

February 13, 2009

Mr. John Naginis, DTSC Senior Engineering Geologist

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Subject:

Runkle Canyon Response Plan Comments by Patricia Coryell, Terry Matheney and Rev. John Southwick of the Radiation Rangers, Simi Valley

Simi Valley residents Patricia Coryell, Terry Matheney, and the Reverend John Southwick (Radiation Rangers) and the concerned citizens of Simi Valley welcome the opportunity to provide input on the Runkle Canyon, LLC (KB Home) Runkle Canyon Draft Response Plan (Response Plan) available for review and comment until February 13, 2009 and Internet-accessible at http://www.envirostor.dtsc.ca.gov/public/community_involvement/5876798331/Runkle%20Canyon_Response%20Plan_120408.pdf.

We submit this written information in order to facilitate the most effective Response Plan to address environmental contamination in Runkle Canyon, Simi Valley, California. We also submit this written information to correct what seem to be possibly inadvertent violations of municipal and state law in regards to Notice of Exemption (NOE) issued by the Department of Toxic Substances Control (DTSC) to KB Home January 14, 2009 in regards to the "Removal of Tar Material from Runkle Canyon."

We want to thank Michael Collins of *EnviroReporter.com* and Dan Hirsch of the Committee to Bridge the Gap for information of theirs that we have utilized when creating this document. We also appreciate the efforts, outreach and oversight of the Department of Toxic Substances Control (DTSC) in addressing this issue. In particular, we want to thank Norm Riley, John Naginis, Susan Callery, Nancy Long and the entire DTSC team for their work on this issue.

We also wish to thank KB Home for entering into the Standard Agreement under California's Land Reuse and Revitalization Act (CLRRRA) Program, effective April 23, 2008, that has resulted in this opportunity for citizens to comment on the associated Response Plan. Finally, we thank the City of Simi Valley for its use of its facilities January 28, 2009 for a Public Meeting about this issue and for its continued concern about this issue as well as allowing the Radiation Rangers to present to the City Council, City Manager, City staff and residents of the community a presentation on November 17, 2008 entitled "Environmental Conditions in Runkle Canyon" available at http://enviroreporter.com/files/Runkle_11-17-08ppt.pdf.

It is our desire that DTSC respond to our comments and questions that have been delivered to the department in hard copy, on a CD-Rom computer disk, and by electronic mail on Friday, February 13, 2009 before 5:00pm. It is our goal that DTSC adapt the

Response Plan to reflect our concerns and comments in order to assure that a proper characterization and cleanup of Runkle Canyon be legally commenced and completed in order to protect the environment, human health and any legal liabilities that could be incurred by the City of Simi Valley and State.

INTRODUCTION

Note that we refer to other documents in these comments, many of which are linked to Internet websites that contain the referenced material. The information on those linked websites are part of our comments. We also have inserted text, graphics and photographs from this material into this document in order to maintain a clear and easily-referenced set of comments and questions. This information was transmitted to Mr. Naginis via e-mail and by surface mail with a package, postmarked before 5:00pm Friday, February 13, 2009, that includes a hard copy of these comments and a CD-rom of the comments in PDF form with operable Internet links.

We have addressed the three main areas of concern in this Response Plan as well as an Addendum:

1. Radiological Health Risk Assessment:

The Response Plan, prepared by KB Home's Dade Moeller & Associates is inadequate in several areas including using the wrong radiation standards, faulty radiation analysis that includes blame of earlier developer labs for high strontium-90 readings, and a sampling plan that only tests one sample per 19 acres. We delineate our concerns below.

2. White Crystalline Material:

In DTSC's October 17, 2008 letter request to KB Home requesting a Response Plan, on page 5, DTSC misidentifies the White Crystalline Material found by the Radiation Rangers in 2008 with the Runkle Creek mud that the Rangers found, had sampled and tested in 2007 and that the City then had retested in 2007.

We are concerned that the actual White Crystalline Material had one high detection of arsenic and one high sample with chromium but note that this issue seems to be mute now as the evaporate has already dissipated due to rains, either flowing downhill towards the Arroyo Simi or sinking into the ground.

However, we have information that DTSC should be aware that could explain why, in particular, that Radiation Rangers Frank Serafine and Rev. John Southwick's sample turned in to DTSC that could explain why there was one high reading of total chromium. We outline that information below in our full comments following this Introduction.

3. "Tar" Material

KB Home's contractor GeoCon Inland Empire, Inc. (GeoCon) refers to the tar-like substance that DTSC has ordered to be removed. Before implementation, this removal plan must be fully documented under the California Environmental Quality Act (CEQA) because full extent of this benzo(a)anthracene-impacted tar is not known and needs to be completed as GeoCon states that "Other areas of the channel walls within the vicinity of the seeps have been reported to contain similar material mixed with varying amount [sic] of sand and gravel."

Furthermore, DTSC should withdraw its Notice of Exemption under the California Environmental Quality Act (CEQA) because, as GeoCon states in the Response Plan, "Removal of trees, brush, and other rubble may be required to access portions of the mined aggregate piles where the tar material is reportedly buried. Grading of an access road to allow equipment to enter the stream cut channel may also be required."

Several laws necessitate that a full characterization of this area, where the tar-like material is located, must be completed beforehand. Runkle Canyon is part of the City of Simi Valley (City). Various City and State of California (State) laws apply to the proposed removal of this tar-like material. We outline that information below along with our concerns and comments.

4. Additionally, there are a number of very important concerns with the developer's 41 submitted reports that are analyzed on *EnviroReporter.com* at <http://enviroreporter.com/files/KB41docs.pdf> that we submit here and ask for DTSC response on.

COMMENTS & QUESTIONS

1. Radiological Health Risk Assessment:

The Response Plan, prepared by KB Home's Dade Moeller & Associates is inadequate in several areas including using the wrong radiation standards, faulty radiation analysis that includes blame on earlier developer labs for previous high strontium-90 soil readings, and a sampling plan that would only test one sample per 19 acres.

At the end of this section, we will address Dade Moeller, the man and the lab he founded, but we are particularly aware that DTSC's Norm Riley has repeatedly stated in the media that Dade Moeller is qualified to do the job that KB Home has employed it to do, and that DTSC has no power to exert over the developer to change labs to one that would have the confidence of the community.

We do not dispute that. We do however note that we can and do expect that DTSC do its job by correcting and modifying Dade Moeller's Response Plan to ensure that the goal of the plan is fulfilled.

1A. Dade Moeller's "Radiological Health Risk Assessment," on page 10 of the Response Plan, states, "The parameter values and approaches of this assessment were generally consistent with those the National Committee on Radiation Protection and Measurements (NCRP) used to derive suburban and no food suburban (no home-grown vegetables soil screening limits in Report 120 (NCRP 1999))."

The methodology used by Dade Moeller is faulty as the NCRP relies on "dose-based" radiation limits versus the system of the Environmental Protection Agency (EPA) Preliminary Remediation Goals (PRGs) for radionuclides that DTSC uses for this development site. This misapplication of dose-based limits is unacceptable and must be corrected.

In the very next sentence, on page 10 of the Response Plan, Dade Moeller states, "The EPA Preliminary Remediation Goal (PRG) default scenario (EPA 2004) does not apply to Runkle Canyon because the proposed land use is well known and does not fit the default scenario."

This is false - PRGs are absolutely the proper form of measurement used at Runkle Canyon and at a property like this. Furthermore, this is codified by DTSC in its Notice of Exemption for Runkle Canyon, at http://www.envirostor.dtsc.ca.gov/public/view_document.asp?docurl=/public/community_involvement/7937146842/RunkleNOE%5F2%2EDOC, where it states in part, "[C]oncentrations in soil do not exceed the United States Environmental Protection Agency Region 9 Preliminary Remediation Goal (PRG) which has been confirmed as a site specific cleanup level for this location."

What is puzzling about the preceding is that Dade Moeller must certainly be aware of that PRGs are the "site specific cleanup level for this location." To base their analysis of strontium-90 levels in Runkle Canyon on dose-based levels either suggests a failure to understand this concept adequately or something worse. This isn't acceptable.

1A. Can DTSC please respond to above comments?

Also, will DTSC ensure that the Response Plan is amended to use EPA PRGs to ascertain safe radiation levels in Runkle Canyon instead of "dose-based" radiation limits that Dade Moeller presently cites?

1B. At the top of Page 10, in the same Response Plan document, Dade Moeller writes under Table 7 that "DCGL = derived concentration guideline level; based on 7.5 millirem per year per radionuclide and a risk of 4.5×10^{-6} per year per radionuclide."

$$4.5 \times 10^{-6} = 4.5 \times 0.000010 = 0.000045$$

This is incorrect. According to Nuclear Regulatory Commission's (NRC) calculations, a 15 millirem per year standard equates to a 2×10^{-4} risk level using EPA's risk assessment methodology and assuming an exposure time of thirty years. (See 59 Fed. Reg. at 43219).

Therefore, using the NRC computational model, 7.5 millirem per year translates into a 1E-4 risk level.

$$1\text{E-}4 = 0.0001$$

The Dade Moeller DCGL number, compared with the NRC, is off by a magnitude of 2.22. Therefore, Dade Moeller falsely sets the DCGL high by over two times and has produced a false mathematical model, against which all the radiation measurements are measured that is skewed and makes radiation readings in Runkle Canyon seem less consequential in comparison.

At the January 28, 2009 DTSC Public Meeting in Simi Valley, Dan Hirsch said, “, “Do you see, Norm, that they are using 7.5 millirem per year when you know that translates to 10 to the minus 4 [yet they say] it is 4.5 times 10 to the minus 6. They manipulate the background, they manipulate the Derived Concentration Guideline Level. It’s something they are trying to slip into the fine print and hoping nobody catches. If you go on, you will see for example that they are using a DCGL here of 1.229, [for samples] from 1999. But you will recall - Norm, you have the PRG table - have the PRG table and you can keep it close and look at the residential PRG. You have a strontium 90 PRG of .2 for residential, not the rural residential/agricultural. Throughout the document, you will discover that they are using a DCGL that is way above the PRG. They say it’s based on 7.5 millirem per year per radionuclide with a risk of 4.5 time 10 to the minus 6 per radionuclide. But 7.5 millirem is two orders of magnitude above that.”

We trust Mr. Hirsch’s math computations better than ours -- he said that the DCGL was thrown off by a factor of 70 times! But suffice it to say that this DCGL figure cooked up by Dade Moeller is false, misleading and must be corrected.

1B. Can DTSC please respond to above comments?

Additionally, how will DTSC correct this false DCGL number inserted into the Response Plan to ensure that the past and future readings of strontium 90 in Runkle Canyon soil are not misrepresented and misinterpreted by this false calculation of the DCGL?

1C. Hirsch further commented on Dade Moeller’s radiological health risk assessment by saying, “They have thrown out the EPA use of PRGs and instead have created their own standards.”

Hirsch also noted that Dade Moeller further skewed the radiological calculations by assuming that residents with maximum exposure have no home grown vegetables. “That factor alone throws off the DCGL by 5 fold.” Hirsch went on to say, “What it means is what they are comparing it against is an artificially elevated number.”

1C. Can DTSC please respond to above comments?

Furthermore, will DTSC correct these exposure model assumptions that we hope Mr. Hirsch expands upon in his own comments, to ensure that the radiological data already gathered and to be gathered is not skewed? How will DTSC do this?

1D. Dade Moeller has falsely determined that, according to Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM), available at <http://www.epa.gov/rpdweb00/marssim/>, that Runkle Canyon ranks a “Class III” designation. These designations help determine the number of samples to be tested for radionuclides.

Judging from the comments DTSC heard at the January 28, 2009 meeting, this is especially worrisome to the Radiation Rangers and the residents of Simi Valley and we want this issue addressed. Dan Hirsch, again, addressed this issue and how it pertains to Runkle Canyon:

“MARSSIM says that there are three categories of land,” Hirsch said. “Class I is where you have reason to believe you have contamination, then you take a lot more samples. Class II you think there isn’t contamination but there might be so you take a good number of samples. Class III is where there really shouldn’t be and can’t be any contamination. There is no reason whatsoever for there to be any reason for contamination.

“Well the developer, the contractor has declared this area to be Class III. It abuts a nuclear reactor test facility where they had four reactor accidents including a meltdown – that alone should make it Class I. It’s right below the Sodium Burn Pit where for decades they burned radioactive materials - that should immediately make it a Class I.

“We just discovered that the Santa Susana Field Lab illegally buried hazardous materials off their property at Sage Ranch... having buried stuff close to their boundary should make it a Class I.

“But clearly what should make it a Class I is they already have 58 measurements already of elevated strontium 90. They’ve already found stuff there but they declared it to be Class III and by doing that, and by elevating the DGCL they use for their calculations, to be 70 times the EPA’s PRG,... (and assuming no vegetable garden but having a cement slab) so they will get a tiny bit of dirt per 19 acres of land. They’re going to take 14 samples for a large piece of land that has wasted the time of the department half a year to a year. And 14 samples can’t do it and they know it. They’re hoping that the sample number is low enough that if they accidentally, just by picking the best locations they can, find one or two and then call them ‘outliers.’

“So, what do will we do? The response plan is essentially a brief by an advocate for a project that has a lot of money tied up in it and if there is contamination found, could lose money. It is not a neutral, independent scientific proposal. How to resolve the issue of 58 high samples with 5 lower ones or why we found elevated strontium on the property in the first place.”

1D. *Can DTSC please respond to above comments?*

We understand from Mr. Riley's statements in the media that he does not believe that Dade Moeller is not qualified to do the radiological work in Runkle Canyon. While we disagree with that, we reluctantly understand Mr. Riley's position that with the right oversight, Dade Moeller will do an accurate job.

With that specifically in mind, will DTSC require that the areas closest to the Santa Susana Field Laboratory in Runkle Canyon where Dade Moeller plans to test, be designated a Class I area under MARSSIM in order to take the proper number of samples to test for strontium 90? How will that direction manifest itself?

1E. On page 11 of the Response Plan, Dade Moeller speculates that "The likely explanation of the discrepancy between the earlier and the later results is that the analytical laboratories for the earlier surveys suffered from some type of bias in the analytical method or the counting technique. In fact, Contracted Laboratory A (Table 5), which analyzed five samples, was the same laboratory that analyzed the earlier Foster Wheeler samples in 1999 (Table 3), although the laboratory had changed ownership and name in the intervening period. In summary, the apparent decrease in results is likely due to analytical or counting bias in the earlier sample analysis. This statement is partly speculative because any definitive statement would require extensive examination of laboratory protocols and data." (Our emphasis)

In January of 2007, Rev. John Southwick *wasn't* speculating when he calculated Dade Moeller's 2007 results of strontium-90 soil testing at just 26.9% of *background* for strontium 90 in the area which would make Runkle Canyon even lower in the radionuclide than the rest of the city even though it borders Rocketdyne. Southwick asked the City how the developer's new lab tested over 100 times less than the former developer's lab did in 1999 at

<http://www.stoprunkledyne.com/files/SouthwicktoBehjan.pdf>

The City's split-samples were carried out by another laboratory, Environmental Inc. - Midwest Laboratory and came up with similar results available here:

http://enviroreporter.com/files/Environmental_Inc_report.pdf

These split-samples, to double-check Dade Moeller's tests for accuracy, come in over a hundred times less than previous samplings. Simi Valley lab's radiation testing procedures included controversial decanting and filtering, which artificially lowers radiation readings.

