of judgment or deliberation when the public agency decides to approve or disapprove a particular activity. "</p> | <p>Comment noted.</p> |

| <b>Department of Toxic Substances Control</b><br><b>Responses to letter from Steven Ross dated November 29, 2007</b> |   |                       |
|--|---|-----------------------|
| No.  | Comments  | Response to Comments  |
| 4  | <p><u>Land Use Covenants</u>. At the time of the ROD, measures and scheduling (DOE v. UC Davis) for implementing any institutional controls should be clearly defined for the selected remedy. As presented in the FS, the land use covenant requirements are not consistently defined in the remedial alternative analysis of the FS. For the ROD, consider the following: a) implemented remedial action(s) where constituents of concern remain which does not allow for unrestricted use will require land use covenant(s). b) Land use covenant requirements are identified in written instruments. c) Written instruments for NPL sites are drafted by DTSC, jointly signed under notary by the landowner/DTSC and U.S. EPA as third party beneficiary, and subsequently recorded by the landowner with the County. d) A California registered land surveyor will need to survey the Site features and exclusion area subject to the covenant. e) The surveyor will need to prepare a survey map and written legal description of the restricted areas subject to the Covenant. f) Covenant(s) run with the land in perpetuity. g) Covenant(s) provide a process for receiving authorization for certain activities (e.g. development) which have the potential to conflict with provisions. h) Covenant(s) are evaluated and reported on an annual basis to verify compliance. i) Covenant(s) would require coordination with the UC Office of the President, Real Estate Services Group and the UC Davis Office of Resource Management and Planning. j) Covenant regulations with effective date 1111 712007 were recently promulgated<br/> <a href="http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/ALUC.cfm">http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/ALUC.cfm</a></p> | <p>Comment noted.</p> |