Environmental, Inc.'s referenced testing procedure in the report for strontium 90 was from January 1967 and the Department of Health, Education and Welfare which ceased to exist in 1979. These testing procedures are available at

<http://enviroreporter.com/files/EnvironIncLabTechinques1-17-08.pdf>

This calls into question not only the City's strontium 90 split soil samples that tested so low, it also calls again into question the results of Dade Moeller's 2007 soil tests.

While it is "partly speculative" for Dade Moeller to make bold statements on bad labs not backed up by fact, it is also dismissing high radiation readings by using the wrong standards. We maintain that it is Dade Moeller's results that are suspect and we are not confident in their 2007 test results and believe they should be redone, this time with DTSC "split-samples" for truth in lab reporting quality assurance.

"If you want to hire someone to make your problem go away, you hire Dade Moeller," Hirsch asserted at the January 29, 2009 Public Meeting. "That's a generality, the reputation. If you read the actual report, I'm afraid it is completely reinforced. Every time you can manipulate an input, make a number go down, they do so."

Mr. Hirsch was not speculating. And we aren't speculating when we note that Dade Moeller was the go-to lab for a secret set of strontium 90 tests of Runkle Canyon's soil in 2005 as noted in January 19, 2006 article called "Hot Property" available at <http://www.lacitybeat.com/cms/story/detail/?id=3186&IssueNum=137>.

Those 2005 tests were later dismissed as useless by the California Department of Health Services, the very department which conducted them with Dade Moeller yet the lab keeps citing the data from them.

We are disturbed not only by this lab's actions but by its namesake's background and history of dismissing the dangers of radiation. But we realize that while it may be germane to DTSC to take note of that history, what we particularly want is for DTSC to be abundantly aware of Dade Moeller's history in *Runkle Canyon*.

1E. Can DTSC please respond to above comments?

1F. The Radiation Rangers would like to enter into comments Dan Hirsch's December 2006 document entitled "RADIOACTIVE CONTAMINATION AT RUNKLE RANCH FROM THE SANTA SUSANA FIELD LABORATORY," available at http://enviroreporter.com/files/Runkle_Ranch-CBG.pdf

1F. Can DTSC please respond to above report and its salient points about the strontium 90 found in Runkle Canyon and the evidence that it comes from the adjacent Santa Susana Field Laboratory?

2. White Crystalline Material

In DTSC's October 17, 2008 letter request to KB Home requesting a Response Plan, on page 5, DTSC misidentifies the White Crystalline Material found by the Radiation Rangers in 2008 with the Runkle Creek mud that the Rangers found, had sampled and tested in 2007 and that the City then had retested in 2007.

We have tried to get the department to understand this though we have never received written confirmation that it has. Frank Serafine and Rev. John Southwick delivered “a rock coated with white material,” as the DTSC refers to it in its letter to KB Home even though it was several rocks coated with white material. The letter goes on to state that the material “was found to contain elevated concentrations of chromium (Cr); however, no chain of custody was maintained.”

2A. The White Crystalline Material that the Rangers found in 2008 can be seen in photos available at <http://enviroreporter.com/whiteblightphotos.html>. The Runkle Creek mud that the Rangers found, had sampled and tested in 2007, can be seen in photos available at <http://enviroreporter.com/runklegallery2.html>. The City then had retested in 2007 the Runkle Creek mud as well and than can be seen in photos available at <http://enviroreporter.com/7-02-07RunkleCynTesting.html>.

2A. Does DTSC realize that the White Crystalline Material found by the Rangers in 2008 is not the same material, or location, of the Runkle Creek mud collected on two separate occasions by the Rangers and the City in 2007? Could DTSC please explain the confusion about this especially since we and Michael Collins have tried to correct DTSC’s misimpression repeatedly with no confirmation of success?

2B. Part of this CLRRRA process has involved questioning the science and integrity of Dade Moeller. Discussions involving the White Crystalline Material found by the Rangers, and the lack of a chain of custody, have been the subject of public discussion. We find that this public discussion has either deliberately or inadvertently impugned the reputation of the Rangers.

In the November 17, 2008 DTSC Runkle Canyon presentation at Simi Valley City Hall, a discussion took place after Mr. Riley’s presentation. Part of it included a question and by Simi Valley City Council Member Steve Sojka about the chain of possession:

“The results of metal testing, with the exception of one outlier where the chain of custody was not maintained, have been very low,” Mr. Riley said. “No perchlorate has been detected in this material.”

“Can I just ask you, when I read in the report ‘no chain of custody was maintained,’ can you give an explanation?” Council Member Sojka asked.

“Sure,” Mr. Riley responded. “A chain of custody is essentially a record that tracks the whereabouts of where a sample from point of collection through transportation to a laboratory and of ultimately where testing in the laboratory. We worry considerably about the integrity of tests results where there is no chain of custody that is maintained. One cannot be 100% sure that the results of that sample are representative. Who knows what could have happened to it? Something in the conditions of storage might alter the results. So maintaining the chain of custody for any sample particularly when it’s going to be used as evidence in making critical decisions is very important. The final test results

on this material, which I received just this morning, again support the conclusion that this white material is a naturally-occurring evaporate salt that is not a contaminant from the Santa Susana Field Lab.”

The Radiation Rangers take great exception to this characterization. Mr. Riley knows that Serafine and Southwick had found the material in Runkle Canyon the very day they gave it to him as shown in photographs available at

<http://enviroreporter.com/whiteblightphotos.html> Mr. Riley did not question the chain of possession the day he received the material from Serafine and Southwick and he surely knew that the men had not stored the material long enough for *anything* to happen to it.

This DTSC explanation was only produced *after* DTSC tested the white material on the rocks high in chromium, high chromium results it did not even realize it had until an article about it was published called “White Blight” available at

<http://enviroreporter.com/whiteblight.html>

which was accompanied by a chromium analysis of the material available at

<http://enviroreporter.com/whiteblight.html>

This suggestion that somehow the Rangers impugned the integrity of the sample is specious. But far more serious than attempting to create suspicions about our handling of the material, it serves to obscure what the reason was for the chromium to be found in a sample of the White Crystalline Material in the first place.

2B. *Does DTSC have any other explanation for why there was such a high chromium reading in the white rocks than suggesting that it was in the handling of the rocks themselves? Has DTSC considered that it could have been a DTSC lab error? If DTSC has considered that it could have been a lab error, what steps has the department taken to assure that its lab does not make other errors in its own sampling of Runkle Canyon Creek surface water and mud?*

2C. We are concerned that the actual White Crystalline Material had one high detection of arsenic and one high sample with chromium but note that this issue seems to be mute now as the evaporate has already dissipated due to rains, either flowing downhill towards the Arroyo Simi or sinking into the ground.

However, we have information that DTSC should be aware that could explain why, in particular, that Radiation Rangers Frank Serafine and Rev. John Southwick’s sample turned in to DTSC that could explain why there was one high reading of total chromium.

The answer lies in one of the 41 reports that KB Home that delivered to DTSC from May 8, 2003 that shows that barrels dumped in Runkle Canyon, barrels that the developer did not test for contaminants but found contaminants in the soil surrounding them, and were found in the exact place as the Rangers found the rocks covered with chromium-impacted White Crystalline Material.

And while all that material has washed away in subsequent rains, presumably down into the Arroyo Simi and its aquifer which is used for drinking water purposes, there is a lesson in analyzing where those chromium rocks were found.

It is also educative about the ongoing deceptive manner that the environmental reports on Runkle Property have been created throughout the years and, yet, still manage to impart very important information that we want to make sure DTSC does not miss.

The 2003 report, entitled “PHASE I AND II ENVIRONMENTAL SITE ASSESSMENT 550-ACRE EASTERN PORTION OF RUNKLE CANYON PROPERTY VENTURA COUNTY, CALIFORNIA” dated May 3, 2003 and are available at http://www.envirostor.dtsc.ca.gov/public/view_document.asp?docurl=/public/community_involvement/3973691642/Runkle%20Canyon%5FMiller%20Brooks%5FPhase%20I%20%26%20II%5FPgs%201%2D120%5F50803%2Epdf

On (PDF) page 7/120 of this document created by Miller Brooks Environmental, Inc. for the developer, it says:

A total of 19 55-gallon drums were identified on the site. No concentrations of TPH-V, VOCs, or SVOCs were detected in the surface soil samples collected as a part of the subsequent drum removal program. All concentrations of metals detected in these surface soil samples were below EPA PRGs for residential soil. The material in the drums was transported from the site and disposed of/recycled as non-hazardous waste.

The preceding Summary paragraph is deceptive, in part, and false, in part.

This Summary paragraph is deceptive in that TPH-E (“total petroleum hydrocarbons-extractable) *was* found in the soil in the surface soils where these drums were located as noted on (PDF) page 32/120 of this document:

TABLE 3A. RESULTS OF ORGANIC ANALYSES OF SURFACE SOIL SAMPLES
DRUM REMOVAL
Runkle Ranch 550-Acre Parcel
Simi Valley, California

Sample ID	Date Sampled	TPH- E	TPH-V	VOCs*	SVOCs*
		EPA Method 8015M (mg/kg)	EPA Method 8015M (mg/kg)	EPA Method 8260 (mg/kg)	EPA Method 8270 (mg/kg)
Surface-1	1/7/03	11	ND<5.0	ND<2.5-50	ND<100-1,000
Surface-2	1/7/03	22	ND<5.0	ND<2.5-50	--
Surface-3	1/7/03	23	ND<5.0	ND<2.5-50	--
Surface-4	1/9/03	13	ND<5.0	ND<2.5-50	--
DS-1	2/5/03	40	ND<5.0	ND<2.5-50	--
DS-2	2/5/03	21	ND<5.0	ND<2.5-50	--
DS-3	2/5/03	37	ND<5.0	ND<2.5-50	--
DS-4	2/5/03	19	ND<5.0	ND<2.5-50	--

Notes:

EPA- Environmental Protection Agency
TPH-E- total petroleum hydrocarbons-extractable
TPH-V- total petroleum hydrocarbons-volatile
VOCs- volatile organic compounds
SVOCs- semi-volatile organic compounds
mg/kg- milligrams per kilogram
*- see official laboratory reports for complete lists of analytes
ND- not detected at or above the reporting limit
-- - not analyzed

This Summary paragraph is false when it states, "All concentrations of metals detected in these surface soil *samples* were below EPA PRGs for residential soil." On (PDF) page 32/120 of this document, Surface Samples 1, 2, 3, and 4 are tested. Yet on the very next page, in "Table 3B. Results of Title 22 Metals Analyzes of Surface Soil Samples - Drum Removal," there are only results for Surface-1 without the results for Surface Samples 2, 3 and 4: (see next page)

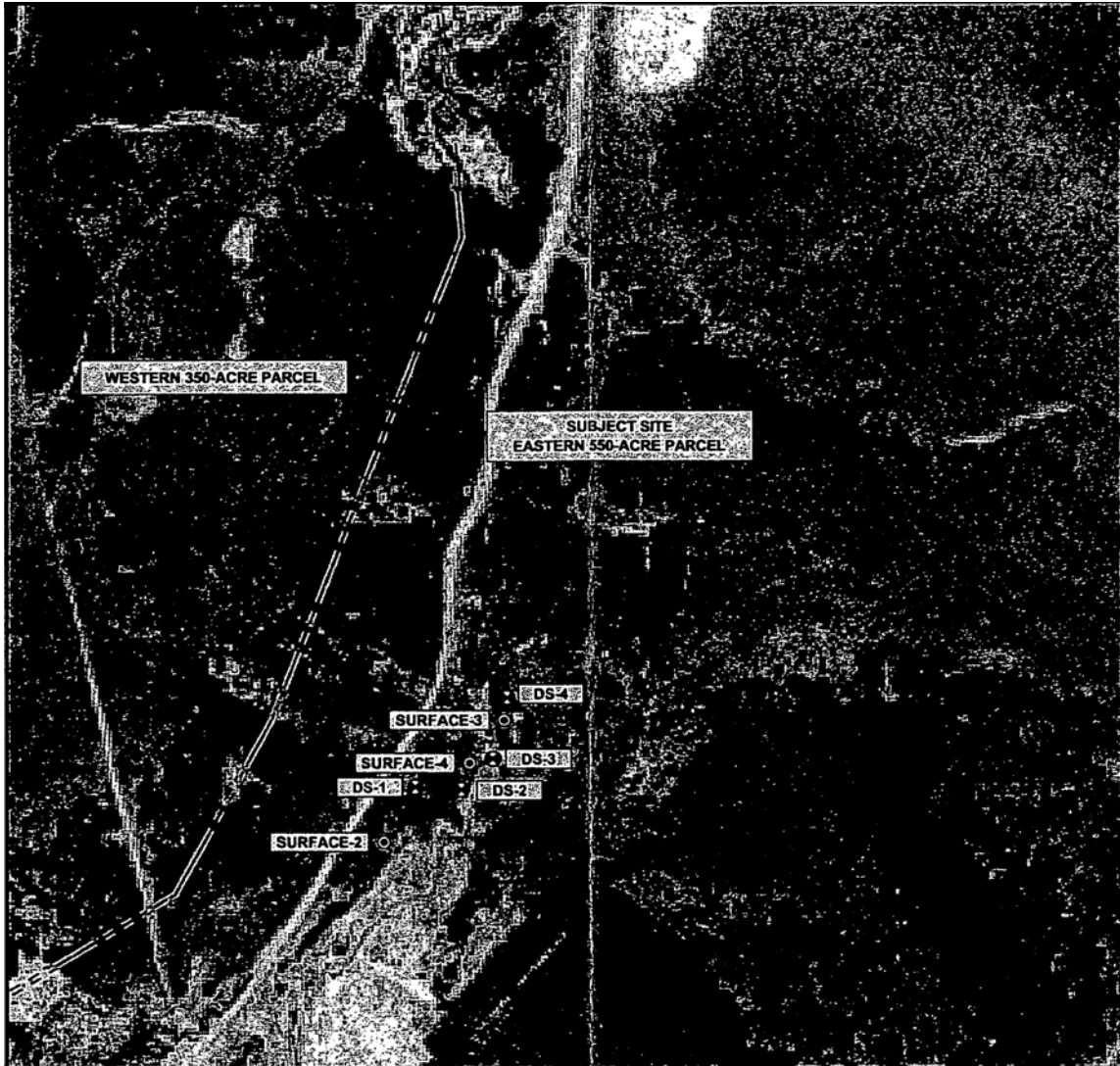
TABLE 3B. RESULTS OF TITLE 22 METALS ANALYSES OF SURFACE SOIL SAMPLES
 DRUM REMOVAL
 Runkle Ranch 550-Acre Parcel
 Simi Valley, California

Sample ID	Date Sampled	Total Metals (mg/kg)																	
		Sn	As	Ba	Be	Cd	Cr (Total)	Cr (VI)	Co	Cu	Pb	Hg	Mo	Ni	Se	Ag	Th	Va	Zn
STLC (mg/L)		15	5	100	0.75	1	560	5	80	25	5	0.2	350	20	1	5	7	24	250
TTLC (mg/kg)		500	500	10,000	75	100	2,500	500	8,000	2,500	1,000	20	13,500	2,000	100	500	700	2,400	5,000
PRG		3.1	0.39	5400	150	37	210	30	4700	2900	400	6.3	390	150	390	390	5.2	550	23,000
SA		20.6	3.5	509	28	0.36	NA	122	15	29	23.9	0.8	13	57	0.8	0.1	15.7	112	149
Surface-1	1/7/03	<5.0	3.3	100	0.83	<0.5	22	<0.5	11	27	11	<0.1	<1.0	17	<5.0	1.4	<5.0	60	97
DS-1	2/5/03	<5.0	<1.0	36	<0.5	<0.5	7.1	<0.5	4.9	10	3.7	<0.1	<1.0	6.2	<5.0	0.55	<5.0	23	35
DS-2	2/5/03	<5.0	<1.0	20	<0.5	<0.5	3.8	<0.5	2.6	5.4	2.0	<0.1	<1.0	3.3	<5.0	<0.5	<5.0	14	17
DS-3	2/5/03	<5.0	<1.0	22	<0.5	<0.5	3.8	<0.5	2.9	5.9	1.8	<0.1	<1.0	3.7	<5.0	<0.5	<5.0	13	18
DS-4	2/5/03	<5.0	1.3	18	<0.5	<0.5	4.5	<0.5	4.4	6.5	3.0	<0.1	<1.0	4.2	<5.0	<0.5	<5.0	21	19

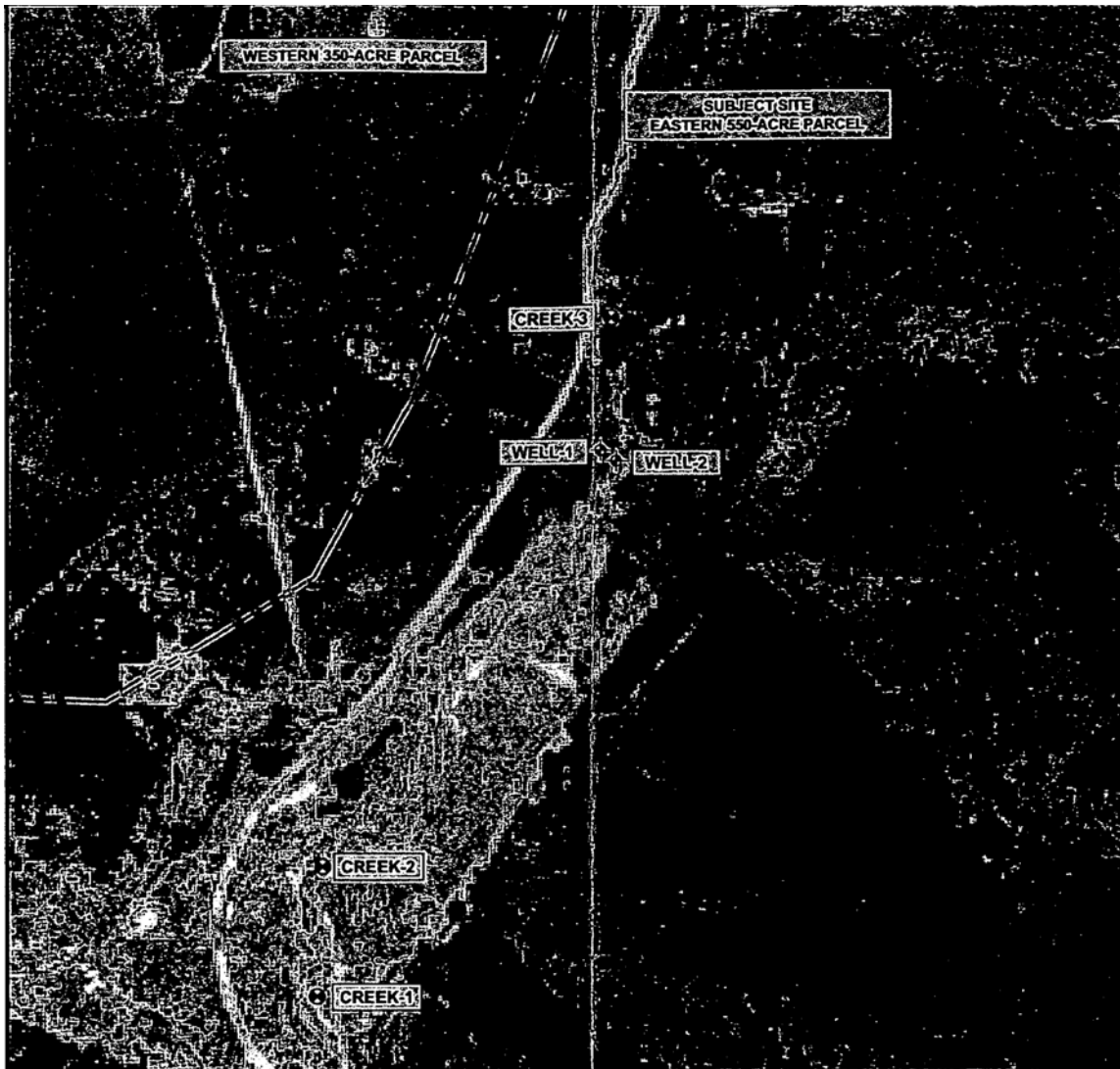
Metals analyzed using EPA Methods 6010B, 7471A, and 7196
 mg/kg- milligrams per kilogram
 mg/L- milligrams per Liter
 STLC- soluble threshold limit concentration
 TTLC- total threshold limit concentration
 PRG-Preliminary Remediation Goal
 SA - State Average (University of California, 1996)
 NA - not available

Sn- antimony
 As- arsenic
 Ba- barium
 Be- beryllium
 Cd- cadmium
 Cr (Total)- total chromium Cr (IV) - hexavalent chromium
 Co- cobalt
 Cu- copper
 Pb- lead
 Mo- molybdenum
 Ni- nickel
 Se- selenium
 Ag- silver
 Th- thallium
 Va- vanadium
 Zn- zinc

Further inspection shows that on (PDF) page 38/120, that there is *no* sampling location for Sample 1: (see next page)



On page (PDF) page 37/120, this deception (or confusion, we don't know which) is continued in "Figure 3 - SURFACE WATER/SOIL AND GROUNDWATER SAMPLE LOCATIONS": (see next page)



There, once again, is no Sample 1 location but there are site locations of Well-1 and Well-2, which is exactly where Serafine and Southwick found the chromium-impacted rocks they gave to Riley the same day they found them.

This is important to note because photographs of the barrels were included in this report but, because of its size, at another Internet address:

http://www.envirostor.dtsc.ca.gov/public/view_document.asp?docurl=/public/community_involvement/8411069571/Rnkle%20Canyon%5FMiller%20Brooks%5FPhase%20I%20%26%20II%5FPgs%20121%2D205%5F50803%2Epdf

On (PDF) pages 59 and 60 of this 85-page PDF, there are the barrels in question in Photo 6 and Photo 7: (see following pages)



Photo 6. Drum near Well-1



Photo 7. Drums near Well-2

To put the preceding information into context; the Rangers found rocks with white material on them that tested high by DTSC in chromium, chromium readings that went unnoticed by DTSC until reports of them came out in the media. These rocks were found near where these barrels were found. The developer's lab, Miller Brooks, tested the soil around these barrels yet did not include the Title 22 results for Samples 2-4 and the results for Sample 1 are hard to decipher simply because Miller Brooks did not put where Sample 1 was located on its map of the area.

We believe that the chromium-impacted rocks may have been contaminated by the contents of these dumped barrels, barrels that Miller Brooks *did not* test the contents of. We also believe that this is further proof of either sloppy lab work or, worse, deliberately deceptive lab work that, once again, has to do with Title 22 metals in Runkle Canyon.

2C. Can DTSC please respond to above comments? Did DTSC notice the discrepancies in this report? Will DTSC ask the developer for the Title 22 metals results for Soil Samples 2, 3 and 4?

These photographs, and the findings of elevated TPH-E in the surface soils by these barrels also suggest dumping of barrels in the canyon from an unknown origin. Does DTSC have any comment about this?

3. "Tar"

KB Home's contractor GeoCon Inland Empire, Inc. (GeoCon) refers to the tar-like substance that DTSC has ordered to be removed. Before implementation, this removal plan must be fully documented under the California Environmental Quality Act (CEQA) because full extent of this benzo(a)anthracene-impacted tar is not known and needs to be completed as GeoCon states that "Other areas of the channel walls within the vicinity of the seeps have been reported to contain similar material mixed with varying amount [sic] of sand and gravel."

Furthermore, DTSC should withdraw its Notice of Exemption under the California Environmental Quality Act (CEQA) because, as GeoCon states in the Response Plan, "Removal of trees, brush, and other rubble may be required to access portions of the mined aggregate piles where the tar material is reportedly buried. Grading of an access road to allow equipment to enter the stream cut channel may also be required."

GeoCon refers to the tar-like substance that DTSC has ordered to be removed as basically harmless yet this substance contains Polynuclear Aromatic Hydrocarbons and a sample of this material had a result of 24.3 mg/kg for benzo(a)anthracene which is 39.19 times its PRG of 0.62 mg/kg.

Even though this *contractor and the developer knew of this toxic substance since August 2005*, it never told the City about it or sought permission through permits for its removal. The Response Plan includes KB Home possibly removing trees, brush and rubble, as well

as carving a new road, to remove this material yet these activities are relegated to three sentences in the Response Plan.

Confusingly, DTSC states in its notice for the January 28, 2009 meeting that, “The Notice of Exemption states that because the small volume of the removal action will avoid both sensitive biological habitat areas and cultural resource areas and the area is not accessible to the public, the Response Plan is exempt from CEQA.”

The Notice of Exemption says that this tar removal will take just one day yet GeoCon suggests it could take far longer if trees, brush, and rubble are to be removed in this effort let alone the time it would take to grade a new road in the streambed.

We maintain that a Notice of Exemption is improper in this case and that KB Home must create a Work Plan to characterize the as-yet undetermined number of seeps oozing this benzo(a)anthracene-impacted tar and submit it to be included in the Runkle Canyon Supplemental Environmental Impact Report (SEIR) for City of Simi Valley City Council approval. This will protect the City and its citizens.

3A. Runkle Canyon is not just in Ventura County and the State of California, it is a formal part of the City of Simi Valley, therefore State, County and the City’s Municipal Codes apply to this property.

In the September 18, 2004 edition of the *Los Angeles Daily News*, the annexation of Runkle Canyon by the City was reported and is available at:
<http://stoprunkledyne.com/runkleranchannexationoked.html>.

The Local Agency Formation Commission (LAFCO) produced a document on this annexation available at: <http://www.ventura.lafco.ca.gov/pdf/20040915-04-15Attach3.pdf>

The title of this LAFCO document is ““RESOLUTION OF THE VENTURA LOCAL AGENCY FORMATION COMMISSION MAKING DETERMINATIONS AND APPROVING THE CITY OF SIMI VALLEY REORGANIZATION – RUNKLE CANYON; ANNEXATION TO THE CITY OF SIMI VALLEY, DETACHMENT FROM THE VENTURA COUNTY RESOURCE CONSERVATION DISTRICT.”

3A. *Is DTSC aware that Runkle Canyon is part of the City and, as such, the Municipal Code of the City of Simi Valley applies to this property? Did it consider this when creating the NOE?*

3B. Before exploring the different State and City laws that apply to Runkle Canyon, we wish to comment on this NOE’s statement:

“The project is a small removal action (RA) from areas that will avoid both sensitive biological habitat areas and cultural resource areas. The area has been previously disturbed by excavation and by the placement of the fill subject to removal. Based on a review of the Department of Fish and Games Rarefind Database in December 2008, there

are no known sensitive species of concern in the project area. According to the City of Simi Valley Senior Planner, previous field work and resource studies in the area of the removal for the Runkle Canyon EIR1 (April 2004) have not revealed any significant biological or cultural resources in the direct vicinity of this small removal action.”

The preceding statement is inaccurate. According to a 2003 California Resources Agency document, the Simi Hills, in which Runkle Canyon is located, does contain sensitive biological areas. The document is available at http://www.resources.ca.gov/ahmanson_ranch/Ahmanson_Ranch_Inter-mountain_Viability.pdf

In this document, it says, in part:

Ahmanson Ranch—A Fundamental Ecosystem Element

The Simi Hills provide the only stepping stone for wildlife to replenish populations in the approximately 200 square mile Santa Monica Mountains ecosystem. However, to continue this function effectively, the Simi Hills must ultimately contain enough protected habitat to maintain small populations of badgers, mountain lions, bobcats, grey fox, long-tailed weasels, and mule deer. Equally important, the few remaining habitat linkages to freeway undercrossings must be adequately protected. The 2,783-acre Ahmanson Ranch is fundamental to accomplishing both these habitat protection objectives.

Highest Quality Core Habitat and Water Resources that Must Be Protected

Commissioned by the National Park Service in 1989, renowned conservation biologist, Dr. Michael Soulé, prepared minimum viable population analyses for the above target species in the Simi Hills, Santa Monica Mountains and Santa Susana Mountains. He concluded that existing sub-populations of mountain lions, badgers, grey fox and bobcats were too small to be self sustaining. The infusion of new animals into all of the ranges is essential. The Simi Hills contain the most vulnerable populations with just 32,000 acres of contiguous core open space. Only 16,000 acres of this core habitat are currently protected. The 2,783 acres of the Ahmanson Ranch contain the highest quality unprotected habitat in the range for all of the target species. Its rich resources include nine miles of USGS blueline drainage courses, three well-dispersed year-round water sources, gentle terrain, deep soils, and over 4,000 oak and walnut trees. The Ranch’s water sources serve wildlife populations in the southeastern quarter of Simi Hills core habitat.

3B. *Is DTSC aware of this document and that Runkle Canyon is part of the area it describes?*

3C. The California Public Resources Code Sections 21159-21159.4 describes in detail the kind of regulations involved with an area like Runkle Canyon. The salient points of

the document are included below, with our underlined emphasis, and the Code Sections applicable here are available at

<http://law.justia.com/california/codes/prc/21159-21159.4.html>

California Public Resources Code Sections 21159-21159.4

Environmentally Mandated Projects

21159. (a) An agency listed in Section 21159.4 shall perform, at the time of the adoption of a rule or regulation requiring the installation of pollution control equipment, or a performance standard or treatment requirement, an environmental analysis of the reasonably foreseeable methods of compliance. In the preparation of this analysis, the agency may utilize numerical ranges or averages where specific data is not available; however, the agency shall not be required to engage in speculation or conjecture. The environmental analysis shall, at minimum, include, all of the following:

(1) An analysis of the reasonably foreseeable environmental impacts of the methods of compliance.

(2) An analysis of reasonably foreseeable feasible mitigation measures.

(3) An analysis of reasonably foreseeable alternative means of compliance with the rule or regulation.

(b) The preparation of an environmental impact report at the time of adopting a rule or regulation pursuant to this division shall be deemed to satisfy the requirements of this section.

(c) The environmental analysis shall take into account a reasonable range of environmental, economic, and technical factors, population and geographic areas, and specific sites.

(d) Nothing in this section shall require the agency to conduct a project level analysis.

(e) For purposes of this article, the term "performance standard" includes process or raw material changes or product reformulation.

(f) Nothing in this section is intended, or may be used, to delay the adoption of any rule or regulation for which an analysis is required to be performed pursuant to this section.

21159.1. (a) A focused environmental impact report may be utilized if a project meets all of the following requirements:

(1) The project consists solely of the installation of pollution control equipment required by a rule or regulation of an agency listed in Section 21159.4 and other components necessary to complete the installation of that equipment.

(2) The agency certified an environmental impact report on the rule or regulation or reviewed it pursuant to a certified regulatory program, and, in either case, the review included an assessment of

growth inducing impacts and cumulative impacts of, and alternatives to, the project.

(3) The environmental review required by paragraph (2) was completed within five years of certification of the focused environmental impact report.

(4) An environmental impact report is not required pursuant to Section 21166.

(b) The discussion of significant effects on the environment in the focused environmental impact report shall be limited to project-specific potentially significant effects on the environment of the project which were not discussed in the environmental analysis of the rule or regulation required pursuant to subdivision (a) of Section 21159. No discussion of growth-inducing impacts or cumulative impacts shall be required in the focused environmental impact report, and the discussion of alternatives shall be limited to a discussion of alternative means of compliance, if any, with the rule or regulation.

21159.2. (a) If a project consists solely of compliance with a performance standard or treatment requirement imposed by an agency listed in Section 21159.4, the lead agency for the compliance project shall, to the greatest extent feasible, utilize the environmental analysis required pursuant to subdivision (a) of Section 21159 in the preparation of a negative declaration, mitigated negative declaration, or environmental impact report on the compliance project or in otherwise fulfilling its responsibilities under this division.

The use of numerical averages or ranges in an environmental analysis shall not relieve a lead agency of its obligations under this division to identify and evaluate the environmental effects of a compliance project.

(b) If the lead agency determines that an environmental impact report on the compliance project is required, the lead agency shall prepare an environmental impact report which addresses only the project-specific issues related to the compliance project or other issues that were not discussed in sufficient detail in the environmental analysis to enable the lead agency to fulfill its responsibilities under Section 21100 or 21151, as applicable. The mitigation measures imposed by the lead agency for the project shall relate only to the significant effects on the environment to be mitigated. The discussion of alternatives shall be limited to a discussion of alternative means of compliance, if any, with the rule or regulation.

21159.3. In the preparation of any environmental impact report pursuant to Section 21159.1 or 21159.2, the following deadlines shall apply:

(a) A lead agency shall determine whether an environmental impact report should be prepared within 30 days of its determination that the application for the project is complete.

(b) If the environmental impact report will be prepared under contract to the lead agency pursuant to Section 21082.1, the lead agency shall issue a request for proposals for preparation of the environmental impact report as soon as it has enough information to prepare a request for proposals, and in any event, not later than 30 days after the time for response to the notice of preparation has expired. The contract shall be awarded within 30 days of the response date for the request for proposals.

21159.4. This article shall apply to the following agencies: the State Air Resources Board, any district as defined in Section 39025 of the Health and Safety Code, the State Water Resources Control Board, a California regional water quality control board, the Department of Toxic Substances Control, and the California Integrated Waste Management Board.

3C. Is DTSC aware of this code and that Runkle Canyon is an area that is subject to its regulations? Is DTSC aware that this code specifically refers to the department regarding the implementation of these regulations? Does DTSC maintain that somehow Runkle Canyon, and the area where the “tar” exists is somehow exempt from these regulations?

3D. The City of Simi Valley’s General Plan addresses the Simi Hills of which Runkle Canyon is a part of and shows that, indeed, there are “biologically sensitive” species in the area of the proposes “tar” removal. The General Plan is available at:
http://generalplan.simivalley.org/pdf/01_SimiValleyFinalTBR_frontmatter.pdf

The Table of Contents of the City’s General Plan includes:

Figure 6.1-1 Sensitive Biological Resources.....6.1-5
(and)

Table 6.1-1 Special-Status Wildlife Species Known to Occur in the Planning Area.....6.1-3

Table 6.1-2 Special-Status Plant Species Known to Occur in the Region.....6.1-3

The Natural Resources part of the City’s General Plan includes (which we have inserted underlined emphasis):

[http://generalplan.simivalley.org/pdf/20_Ch6_NaturalResources\(and_6.1_BioResources\).pdf](http://generalplan.simivalley.org/pdf/20_Ch6_NaturalResources(and_6.1_BioResources).pdf)

P. 3/16:

Terrestrial communities dispersed throughout the Planning Area are all considered sensitive habitats by the California Department of Fish and Game (CDFG), and include cismontane alkali marsh, southern coast live oak riparian woodland, southern riparian scrub, southern sycamore alder riparian woodland, and southern willow scrub, as shown in Figure 6.1-1 (Sensitive Biological Resources). It should be noted that Figure 6.1-1 identifies the areas in which historical sightings of these species have occurred and does not identify the limits of their potential presence. The potential presence of a species is dependent on the type of habitat available for establishment.

P. 5/16:

Figure 6.1-1 map shows that the area where toxic benzo(a)anthracene substance is to be removed is either in, contiguous, adjacent or encompassing two areas designated “Sensitive Biological Resources” including “Southern Coast Live Oak Riparian Forest.”

P. 7/16:

Figure 6.1-2 map shows that the area where toxic benzo(a)anthracene substance is to be removed is either in, contiguous, adjacent or encompassing parts of the “National Wetlands Inventory” according to the U.S. Fish and Wildlife Service.

P. 9/16:

The *Migratory Bird Treaty Act* (MBTA) (16 USC §§703–711) includes provisions for the protection of migratory birds, including the non-permitted take of migratory birds, under the authority of the United States Fish and Wildlife Service (USFWS) and CDFG. The MBTA makes it unlawful to “take” (kill, harm, harass, etc.) over 800 species including geese, ducks, shorebirds, raptors, songbirds, and many relatively common species. Any development within the City would be required to evaluate and avoid impacts to these species, especially during construction activities in undeveloped parcels.

P. 11/16:

Figure 6.1-3 shows that virtually all of Runkle Canyon is designated “Wildlife Habitat.”

P. 13/16:

On private property, endangered plants may also be protected by the *Native Plant Protection Act of 1977* (NPPA). Threatened plants are protected by CESA, and rare plants are protected by the NPPA. However, CESA authorizes that “Private entities may take plant species listed as endangered or threatened under the ESA and CESA through a federal incidental take permit issued pursuant to Section 10 of the ESA, if the CDFG certifies that the incidental take statement or incidental take permit is consistent with CESA.” In addition, the *California Environmental Quality Act* (CEQA) requires disclosure of any potential impacts on listed species and alternatives or mitigation that would reduce those impacts for projects within the City limits.

P. 13/16:

State of California—Sections 3503, 3503.5, and 3800 of the California Fish and Game Code: These sections of the Fish and Game Code prohibit the “take or possession of

birds, their nests, or eggs.” Disturbance that causes nest abandonment and/or loss of reproductive effort (killing or abandonment of eggs or young) is considered a “take.” Such a take would also violate Federal law protecting migratory birds. Incidental Take Permits (i.e., Management Agreements) would be required for projects within the City from the CDFG for projects that may result in the incidental take of species listed by the State of California as endangered, threatened, or candidate species. The permits require that impacts to protected species be minimized to the extent possible and mitigated to a level of insignificance.

3D. Has DTSC inspected this General Plan? Does it maintain, after reading it, that the area in Runkle Canyon where the Response Plan by KB Home subcontractor GeoCon says that it might remove trees and “brush,” not apply? Does DTSC maintain that the CEQA does not apply in this removal even though the General Plan suggests it does?

3E. In this same preceding City of Simi Valley General Plan document, it clearly defines what protections its trees have, under its Municipal Code, within the city limits of which Runkle Canyon is within:

P. 14/16:

Simi Valley Municipal Code

The City of Simi Valley implements a Tree Preservation Ordinance (Chapter 9-38 of the City Development Code) that applies to all areas of the City, and is designed to insure the protection/preservation of trees, to the greatest extent possible. The ordinance covers any tree, within the City limits, that falls under one or more of the following categories:

1. **Historic Tree.** A living tree designated by resolution of the City Council as an historic tree because of an association with some event or person of historical significance to the community, or because of special recognition due to aesthetic qualities, condition, or size.

2. **Mature Native Oak Tree.** A living native oak tree with a cross-sectional area of all major stems, as measured 4½ feet above the root crown, of 20 or more square inches.

3. **Mature Tree.** A living tree with a cross-sectional area of all major stems, as measured 4½ feet above the root crown, of 72 or more square inches. Mature trees shall not include stump regrowths.

4. **Native Oak Tree.** A living tree of the genus Quercus and species agrifolia, berberidifolia, lobata, or hybrids thereof.

[Our notes: Number 4 translates into:

Quercus agrifolia: Coast Live Oak

Quercus berberidifolia: California Scrub Oak

Quercus lobata: Valley Oak or California White Oak]

3E. Is DTSC aware of the aforementioned tree species and the protected status they have? Does DTSC, by way of its NOE, seek to abrogate these tree protections by

granting the developer the right to remove trees without adhering to the municipal codes that apply to them?

3F. The “trees” that GeoCon refers to that “may” have to be removed are not identified yet Simi Valley Municipal Code suggests that they are very distinctly protected as our underlined notations below show. The sections of the Municipal Code that apply are available at <http://library1.municode.com/default-test/DocView/16629/1/13/16#0-0-0-3265>

Chapter 9-38 Tree Preservation, Cutting, and Removal

Sections:

[9-38.010 Purpose of Chapter](#)

[9-38.020 Scope](#)

[9-38.030 Prohibition of Removal](#)

[9-38.040 Guidelines for Reports on Protected Trees](#)

[9-38.050 Guidelines for Trees Associated with Urban Development](#)

[9-38.060 Guidelines for Trees not Associated with Urban Development](#)

[9-38.070 Tree Removal Permits](#)

[9-38.080 Standards for Granting or Disapproving Tree Removal Permits](#)

[9-38.090 Exceptions](#)

[9-38.100 Enforcement](#)

[9-38.110 Appeals](#)

9-38.010 Purpose of Chapter

It is the determination of the Council that proper and necessary steps be taken in order to protect and preserve trees, to the greatest extent possible, in order to protect the health, safety, or welfare of the citizens of the City.

(§ 5, Ord. 1085, eff. January 6, 2006)

9-38.020 Scope

The provisions of this Chapter shall apply to all protected trees, as defined in Article 8 (Glossary), within the limits of the City, except as specified in Section 9-38.090 (Exceptions), below.

(§ 5, Ord. 1085, eff. January 6, 2006)

9-38.030 Prohibition of Removal

No "protected tree" shall be removed, cut down, relocated, or otherwise destroyed, except as provided for in Sections 9-38.070 (Tree Removal Permits) through 9-38.090 (Exceptions), below.

(§ 5, Ord. 1085, eff. January 6, 2006)

9-38.040 Guidelines for Reports on Protected Trees

A. Tree report required. Where a person wishes to remove or relocate one or more protected tree(s) or develop a site which contains protected trees, the Director shall cause a tree report to be prepared on those trees for review by the Environmental Planner.

B. Authorized to prepare reports. Tree reports shall be prepared by an arborist, horticulturist, or registered landscape architect.

C. Precise locations required. An applicant who wishes to remove a protected tree(s) or develop a site which contains protected tree(s) shall provide to the City the precise vertical and horizontal location within plus or minus one foot of each protected tree on the subject parcel and the generalized locations of all protected trees within 20 feet of the project boundary.

D. Required information. Tree reports shall include the following information:

1. Tree type. Tree type by common name, genus, and species.
2. Trunk diameter. The diameter of trunks or main stems as measured four and one-half feet above the root crown.
3. Tree spread. The average spread of each tree.
4. Health of tree. A letter grade for the health of each tree. Grades employed shall be "A" for outstanding, "B" for good, "C" for average, or "D" for below average.
5. Aesthetic quality of tree. A letter grade for the aesthetic quality of each tree employing those grades defined in Subsection 4, immediately above.
6. Disclosure of damage or disease. Disclosure of any significant disease or insect infestations, fire, heart rot, mechanical or wind damage.
7. Recommended remedial measures. Recommended tree surgery, chemical treatment, or other remedial measures intended to improve the health, safety, or life expectancy of the tree.
8. Replacement value of tree. The replacement value of each tree which shall be established, and provided to the City, using the most recent edition of the "Guide for Establishing Values of Trees, and Other Plans" prepared by the Council of Tree Landscape Appraisers.
9. Tree relocation. An evaluation of the technical feasibility of relocating each tree and the probable cost of relocation.

[snip]

A. Tree Removal Permit application required. Anyone wishing to remove a protected tree, which is not currently associated with a proposal for urban development, shall first apply for a Tree Removal Permit from the Department.

B. Director's review. The Director shall review the application and inspect the tree(s) in question to determine how the standards listed in Section 9-38.080 (Standards for Granting or Disapproving Tree Removal Permits), below are applicable or if the exceptions identified in Section 9-38-090 (Exceptions), below are applicable to the request.

(§ 5, Ord. 1085, eff. January 6, 2006)

9-38.070 Tree Removal Permits

The Director shall give priority to tree inspection requests based upon threats to public health and safety. The Director may defer action on the Tree Removal Permit and refer the request to the Commission for determination.

A. Tree Removal Permit required.

1. No protected tree shall be removed, relocated, cut down, or otherwise destroyed, unless a Tree Removal Permit has been first issued by the Director.

2. The Director shall establish the format and information required for a Tree Removal Permit in compliance with this Chapter.

B. Site inspection. Before issuance of the permit the Director shall inspect the premises involved and shall designate the tree(s) to be removed or moved.

C. Director's determination required. A Tree Removal Permit shall not be issued for the removal or relocation of any tree on any parcel associated with a proposal for urban development, unless the project has been approved by the City or unless the Director determines that the immediate removal of the tree is required because of the condition of the tree with respect to disease, danger of collapse of all or any portion of the tree, proximity to an existing structure, or interference with utility services.

D. Conditions of approval.

1. If it is technically feasible to relocate a tree(s), the Director may condition a Tree Removal Permit to move the tree(s) to a location on or off the subject site.

2. If a tree(s) is to be relocated to public property, the applicant shall submit to the City a written commitment to accept and maintain the tree(s) from the public agency which will receive the tree(s).

3. The public agency shall have the option of refusing acceptance of the tree(s).

4. If relocation of the tree(s) is not feasible, the Director may require that the appraised value of the tree(s) be used to replant trees on the subject site.

E. Landscaping plans.

1. Landscaping plans for a development project shall incorporate the conditions of approval of the Tree Removal Permit.

2. Trees to be preserved in place and relocated trees shall be shown on the plans and the plans shall indicate where the appraised value of removed trees has been applied to upgrading the tree plantings beyond minimum planting requirements.

F. Changes to the preservation plan.

1. The Tree Removal Permit shall contain a description of any proposed change(s) to the tree preservation plan approved with a development project.

2. The removal of any additional trees shall be supported by evidence submitted by the applicant that the trees cannot be saved as previously determined.

G. Tree value appraisal.

1. Where a tree(s) is proposed for removal that is associated with a proposal for urban development, or is located on a vacant parcel, the Director shall cause an appraisal of the value of the tree(s) to be prepared.

2. When a tree(s) is associated with a proposal for urban development, the appraised value of the removed tree(s) shall be applied to upgrading the size of tree plantings associated with the project above minimum planting standards.

3. When a tree(s) is proposed for removal that is not associated with a proposal for urban development, the Director may condition a Tree Removal Permit upon the replacement or relocation of the tree(s).

4. The value of the replacement tree(s) shall be equal to the appraised value of the tree(s) to be removed.

[snip]

9-38.100 Enforcement

A. Proper restitution. In addition to the penalties identified in Chapter 9-78 (Enforcement), any person who violates the provisions of this Chapter is responsible for proper restitution and shall be required by the Director to plant on the subject property, or donate to the City, trees which have a value of twice that of the removed tree(s).

B. Determination by Director. The number, size, and location of the trees shall be determined by the Director.

(§ 5, Ord. 1085, eff. January 6, 2006)

9-38.110 Appeals

Decisions of the Director may be appealed to the Commission and decisions of the Commission may be appealed to the Council in compliance with Chapter 9-76 (Appeals).
(§ 5, Ord. 1085, eff. January 6, 2006)

***3F.** Is it DTSC's contention that these sections of the City's Municipal Code do not apply to the trees GeoCon refers to in the Response Plan? How can DTSC issue a NOE that, in this case, directly contradicts the City's Municipal Code in regards to the protection of its trees.*

We do note that the NOE states "According to the City of Simi Valley Senior Planner, previous field work and resource studies in the area of the removal for the Runkle Canyon EIR¹ (April 2004) have not revealed any significant biological or cultural resources in the direct vicinity of this small removal action."

Is it DTSC's contention that this statement by the Senior Planner supersedes the preceding sections of the City's Municipal Code? Does DTSC realize that it is NOT the role of the Senior Planner to make such sweeping generalizations -- it is the role of the Director as defined in the codes above? Is DTSC aware that the City violating its own Municipal Code does not legally give DTSC the automatic right to do it as well?

Is DTSC aware of the powers and setup of the Simi Valley Tree Advisory Board, available at <http://www.simivalley.org/index.aspx?page=398>? Is DTSC aware of the following derived from this Internet link?

"Mission Statement:

The Simi Valley Tree Advisory Board promotes and facilitates stewardship programs for the planting, maintenance, and preservation of our community urban forest.

"Board Membership:

The Tree Advisory Board includes 1 City Council Member, 1 Planning Commissioner, 1 member from the Rancho Simi Recreation and Park District, 1 representative from the Simi Valley Unified School District, 1 member from the Simi Valley Chamber of Commerce plus 1 alternate, and 6 public at-large members plus 1 alternate."

Can DTSC point out, from the preceding sections, where an unsubstantiated statement from the City's Senior Planner supersedes the Simi Valley Tree Advisory Board?

3G. State law does not supersede local laws in California unless those local laws are found to be arbitrary or capricious.

On page 80 of the book *Understanding Environmental Administration and Law*, it states, “However, because the zoning process is based on state legislative authority, a local zoning ordinance will not be overturned unless it is found to arbitrary or capricious.”

The book is:

Understanding Environmental Administration and Law

By Susan J. Buck

Edition: 2, revised

Published by Island Press, 1996

ISBN 155963474X, 9781559634748

225 pages

Page 80 of this book is available at

http://books.google.com/books?id=xPRPYgBZE20C&pg=PA80&lpg=PA80&dq=California+state+powers+versus+municipal+powers&source=web&ots=ZNe5LjvxSY&sig=jN9kbY_KmlozhO04GQQzpOMT0UM#PPA80,M1

3G. *Does DTSC maintain that its NOE legally supersedes City Municipal Code regarding the potential removal of trees in the area where the “tar” exists? If it does, has DTSC established that the relevant City codes protecting any such trees is arbitrary and capricious? If it has determined that the relevant City codes protecting any such trees are arbitrary and capricious, has DTSC informed the City of this and established it as fact in a court of law?*

3H. KB Home’s subcontractor, GeoCon, falsely characterizes the “tar” material in both its form, the area it is located in, and what will be done about it. Our notes on this follow:

The Runkle Canyon Response Plan requested action on,
The disposal of tar material at the site that poses a potential threat to human health because benzo(a)anthracene concentrations exceed acceptable levels.

The Runkle NOE states,

“During the summer months the tar seeps out of the steep walls and accumulates in pools at the bottom of the slope.”

“Attachment B - Response Plan for Removal of Tar Material” of the Response Plan states,

A tar material has been observed to be buried within piles of mined aggregate (sand and gravel) within the "Fish Tail" area of the Site. Seeps of the tar material are exposed within a section of the east wall of the stream channel that has been cut through the piles of mined aggregate. During the summer months the viscous tar flows from the seeps down the embankment and collects in pools at the bottom of the slope. Other areas of the channel walls within the vicinity of the seeps have been reported to contain similar material mixed with varying amount of sand and gravel.

The Runkle NOE says that "The project is a small removal action," which suggests that the area will not be fully characterized for this toxic benzo(a)anthracene substance and therefore will not eliminate its "potential threat to human health."

3H. Shouldn't DTSC direct the Developer to fully characterize the pilings for this tar-like-looking material before removing the pools at the bases of the seeps?

In "Attachment B - Response Plan for Removal of Tar Material" of the Response Plan it states,

The activities outlined above are designed to address the tar material known to be present within a limited area of the mined aggregate piles at the Site. It is possible that similar material may be buried within the aggregate piles elsewhere at the Site. Development plans for the Site include the mass grading and removal of the aggregate piles within the "Fish Tail" area. If additional tar material is discovered during future grading activities it will be managed appropriately.

This statement is unsupported and unsubstantiated. GeoCon presents no evidence that there will be "mass grading and removal of aggregate piles" simply because there isn't one - this area is to be left open space.

No golf course will be built in this area, per City direction and the former developer, Peter Kiesecker, said in a newspaper article that the area where the golf course was to be built would remain "open space."

This means that this toxic substance will be allowed to remain at the site and would be accessible to future residents and hikers in the canyon.

3H. How is DTSC going to guarantee that this "potential threat to human health" in the form of an indeterminate amount of toxic benzo(a)anthracene substance unless it directs the Developer to fully characterize the extent of this toxin and have it properly removed now?

How can DTSC characterize this "small removal action" as adequate to the potential problem at hand if there isn't a proper characterization and action plan?

Why hasn't DTSC asked for the "Development plans for the Site" if they indeed involve "mass grading and the removal of the aggregate piles"?

With the advent of dumped barrels being found in the canyon down gradient of where the toxic benzo(a)anthracene substance is found oozing, and the fact that the surface soil around these barrels was found with elevated toxins, and that this same area is where Radiation Rangers Rev. John Southwick and Frank Serafine found a white substance that

tested alarmingly high in chromium by the DTSC, shouldn't DTSC direct the Developer to do a full characterization of the aggregate piles, and a subsequent report, before removal of the toxic benzo(a)anthracene substance commences?

3I. Perhaps DTSC was not aware of all the preceding problems with the NOE and the Response Plan in regards to the “tar” material. We hope our comments, and your answers, will clear this up.

We do note that the DTSC NOTICE OF EXEMPTION was created on January 14, 2009 yet “Attachment B - Response Plan for Removal of Tar Material” is dated December 4, 2008.

3I. *Did DTSC not take consideration of GeoCon's statements?:*

Removal of trees, brush, and other rubble may be required to access portions of the mined aggregate piles where the tar material is reportedly buried. Grading of an access road to allow equipment to enter the stream cut channel may also be required.

and

Site restoration activities will be dependant on the extent of the excavation but at a minimum will include returning the bottom of the stream cut channel to near its original elevation and hydro-seeding the excavated area to comply with California Department of Fish and Game requirements.

Considering this information from GeoCon, the NOE's statement that “The project is a small removal action (RA) from areas that will avoid both sensitive biological habitat areas and cultural resource areas. The area has been previously disturbed by excavation and by the placement of the fill subject to removal. Based on a review of the Department of Fish and Games Rarefind Database in December 2008, there are no known sensitive species of concern in the project area.” is not accurate: The trees, of unknown species due to no report by the Developer, are sensitive biological habitat and may not be removed with no plan of replanting them specified.

Also, the NOE is inaccurate when it says “The removal will be removed in one day. The Site will be restored to its near original condition. A grading permit is not required from the City of Simi Valley. The area will not be accessible to the public.” Clearly this will take considerably longer than a day and will have a major impact on a sensitive biological habitat.

3I. *Will DTSC rescind the NOE and make sure that the “tar” removal part of the Response Plan is accurate and abides by the laws of the State, County and City of Simi Valley? How will it do that, specifically?*

3J. The DTSC's NOE states that, “The tar material poses a potential threat to human health because benzo(a)anthracene concentrations exceed the (PRG).”

GeoCon states that “Development plans for the Site include the mass grading and the removal of the aggregate piles.”

3J. Will DTSC clearly direct KB Home to remove these aggregate piles impacted by benzo(a)anthracene even though the area is to remain open space? If it does not, how does the department justify leaving these uncharacterized piles, impacted by a toxin that threatens human health, in place?

4. There are a number of very important problems with the developer's 41 submitted reports that are analyzed on *EnviroReporter.com* at <http://enviroreporter.com/files/KB41docs.pdf> and we request that DTSC closely examine these documents and incorporate any information therein into their final determination of environmental conditions at Runkle Canyon.

These documents have and will impact DTSC's decisions about Runkle Canyon. We have clipped the relevant sections and, as is our practice above, put our questions to DTSC in *italics bracketed by *asterisks**.

Please answer our questions as they are relevant and crucial to a full understanding of environmental conditions in Runkle Canyon as related by these 41 documents KB Home supplied DTSC.

4A. October 30, 2007: [Runkle Canyon_Larry Walker_Water Quality Issues Lttr_103007](#)

Larry Walker Associates' Tetra Tech analysis for Simi Valley deems Runkle Canyon safe. "None of the surface waters in the Simi Valley area," the analysis says, "are designated as having a [Municipal and Domestic Supply] beneficial use. Therefore, the State drinking water standards do not apply to Runkle Canyon or downstream surface waters."

However, the very Tetra Tech report it was supposed to analyze says "Potential human consumption of surface water is reasonably possible under the Municipal and Domestic Supply, Water Contact Recreation, and Non-contact Water Recreation beneficial use scenarios. In these types of situations, water quality criteria, such as the MCLs, PRGs, PHGs, and NLs, may be used as screening values to determine whether further evaluation of surface water may need to be considered."

4A. Is DTSC aware of this City analysis and the appropriateness of it? Please explain and comment.

4B. August 10, 2007: "Runkle Canyon_Geocon_Summary of Arsenic and Other Metals Results_81007" available at http://www.envirostor.dtsc.ca.gov/public/community_involvement/4707166373/Runkle%20Canyon_Geocon_Summary%20of%20Arsenic%20and%20Other%20Metals%20Results_81007.pdf

KB Home's consultant, Geocon Consultants, Inc. 1) mischaracterizes the amount of heavy metals found in Runkle Canyon by using a set of standards not as protective of public health as the EPA's "preliminary remediation goals" (PRG). 2) The consultant incorrectly compares background values from various reports instead of utilizing the [benchmark Kearney report on California soils](#) partly written by DTSC. 3) Also, Geocon does not include the Radiation Ranger's May 18, 2007 report in its analysis even though the lab used by the Rangers, Pat-Chem, was the same lab the city of Simi Valley used on July 2, 2008, the report of which is included in the consultant's analysis.

1. Geocon compared the heavy metal results to the California Environmental Protection Agency (Cal-EPA) California Human Health Screening Levels (CHHSLs) for residential land use. The developer's consultant fails to note CHHSL's disclaimer which reads in part:

This document is not intended to establish policy or regulation. The Human Health Screening Levels presented here are not to serve as: 1) a stand-alone decision making tool, 2) a substitute for guidance for the preparation of baseline human health risk assessments, 3) a rule to determine if a waste is hazardous under the state or federal regulations, 4) a rule to determine when the release of hazardous chemicals must be reported to the overseeing regulatory agency, 5) set of final cleanup or action levels to be applied at contaminated sites or 6) a guarantee that an oversight regulatory agency will determine that a project is adequately studied or agree with the conclusions of the site investigation and risk assessment report.

[snip]

The CHHSLs should NOT be used to determine when impacts at a site should be reported to a regulatory agency. [their emphasis]

Yet the report notes that "Arsenic is the only metal reported for the soil samples and asphaltic material sample at concentrations in excess of CHHSLs. The CHHSLs for arsenic, which are 0.07 milligrams per kilogram (mg/kg) for residential land use..."

However, the EPA's PRG for arsenic in residential soil is 0.062 mg/kg meaning that the **Ranger's result of 34 mg/kg was 548 times this and the city of Simi Valley's lower result was still more than 20 times the PRG.**

As we have noted below and in our articles, there were significantly high amounts of nickel, vanadium, barium, cadmium, chromium and lead found in both the Rangers' and the city of Simi Valley's tests as well..

2. Geocon used the wrong background numbers for comparison to the Runkle Canyon results. According to the Kearney report, for example, **arsenic averages 3.5 mg/kg in California soil making the 34 mg/kg result nearly ten times that.** According to the September 2005 "[Soil Background Report](#)" for the Santa Susana Field Laboratory for Boeing, NASA and the Department of Energy, Table 4.1 shows the lab's average reading for arsenic, from 41 samples tested, is 5.246 mg/kg which the 34 mg/kg result exceeds by

over six times. These are more accurate background comparison values than the ones Geocon used.

3. By not including the Rangers' Pat-Chem report, Geocon has skewed the results even though the lab's limited sampling was just as valid as the city of Simi Valley's limited sampling.

The preceding information, and the information of our [Runkle Canyon Investigation](#), *EnviroReporter.com* maintains that Geocon is making a false conclusion at the end of the soils part of its report that isn't based on sound science and also ignores an obvious possible source for the contamination - Rocketdyne:

Based on the reported historic use of the Site there does not appear to be a potential man made source of the arsenic reported in the soils. Because the reported concentrations of arsenic fall within the published ranges of naturally occurring arsenic, and the fact that a potential man made source for arsenic at the site is not apparent from the reported historical use of the property, it is our opinion that the arsenic reported in the soil is naturally occurring and does not warrant additional investigation.

Geocon's analysis of heavy metals found in Runkle Canyon surface water is disingenuous and misleading. In part, it states:

Vanadium was the only metal present in the water samples at concentrations exceeding MCLs or PRGs. There is no established MCL for vanadium. Concentrations of vanadium exceeding the PRG of 0.036 milligrams per liter (mg/l) were reported for two of the surface water samples collected at the Site. However, PRGs are screening levels for use in evaluating tap water. Because the proposed development for the Site does not currently include plans to supply drinking water to the development from onsite sources it is our opinion that further evaluation with respect to the concentrations of vanadium in the surface water is unwarranted. Should plans for the development change to include use of the surface water for water supply, the Client is advised that continued monitoring for metals and treatment for vanadium may be required prior to delivery of the water to consumers.

The first two sentence of the preceding paragraph are obviously contradictory. In addition, the rest of the paragraph paints a false picture. *EnviroReporter.com* failed to note in previous analysis that the [Notification Level \(NL\) for vanadium is 0.015 mg/l](#) according to the Office of Environmental Health Hazard Assessment (OEHHA).

The NL is a tripwire level where the local water purveyor advised to warn consumers of "presence of the contaminant and about the health concerns associated with its exposure," according to California Department of Health Services (CDHS) which has a higher level for vanadium's NL. This has not occurred in Simi Valley.

According to OEHHA:

Staff of the Office of Environmental Health Hazard Assessment (OEHHA) have reviewed the Department of Health Service's proposed action level of 50 ug/L of vanadium, derived from the U.S. Environmental Protection Agency's (U.S. EPA) Health Effects Assessment Summary Tables (HEAST), fiscal year (FY) 1997 (U.S. EPA, 1997). OEHHA does not concur with this proposed Notification Level, and recommends that the Notification Level be set at 15 ug/L of vanadium.

The Tetra Tech report notes that the July 2, 2007 city of Simi Valley sampling yield surface water vanadium readings of 0.096 mg/kg, 0.062 mg/kg, 0.14 mg/kg and 0.11 mg/kg.

The highest reading is 9.33 times the OEHHA's NL for vanadium and 2.8 times the CDHS vanadium NL. The average reading of these four samples is 0.102 which is 6.8 times the OEHHA NL for vanadium and double the CDHS vanadium NL.

Despite these facts, Geocon goes on to anecdotally compare Runkle Canyon's surface water vanadium levels to the background concentrations of the contaminant in the groundwater of 12 California Air Force Bases. This is specious and misleading.

In the "Document Summary" of this Geocon document, the consultant continues to misuse CHHSLs and mischaracterize background values for arsenic. However, it is notable that **Geocon itself collected a surface water sample that contained the highest amount of vanadium sampled in Runkle Canyon to date: 0.17 mg/kg. The Geocon vanadium result is 12.67 time OEHHA's NL and 3.4 times the CDHS vanadium NL.**

4B. Could DTSC respond in detail to the above observations?

4C. July 26, 2007: "Runkle Canyon_Geocon_ Surface Water and Soil Sampling Results_72607" available at http://www.envirostor.dtsc.ca.gov/public/community_involvement/7789243400/Runkle%20Canyon_Geocon_%20Surface%20Water%20and%20Soil%20Sampling%20Results_72607.pdf

EnviroReporter.com's analysis of this sampling event is contained in the discussion above, dated August 10, 2007 and entitled "Runkle Canyon_Geocon_Summary of Arsenic and Other Metals Results_81007."

As it did in its summary, Geocon mischaracterizes the amount of heavy metals found in Runkle Canyon by using a set of standards not as protective of public health as the EPA's "preliminary remediation goals" (PRG). The consultant again incorrectly compares background values for heavy metals instead of utilizing the benchmark Kearney report on California soils.

There are a number of details in this July 26, 2007 report worth noting. On page 4 of 42 pages total, the Geocon document correctly states the following:

Notification Levels are advisory levels for water purveyors and are not enforceable standards. If a chemical is detected above its Notification Level, then a water purveyor is required to notify the local government agency. Further, if a Notification Level is exceeded, then the CDHS recommends that the water purveyor inform its customers and consumers of the presence of the chemical and the potential health concerns associated with exposure to it. Vanadium is the only metal detected for which there is an established Notification Level. The concentrations of vanadium of 0.064 and 0.17 mg/l, respectively reported for the two water samples Creek 1 and SW-2 exceed the Notification Level of 0.05 mg/l.

There has been no indication as of the time of sending this *EnviroReporter.com* analysis to DTSC, July, 3, 2008, that the water purveyor has fulfilled this recommendation.

On page 24 of this report, there is a notation under “Special Instructions/Comments” that says “LAB TO FILTER METALS SAMPLES” which is not explained.

EnviroReporter.com cannot determine at this time if this filtering skewed the results lower than they actually are. We would recommend that DTSC ask Geocon Project Manager, Michael Conkle, why these samples were filtered. This filtering is again referred to on page 42, the last page of this report, also by Conkle.

***4C.** *Could DTSC respond in detail to the above observations?**

4D. July 13, 2007: :Runkle Canyon_Geocon 70207 Surface Water and Soil Sampling_71307” available at

http://www.envirostor.dtsc.ca.gov/public/community_involvement/1761045157/Runkle%20Canyon_Geocon%2070207%20Surface%20Water%20and%20Soil%20Sampling_71307.pdf

This report, as noted above, Geocon again mischaracterizes the amount of heavy metals found in Runkle Canyon by using a set of standards not as protective of public health as the EPA’s “preliminary remediation goals” (PRG). The consultant again incorrectly compares background values for heavy metals instead of utilizing the benchmark Kearney report on California soils.

There are a number of details in this July 13, 2007 report worth noting. On page 3 of 26 pages total, the Geocon document says:

The laboratory was directed to filter and preserve the water samples we collected (“Downstream A,” and “Upstream A”) upon receipt.

Geocon does not state who directed it to filter the water samples or why.

On the same page, 3, of this report, Geocon states:

None of the four water samples submitted were reported to contain concentrations of arsenic equal to or greater than the laboratory reporting limit of 0.010 milligrams per liter (mg/l).

The four water samples Geocon analyzed were “split-samples” that the sampling lab, Pat-Chem also analyzed with arsenic results ranging up to 0.18 mg/l. This means that Geocon’s result is less than 1/18th that of Pat-Chem’s result for the same water sample. Another lab, AETL, also tested these same split samples and had two identical results of 0.12 mg/kg. Geocon’s result is less than 1/12th that of AETL’s result for the same water sample.

These significant discrepancies bring into serious question the accuracy of Geocon’s lab analyses. These discrepancies also extend to their analysis of other heavy metals in the split-samples of surface water and soils.

Indeed, the Geocon and Dade Moeller reports seem to fit a pattern of contamination results that are either a fraction of the split-samples they have tested and/or are just a fraction of previous developers’ labs results. The Radiation Rangers maintain that this is more than enough reason for KB Home to be required to perform an entirely new Environmental Impact Report. *EnviroReporter.com* concurs with this opinion.

***4D.** *Could DTSC respond in detail to the above observations?**

4E. April 5, 2007: “Runkle Canyon_RWQCB_Approval to Abandon Wells_40507” available at http://www.envirostor.dtsc.ca.gov/public/community_involvement/4041257560/Runkle%20Canyon_RWQCB_Approval%20to%20Abandon%20Wells_40507.PDF

According to this report:

In addition to perchlorate all samples were analyzed for n-nitrosodimethylamine (n-NDMA). Initial groundwater samples were also analyzed for volatile organic compounds VOCs. One groundwater sample collected from MV-2 in March of 2006 contained 2.8 nanograms per liter ng/L n-NDMA.

[snip]

The [NDMA] detected concentration is also below the DHS Notification Level 10 ng/L and the California Office of Environmental Health Hazard Assessments Draft Public Health Goal 3 ng/L.

EnviroReporter.com considers the RWQCB decision to abandon these wells to be a mistake considering the perchlorate, trichloroethylene and now NDMA that has been detected in Runkle Canyon groundwater. The Radiation Rangers concur and recommend that the wells again be monitored for these and other contaminants.

***4E.** *Could DTSC respond in detail to the above observations?**

4F. November 29, 2006: “Runkle Canyon_RWQCB_Army Corp of Engineers Notification Letter_112906” available at http://www.envirostor.dtsc.ca.gov/public/community_involvement/1902356803/Runkle%20Canyon_RWQCB_Army%20Corp%20of%20Engineers%20Notification%20Letter_112906.pdf

The RWQCB’s Executive Officer Jonathan Bishop states in this document:

The results of prior sampling and analysis were provided the Regional Board in earlier reports. The wells were installed in May 2004, at the request of the Regional Board, to permit groundwater sampling, with correct field techniques, to determine if perchlorate was present in groundwater beneath the site. No significant perchlorate has been detected in groundwater.

This statement is false. The July 22, 2004 *Los Angeles CityBeat/ValleyBeat* cover story “Two Mile Island” addresses this issue:

Despite the failure of the Ahmanson Ranch development and the fierce opposition to Rocketdyne ever being developed for housing without a stringent cleanup, three developments are springing up within two miles of SSFL. The drainage for the dioxin-polluted Old Conservation Yard at the lab heads down toward a newly approved housing project in Runkle Canyon. The project is slated for 461 homes within a mile of the radiological area of SSFL – much closer than Ahmanson Ranch. Samples collected January 8 during an environmental review of a 550-acre portion of the 1,595-acre site, indicated levels of perchlorate at 50 ppb and 60 ppb in two of four groundwater/silt specimens. This is approximately double the 28 ppb reading of perchlorate found in the groundwater under Ahmanson Ranch.

The above article snip is based upon the results of a January 8, 2003 groundwater sampling done by Miller Brooks, on page 15 of the 146-page PDF that is linked and analyzed in the September, 17, 2003: [Runkle Canyon_Miller Brooks_Surface Water&Groundwater Sampling Rpt_91703](#) entry analyzed below.

***4F.** *Could DTSC respond in detail to the above observations?**

4G. June 6, 2005: “Runkle Canyon_Miller Brooks_March 2006 Groundwater Sampling Activities_60605” available at http://www.envirostor.dtsc.ca.gov/public/community_involvement/7174009025/Runkle%20Canyon_Miller%20Brooks_March%202006%20Groundwater%20Sampling%20Activities_60605.pdf

Note: DTSC has this report listed as March 6, 2005 (instead of 2006)

P. 1/70: *EnviroReporter.com* does not agree with Miller Brooks recommendation, later agreed to by LARWQCB, that wells MW-1 and MW-2 be no longer tested and abandoned because there is ample evidence that the groundwater of Runkle Canyon

should be monitored for the foreseeable future due to the high levels of perchlorate previously found, and the verified presence of TCE, NDMA and other potential contaminants of concern.

4G. Could DTSC respond in detail to the above observations?

4H. September 6, 2005: “Runkle Canyon_Geocon_Phase I & Limited Sampling_90605” available at http://www.envirostor.dtsc.ca.gov/public/community_involvement/1266523063/Runkle%20Canyon_Geocon_Phase%20I%20&%20Limited%20Sampling_90605.pdf

P. 5/150: *“Analytical results of surface water samples collected from East and West Seeps in Fishtail Area that are not produced in a report. Samples were collected by Miller Brooks on April 5, 2005.”*

P. 7/150: *“Perchlorate was detected at a concentration of 0.33 micrograms per liter (µg/l) in a duplicate sample during the first sampling event. According to the laboratory this reported concentration should be considered suspect based on retention time drift and potential co-elution of an interfering constituent. None of the other samples or duplicate samples were reported to contain perchlorate.”*

That equals 330 ppb in groundwater. Ahmanson was 28 ppb therefore Runkle is over 11 times more.

According to OEHHA at http://www.oehha.org/public_info/facts/perchloratefacts.html the Public Health Goal is 6 ppb in drinking water.

Runkle Canyon groundwater has tested as high as 55 times the Public Health Goal for perchlorate.

P. 7/150: *“Historic pumping depressions at Rocketdyne have limited the movement of degraded groundwater beneath the property and have essentially confined the extent of known groundwater contamination to the area beneath the facility. Offsite migration of degraded groundwater has been identified in isolated areas along the northwest and eastern property boundaries. The perchlorate plume reportedly extends offsite of the facility to the east and southeast (southeast of the Runkle Site). The TCE in groundwater is reportedly present in several well-defined plumes that remain predominately beneath the Rocketdyne facility with a limited area offsite to the north of the western end of the property (west of the Runkle Site).”*

The preceding contradicts itself on one of the biggest points - offsite migration of degraded groundwater. Which is it? If the lab doesn't know, or does and decides to mischaracterize the situation even while contracting itself, the lab's veracity is questionable.

P. 7/150: *“Miller Brooks collected soil samples along the western border of the Site, adjacent to the Rocketdyne facility. Low concentrations of toluene, xylene, mercury, and dioxin were reported in several of the samples collected. The reported concentrations on these constituents were all below their respective PRGs.”*

PP. 7-8/150: *“Surface water and groundwater on the Runkle Canyon Site have been tested to evaluate the presence of constituents of concern potentially originating from the Rocketdyne facility. Samples have been collected from the on site stream and from a number of springs present on site. Water samples have been analyzed for TPH, VOCs, SVOCs, PCBs, perchlorate, NDMA, and metals. Perchlorate was reported in a duplicate groundwater sample as described above. NDMA was reported in one groundwater sample collected from an onsite monitoring well in July 2004, however the results should be considered suspect due to laboratory blank contamination. Subsequent groundwater samples collected from this well did not contain reportable concentrations of NDMA. No other reportable concentrations of other constituents were found in any of the water samples collected at the site with the exception of metals at concentrations typically found in groundwater.”*

While quick to discount positive results for contaminants, Geocon isn't as careful with its characterization of contaminants onsite. “Perchlorate was reported in a duplicate sample above” does not take into account several detections of it. The last sentence is false in two ways: TCE has been detected in the groundwater and the metals greatly exceed concentrations typically found in groundwater.

P. 8/150: *“Based on the reported results Foster Wheeler concluded that the cesium-137 and strontium-90 concentrations reported in the samples were not a concern when compared to exposure limits considered by the EPA to be protective of human health.”*

This sentence is literally true yet totally misleading as “Neighborhood Threat” shows. Yet another example of Geocon's imaginative way of not analyzing results already ascertained by the developers' lab but also mischaracterized. The numbers speak for themselves as our investigation has repeatedly shown.

P. 8/150: *“**In 2000 Harding ESE collected an additional fourteen samples from the 715-acre parcel of the Site, two samples from the 350-acre parcel, and one just east of the 550-acre parcel to evaluate the presence of radionuclides. Based on the results Harding concluded that the property was not likely contaminated with tritium or cesium-137. They were unable to make a definitive conclusion regarding strontium-90 and recommended further sampling.**”*

This conclusion will be addressed in *EnviroReporter.com*'s analysis of the 2000 Harding ESE.

PP. 8-9/150: *“In 2003 Miller Brooks collected an additional 27 soil samples from the Site and three from offsite that were evaluated for strontium-90. Only two of the soil samples contained detectible concentrations of strontium-90. Based on this data Miller Brooks*

concluded that reported concentrations were below levels considered to pose a health risk. Groundwater and surface water samples collected during these investigations were analyzed for tritium. The reported concentrations of tritium in the water samples were concluded to be below levels considered by regulatory agencies to pose a health risk."

This is a notable instance where Geocon cites this study, repeatedly stating that samples were concluded to "be below levels considered by regulatory agencies to pose a health risk," yet in the very next summation notes that the lab Dade Moeller didn't include the 2003 Miller Brooks study because "the higher minimum detectable activity reported by the laboratory." This misleading Geocon entry also fails to note that the city of Simi Valley used this 2003 Miller Brooks study as the basis of its EIR.

P. 9/150: *"In all cases the risk was calculated to be less than the target risk level of one in one million (1×10^{-6})."*

This is indeed the "target risk level," which the California Department of Health Services (CDHS) **later determined to be nearly five times that from strontium-90 in the site's soil.** The Runkle Canyon EIR, however, states that this risk is 0.77 in a million, a figure later amended, without explanation, to 0.26 in a million, or $1/18^{\text{th}}$ of what CDHS says. These are more instances of the developers' labs basically asserting safety levels not based on ascertainable fact.

P. 11/150: *"Benzene, toluene, and ethylbenzene were detected at concentrations of 35, 62, and 27 micrograms per kilogram ($\mu\text{g/kg}$). No additional VOCs were detected at or above laboratory detection limits (ND). The United States Environmental Protection Agency, Region 9, residential Preliminary Remediation Goals (PRGs) for benzene, toluene, and ethylbenzene in soil are $640 \mu\text{g/kg}$, $520,000 \mu\text{g/kg}$, and $400,000 \mu\text{g/kg}$, respectively. None of the reported concentrations exceed their respective PRGs. No additional VOCs were detected at or above laboratory detection limits (ND)."*

In the preceding paragraph and on page 20/150 of the report's PDF, Geocon writes "micrograms per kilogram ($\mu\text{g/kg}$)" which is incorrect. The designation " $\mu\text{g/kg}$ " indicates parts per billion. We cannot explain this basic mistake but it does fit with a pattern in the body of Geocon reports presented by KB Home to DTSC that contain inaccuracies, omissions and incorrect conclusions, all of which undermine confidence in the developers' conclusions about the environmental conditions at the site.

P. 17/150: *"Groundwater contamination originating on the Rocketdyne facility reportedly has migrated offsite to the southeast, into the San Fernando Valley, and to the north, east of Runkle Canyon, into Simi Valley. Based on the reported magnitude and direction of degraded groundwater originating from the Rocketdyne facility and the results of soil, surface water, and groundwater samples collected from within Runkle Canyon it does not appear that the historic sources originating from the Rocketdyne facility are adversely affecting the Runkle property."*

This unsubstantiated statement is not supported by the facts of tests before and after this report was created. Indeed, we reported this several months before this report in [“Neighborhood Threat”](#) where we wrote:

In December 1998, when GreenPark began its environmental investigation of the property, the developer hired Phoenix-based QST Environmental to do preliminary soil sampling of the canyon to see if the former Rocketdyne lab “had impacted on-site soils, based on surface run-off carrying radionuclides to the site.” The results “indicated the presence of Strontium in all samples collected ... that exceeded the EPA average local background concentration.” Indeed, the four soil samples contained up to 17 times the amount of the radionuclide that the EPA says is naturally occurring in the area. “Based on the analytical results of the soil samples, it would appear that there may have been some impact of radionuclides to the site from the Rocketdyne facility,” the report said.

P. 18/150: *“Geocon contacted the Los Angeles Regional Water Quality Control Board (RWQCB) to inquire on the status of groundwater investigations being performed at Runkle Canyon. According to department staff, the RWQCB is not currently overseeing any programs at the Site. The RWQCB did request that Green Park sample and provide groundwater data; however, an order was never issued by the board.”*

The RWQCB seems remiss in its request for groundwater sampling and data that was not acted upon. The Radiation Rangers have expressed concern that DTSC might also not fully investigate the site’s groundwater but are still withholding judgment.

P. 19/150: *“Based on the results of results of the surface and groundwater sampling performed on the Site it does not appear that the degraded groundwater reportedly present on the Rockerdyne [sic] facility is migrating onto the Runkle Site.”*

This conclusion is incorrect: Runkle Canyon groundwater has had significant detections of perchlorate, NDMA and TCE. Also, as our story [“The Radiation Rangers”](#) shows, the developer did not test surface waters of the canyon’s stream at the time of this report’s issuance so any characterization of the surface water is speculative and false. It is worth noting that Geocon uses the conditional phrase “does not appear” which makes the entire statement speculative versus definitive.

P. 19/150: *“Concentrations of TPH in the diesel to motor oil range, ranging from 14 mg/kg to 320 mg/kg, were reported in five of the samples analyzed. The metals concentrations reported in the soil appear to be at background concentrations, with the exception of two samples reported to contain mercury at concentrations of 0.22 and 0.24 mg/kg. The Preliminary Remediation Goal (PRG) for mercury in residential soil is 23 mg/kg.”*

EnviroReporter.com wasn’t aware of these results until reading this. The significance of the results isn’t analyzed as far noting how far above background the mercury is or the relative significance of the TPH results.

P. 20/150: *“The report concludes that construction and operation of the proposed Runkle Canyon Development would result in very low radiological risk from strontium-90 exposure to residents, visitors, and neighbors. In all cases the risk was calculated to be less than the target risk level of one in one million (1×10^{-6}).”*

The California Department of Health Services has concluded that the strontium-90 in Runkle Canyon soil and dust would create a cancer risk nearly five times this, at about 5×10^{-6} .

P. 20/150: *“Geocon analyzed a sample of the tarry material for total petroleum hydrocarbons (TPH) extended range by modified EPA method 8015B, volatile organic compounds (VOCs) by EPA method 8260B, and polycyclic aromatic hydrocarbons (PAHs) by EPA method 8310. The sample exhibits a total combined TPH concentration of 102,130 mg/kg. Benzene, toluene, and ethylbenzene were detected at concentrations of 35, 62, and 27 micrograms per kilogram ($\mu\text{g/kg}$). No additional VOCs were detected at or above laboratory detection limits (ND). PAHs were detected at individual concentrations up to 24.3 mg/kg.”*

EnviroReporter.com was not aware of this report or these results. Neither, we suppose, was the city of Simi Valley or its residents. We note that the **benzene in this tarry material found in Runkle Canyon is nearly 55 times its PRG for residential soil, the limit of which is 0.62 mg/kg and that, according to the EPA’s 2004 PRG list for contaminants, exceeds the chronic, 100% chance of contracting a cancer from this substance which is 33 k/g/mg.**

P. 21/150 : Under “Conclusions and Recommendations”: *The Rocketdyne facility located to the east of the southern 715 acre parcel is reportedly the origin of groundwater plumes of degraded groundwater, containing perchlorate and TCE, that have migrated offsite to the east and southeast of the Runkle Site. Based on the reported magnitude and direction of degraded groundwater originating from the Rocketdyne facility and the results of soil, surface water, and groundwater samples collected from within Runkle Canyon it does not appear that the historic sources originating from the Rocketdyne facility are adversely affecting the Runkle property. Further evaluation of chemicals of concern potentially originating from the Rocketdyne facility appears unwarranted at this time.”*

This conclusion is questionable. TCE, which has a plume of subsurface contamination in Area IV above the 11-acre drainage into Runkle Canyon, has been detected in Runkle Canyon groundwater. Perchlorate has been detected in the site’s groundwater at levels ranging up to double to 11 times what was found under adjacent Ahmanson Ranch and 55 times the Public Health Goal. The surface water has been impacted by high levels of arsenic, chromium, nickel, vanadium, barium, cadmium and lead. The surface soil has high levels of some of these heavy metals as well as strontium-90.

This Geocon report says it examined other reports to help form the conclusion that these substances aren’t coming from Rocketdyne and don’t need to be further evaluated. Apparently, Geocon did not read these reports as carefully as *EnviroReporter.com* has or

it would have noted that in the May 8, 2003 Miller Brooks Phase I & II report performed for GreenPark Runkle, it says regarding perchlorate: "The source is thought to be the SSFL facility."

P. 21/150: *"Previous health risk assessments conducted by the property owner have concluded that the reported concentrations at the Site pose a low radiological risk to residents, visitors, and neighbors. In all cases the risk was calculated to be less than the target risk level of one in one million (1×10^{-6})."*

As previously noted, the CDHS calculates the risk from strontium-90 in Runkle Canyon soil and dust to be nearly five in a million.

But if the "assessments conducted by the property owner" are to be the only source of information, that would include the **Foster Wheeler reports 58 soil samples which averaged 1.39 pCi/g, or six times the EPA's preliminary remediation goal and nearly 46 times above the typical EPA background level for Sr-90 in the area. The hottest sampling spot, and the one closest to Rocketdyne's Santa Susana Field Laboratory, measured 12.34 pCi/g, which is over 54 times the EPA's PRG and 411 times the normal background for the radionuclide.**

P. 21/150: *"Based on the odor, appearance, and the analytical laboratory results, the tar appears to be a petroleum-based substance; most likely "asphalt" or "asphalt cement", a heavy petroleum product containing compounds with as many as 150 carbon atoms resulting from distillation of crude oil. Because the TPH extended range analysis is terminated at compounds containing approximately 40 carbon atoms, the reported analysis accounts for only 10% of the total mass of the sample.*

The asphalt may have been used at the former aggregate mining operation to create asphaltic concrete for surfacing haul roads. The asphalt exposed in the stream channel is of limited lateral and vertical extent, though it may be possible that other deposits could exist elsewhere within the undocumented fill in the canyon. Geocon estimates that the volume of asphalt is approximately 12 cubic yards or less. Based on the analyses performed and the quantity of material, it is our opinion that this material does not represent an REC. In its present condition, the asphalt would not be suitable for use in fill and should be removed from the site and disposed of at a recycling facility or possibly at a Class III landfill if in solid form."

EnviroReporter.com recommends that the petroleum-based substance, with high benzene content, be analyzed for the approximately 110 other carbon atoms, or 90% of the total mass of the sample that remains unaccounted for. We also concur with Geocon that this material be removed from the site and disposed of properly after it is correctly analyzed in DTSC's lab and characterized in situ to determine its lateral and vertical extent.

P. 77/150: **Test results of Polynuclear Aromatic Hydrocarbons include a result of 24.3 mg/kg for benzo(a)anthracene which is 39.19 times its PRG of 0.62 mg/kg.**

***4H.** *Could DTSC respond in detail to the above observations?**

4I. August 1, 2005: “Runkle Canyon_Dade Moeller_Supplemental Soil Sampling for Strontium-90_82005” available at http://www.envirostor.dtsc.ca.gov/public/community_involvement/3576535880/Runkle%20Canyon_Dade%20Moeller_Supplemental%20Soil%20Sampling%20for%20Strontium-90_82005.pdf

The results of this testing were analyzed in the January 19, 2006 article for *Los Angeles ValleyBeat* entitled “Hot Property.” As the article notes:

The retested locations were all radically lower in Sr-90 than in the previous tests conducted by GreenPark Runkle. In one spot tested, the state lab’s results were 490 times lower for Sr-90 than when it was tested in a 1999 survey. Oddly, the CDHS results for Sr-90 were from two-to-19 times less than the exact same split samples analyzed by Dade Moeller.

[snip]Each one of Dade Moeller’s readings is above Sr-90’s natural background at Runkle Canyon and even though that lab’s reading for the previously known hottest spot on the property is lower by nearly 30 times, it is still over eight times the background and nearly twice the EPA’s preliminary remediation goal for Sr-90.

EnviroReporter.com maintains that this Dade Moeller report not only was based on too few samples, but that it is highly inaccurate as well.

***4I.** *Could DTSC respond in detail to the above observations?**

4J. April 1, 2005: “Runkle Canyon_Dade Moeller_Sr-90 Radiological Health Risks Assessment- 042005” available at http://www.envirostor.dtsc.ca.gov/public/community_involvement/1879697501/Runkle%20Canyon_Dade%20Moeller_Sr-90%20Radiological%20Health%20Risks%20Assessment-%20042005.pdf

On page 14 of this 32-page PDF states “[The] risk to a typical Runkle Canyon resident would be much less than the target 1×10^{-6} risk level and even less than 1×10^{-7} .” On page 15, Dade Moeller claims the result for residents who do not ingest soil or eat homegrown produce would be “closer to 2×10^{-8} .” On page 16, the report states that an “open space” user’s “risk would be less than 1×10^{-8} .” On page 17, Dade Moeller asserts that for neighbors exposed to the dust of Runkle Canyon construction “would be 3.1×10^{-10} .”

These estimations, not fully calculated in Dade Moeller’s report, do not jive with CDHS’ response to questions posed by the Radiation Rangers to the department. In an April 10, 2007 letter, CDHS states “[T]his soil concentration equates to approximately $5E-6$ (5 in a million) cancer risk for future site residents using the EPA PRG...”

This means that, despite the unexplained math, Dade Moeller underestimates the cancer risk that CDHS calculates by factors ranging from 50 to 16,129 times.

EnviroReporter.com maintains that Dade Moeller's estimations are highly inaccurate and should not be used to estimate cancer risks for residents, open space users or neighbors exposed to construction dust of Runkle Canyon's proposed development.

***4J.** *Could DTSC respond in detail to the above observations?**

4K. July 29, 2004: "Runkle Canyon_Miller Brooks_Supplemental Site Assessment Rpt Groundwater_72904" available at http://www.envirostor.dtsc.ca.gov/public/community_involvement/7901303946/Runkle%20Canyon_Miller%20Brooks_Supplemental%20Site%20Assessment%20Rpt%20Groundwater_72904.PDF

On page 3 of this 93-page PDF, the report states: *The samples collected from Well MW-I (MW-1 and DUP- 1 were reported to contain concentrations of NDMA at 3.2 nanograms per liter ng/L and 3.5 ng/L respectively. The data assessment stated that the concentrations of NDMA reported in the samples collected from Well MW-I should be considered suspect based on method blank contamination and internal standard failures.*

EnviroReporter.com observes that this lab, and other labs used by the developers, have repeatedly discounted positive hits for contaminants as laboratory error which we find highly questionable.

***4K.** *Could DTSC respond in detail to the above observations?**

4L. March 31, 2004: "Runkle Canyon_Miller Brooks_Source Evaluation Report_33104" available at http://www.envirostor.dtsc.ca.gov/public/community_involvement/3674588859/Runkle%20Canyon_Miller%20Brooks_Source%20Evaluation%20Report_33104.PDF

Page 2 of this 50-page PDF state that the "SSFL facility is located at a higher topographic elevation than the [Runkle Canyon] Property; however, a steep ridgeline separates the facility from the Property (EDR, 2003)."

This is highly misleading. While indeed a steep ridgeline separates *some* of the lab from Runkle Canyon, a well-established 11-acre drainage leads off of Area IV of Rocketdyne leading directly down into Runkle Canyon.

This report does contain an excellent historical summary for Runkle Canyon stretching all the way back to the time of the Chumash.

***4L.** *Could DTSC respond in detail to the above observations?**

4M. March 31, 2004: "Runkle Canyon_Miller Brooks_Groundwater Investigation Workplan_33104" available at

http://www.envirostor.dtsc.ca.gov/public/community_involvement/3894864737/Runkle%20Canyon_Miller%20Brooks_Groundwater%20Investigation%20Workplan_33104.PDF

On page 3 of this 26 page PDF, it states: *No concentrations of perchlorate were detected in any of the water samples analyzed. Perchlorate was only detected in two groundwater/silt samples collected from Borings HS-25 and HS-26 samples HS-25-56 and HS-26-37. The concentrations detected were at 0.06 milligrams per kilogram (mg/kg) and 0.05 mg/kg respectively These levels are below the EPA's Preliminary Remediation Goals for perchlorate in residential soil (7.8 mg/kg USEPA 2001/2002).*

This is highly misleading and deceptive. **The perchlorate was found in the Runkle Canyon groundwater of the groundwater/silt samples therefore to use PRGs for residential soil is not appropriate. Water standards show that the 0.06 mg/kg, or 60 ppb, exceeds the Public Health Goal in tap water by a factor of ten times.**

4M. Could DTSC respond in detail to the above observations?

4N. February 26, 2004: “Runkle Canyon_RWQCB_Request for Historical and Current Site Information_22604” available at http://www.envirostor.dtsc.ca.gov/public/community_involvement/1295774161/Runkle%20Canyon_RWQCB_Request%20for%20Historical%20and%20Current%20Site%20Information_22604.PDF

Miller Brooks’ attempt to characterize the perchlorate in Runkle Canyon groundwater as a ‘soil’ event warranting the use of soil standards is disingenuous and suspicious considering what the RWQCB says on page 1 of this 4 page PDF: *Information obtained by the Regional Board indicates that activities with the potential to release Perchlorate to soil and groundwater may have occurred on your property.*

[snip]

The Regional Board believes that it is important to accurately know the distribution of Perchlorate in the vicinity of your site Therefore we are requiring that you install properly designed and constructed shallow groundwater monitoring wells at the two locations where Perchlorate was reported in groundwater/silt samples The samples must be analyzed by laboratory utilizing rigorous QA/QC protocols.

Based on the persistent and mobile nature of Perchlorate soil conditions the depth to groundwater the suspected release of hazardous materials at the site may have contaminated soil and groundwater Pursuant to section 13267 of the California Water Code you are hereby directed to submit historical and current site information to be used to determine specific sources of the groundwater pollution detected at your site and to document your efforts in technical reports.

EnviroReporter.com finds that Miller Brooks’ attempt to characterize the perchlorate as existing in soil/silt versus groundwater not only is false, but it thwarts the will of the RWQCB. Subsequently, however, the RWQCB seems complicit in what could be accurately characterized as a charade on the part of the developer’s lab.

4N. Could DTSC respond in detail to the above observations?

40. September, 17, 2003: “Runkle Canyon_Miller Brooks_Site Investigation of Southern 715 Acre Parcel_91703” available at http://www.envirostor.dtsc.ca.gov/public/community_involvement/6386975944/Runkle%20Canyon_Miller%20Brooks_Site%20Investigation%20of%20Southern%20715%20Acre%20Parcel_91703.PDF

P. 2/63: No detectable concentrations of strontium-90 were found in surface soil and shallow soil samples at the Site or in the offsite background samples Based on the results of this and previous investigations strontium-90 poses no residential health risk at the Site.

Miller Brooks took these soil samples and sent them to Casper, Wyoming-based Energy Laboratories. That lab tested the samples employing techniques that only had detection sensitivity of 2.0 to 10 pCi/g, or nine to 43 times too insensitive to even ascertain the EPA’s preliminary remediation goal for Sr-90.

P. 2/63: Two water samples were collected at the Site and analyzed for tritium. Concentrations of tritium detected in water at the Site are below the EPA standard for drinking water and are within normal background concentrations. The levels of tritium detected in water at the Site are most likely associated with recent recharge of groundwater from rainfall.

EnviroReporter.com disagrees with this speculation that the tritium comes from rainfall recharge, whatever that means. Rocketdyne’s Area IV, where the lab nuclear work was done and which has an 11-acre drainage into Runkle Canyon, has a major tritium groundwater plume. Indeed, the Jewish day camp Brandeis-Bardin sued Boeing over tritium contamination on its land in the 1990s and won a confidential settlement that included Boeing buying a large tract of land contaminated by tritium from Brandeis-Bardin. That land is now labeled “undeveloped land” on maps of SSFL on the northwestern and northern borders of Rocketdyne. Activists assert that when Boeing officials claim that no tritium contamination has migrated “offsite,” the officials are being disingenuous because they purchased that offsite land as part of the lawsuit settlement.

EnviroReporter.com does not disagree with the activists’ analysis. Considering this obvious source of tritium contamination, we disagree strongly with the relatively benign-sounding explanation for tritium detections that Miller Brooks utilizes here.

P. 4/63: Based on an additional statistical analysis of the 17 samples (Samples SS-1 through SS-17; Figure two) duplicate samples. Samples SS-18 and SS-19 collected on the Site the average strontium-90 concentration was calculated at 0.88 pCi/g and the 95 percent upper confidence limit of the mean was calculated at 1.4 pCi/g (Table 1). Therefore, on average, the strontium-90 concentrations detected in soil are lower than the acceptable standard for strontium-90 calculated by Foster Wheeler (1.23 pCi/g).

Although the 95 percent upper confidence limit is higher than the 1.23 pCi/g the difference is not statistically significant. The incremental cancer risk associated with strontium-90 concentration of 1.4 pCi/g is 0.55 in a million which is lower than the incremental cancer risk of in million that is considered acceptable by California health and environmental protection regulatory agencies Robles 2003 and Foster Wheeler 1999.

Analysis of these 41 documents provided to DTSC by KB Home reveals a disturbing pattern: the propensity to make generalizations not based on fact and to assert risk-based conclusions without mathematically proving them. The preceding section is no exception to this pattern.

“Therefore, on average, the strontium-90 concentrations detected in soil are lower than the acceptable standard for strontium-90 calculated by Foster Wheeler (1.23 pCi/g),” is a statement not based on anything *EnviroReporter.com* can find in regulatory guidance or standard scientific practice. The EPA’s Preliminary Remediation Goal (PRG) for strontium-90 is 0.230 pCi/g which is exceeded by this Foster Wheeler calculated result by a factor of 5.35 times, or a cancer risk of 5.35 in a million, far exceeding the developers’ labs oft-stated goals of less than one in a million.

Likewise this unsubstantiated claim: “The incremental cancer risk associated with strontium-90 concentration of 1.4 pCi/g is 0.55 in million...” This result actually calculates to be 6.09 times the EPA’s PRG which exceeds the 0.55 in a million figure by a factor of over 11 which is quite a mistake in our analysis of the data.

P. 6/63: Environmental investigations conducted at neighboring properties showed that strontium-90 was present in soil at concentrations that were deemed to be either within background concentrations or at levels considered to pose no significant health risk (Robles 2003).

This is incorrect. Elevated strontium-90 soil readings above background concentrations were found at the adjacent Brandeis-Bardin Institute in two dozen samples according Boeing’s 1995 McLaren/Hart report “Additional Soil and Water Sampling – The Brandeis-Bardin Institute and Santa Monica Mountains Conservancy,” which is cited in this report.

***40.** *Could DTSC respond in detail to the above observations?**

4P. September, 17, 2003: “Runkle Canyon_Miller Brooks_Site Investigation of Western 350 Acre Parcel_91703” available at http://www.envirostor.dtsc.ca.gov/public/community_involvement/1246061027/Runkle%20Canyon_Miller%20Brooks_Site%20Investigation%20of%20Western%20350%20Acre%20Parcel_91703.PDF

P. 3/50 pages of the PDF: *The strontium-90 concentration in Sample SS- 16*

(0.686 pCi/g) was found not to exceed exposure limit considered to be protective of human health (1.23 pCi/g; Foster Wheeler, 1999 and Harding ESE, 2000).

Again, it seems that Miller Brooks either ignores or does not understand the EPA's concept of Preliminary Remediation Goals which are limits that correspond to a cancer risk of one in a million. The **0.686 pCi/g reading is nearly three times the PRG for strontium-90 and is nearly 23 times background for the area.** Likewise, the reference to Foster Wheeler's 1.23 pCi/g reading being "protective of human health" is also false.

Our comments, above, regarding Miller Brooks assessment of the 750-acre parcel apply to this report as well.

4P. Could DTSC respond in detail to the above observations?

4Q. September 17, 2003: "Runkle Canyon_Miller Brooks_Site Investigation Report 550 Acre Parce_91703" available at http://www.envirostor.dtsc.ca.gov/public/community_involvement/1246061027/Runkle%20Canyon_Miller%20Brooks_Site%20Investigation%20of%20Western%20350%20Acre%20Parcel_91703.PDF

P. 1 of this 102 page PDF: *The average strontium-90 concentration in surface soil is about 0.1 pico Curie per gram.*

This concentration is not applicable to the Simi Valley area which the EPA estimated in 1995 was 0.052 pCi/g and later determined by *EnviroReporter.com* to be actually 0.030 pCi/g utilizing averages for the area derived from EPA results.

EnviroReporter.com readers have asked us why the area's background measurements for strontium-90 are about a third of the average nationwide, especially considering the proximity to Rocketdyne, site of at least two partial nuclear meltdowns. Our reply is that most strontium-90 fallout from atomic and hydrogen bomb above ground testing in Nevada made its way eastward on prevailing winds thereby not impacting areas to the west of it as much. Simi Valley and Runkle Canyon are substantially west of the now-inoperable Nevada Test Site.

Our comments, above, regarding Miller Brooks assessment of the 750-acre parcel apply to this report as well.

4Q. Could DTSC respond in detail to the above observations?

4PP. September, 17, 2003: "Runkle Canyon_Miller Brooks_Surface Water&Groundwater Sampling Rpt_91703" available at http://www.envirostor.dtsc.ca.gov/public/community_involvement/2949491202/Runkle%20Canyon_Miller%20Brooks_Surface%20Water&Groundwater%20Sampling%20Rpt_91703.PDF

P. 6 of this 146 page PDF: *In addition soil samples surface water samples from springs and seeps and National Pollutant Discharge Elimination System (NPDES) discharge samples collected by the Department of Toxic Substances Control (DTSC) and The Boeing Company (Boeing) at or near the Runkle Canyon Property as part of the Rocketdyne Propulsion and Power Santa Susana Field Laboratory (SSFL) sampling programs show no detectable concentrations of perchlorate. Perchlorate at levels ranging between 130 to 156 times less than the Environmental Protection Agency (EPA) Preliminary Remediation Goals (PRG) for perchlorate in residential soil 7.8 milligrams per kilogram was detected in two groundwater/silt samples collected at depths greater than 35 feet below the surface of the Property Based on the depth of the two silt samples impacted with perchlorate the extremely low levels of perchlorate detected in those samples the non-detectable levels found in all other samples and the lack of exposure pathways there is no indication that activities at the Property surface will be impacted by perchlorate.*

Miller Brooks repeats the same misleading and deceptive information that it has in other reports regarding this sampling. The perchlorate was found in the groundwater of the groundwater/silt samples therefore to use PRGs for residential soil is not appropriate. Water standards show that the 0.06 mg/kg, or 60 ppb, exceeds the Public Health Goal in tap water by a factor of ten times.

P. 11/146: Miller Brooks testing of surface water consists solely of examining the leachate of asphaltic material found in the middle of the road. No analysis of the actual surface water in the intermittent stream or vernal pools occurred and yet, in spite of the name of this report, the lab asserts, falsely as later found out by the Radiation Rangers, that the surface water has no heavy metal contamination.

P. 53/146: Arsenic soil reading of 3.3 mg/kg exceeds its soil PRG of 0.062 mg/kg by a factor of 53.23 times.

Our comments, above, regarding Miller Brooks assessment of the 750-acre parcel apply to this report as well.

***4PP.** *Could DTSC respond in detail to the above observations?**

4R. May 21, 2003: "Runkle Canyon_Miller Brooks_Aspalitic Material & Surface Water Sampling_52103" available at http://www.envirostor.dtsc.ca.gov/public/community_involvement/8803418815/Runkle%20Canyon_Miller%20Brooks_Aspalitic%20Material%20&%20Surface%20Water%20Sampling_52103.pdf

P. 7 out of this 43 page document: As we reported in the June 21, 2007 *Los Angeles CityBeat* cover story "The Radiation Rangers," Miller Brooks did not test the surface water for heavy metals:

The city soon informed the Stop Runkledyne group that KB Homes had reminded them that they had already tested the surface water and had submitted that information in a comprehensive 42 page report that was already in the development's EIR. That 2003 report by Huntington Beach-based Miller Brooks Environmental Inc. tested one asphalt sample and a nearby surface water sample.

In the body of the report, Miller Brooks writes that Title 22 metals were "below state and federal regulatory limits (see Table 1)." Indeed, Table 1 actually says that the Title 22 metals in the surface water sample were "not analyzed." Oddly, the Title 22 metals were tested in the asphalt but not in the water.

***4R.** *Could DTSC respond in detail to the above observations?**

4S. May 8, 2003: [Runkle Canyon_Miller Brooks_Phase I & II_Pgs 1-120_50803](#)

P. 23 of the 120 page document: Perchlorate was detected in groundwater/silt samples collected from 56 feet and 37 feet bgs respectively in Borings HS-25 and HS-26 at concentrations of 0.006 mg/kg and 0.05 mg/kg respectively The perchlorate was detected in the silt/groundwater samples at concentrations below the EPA PRG for residential soil (7.8 mg/kg). Therefore the perchlorate does not pose threat to human health [sic].

As *EnviroReporter.com* has commented on this sampling repeatedly, using a soil standard for this result is incorrect. A water standard is correct. Also, the figure of 0.006 is a typo – the true measurement is 0.06 parts per million or 60 parts per billion for water.

***4S.** *Could DTSC respond in detail to the above observations?**

4T. November 3, 2000: "Runkle Canyon_Harding_Limited Soil Sampling_Pages 1 to 171_110300" available at http://www.envirostor.dtsc.ca.gov/public/community_involvement/3165784537/Runkle%20Canyon_Harding_Limited%20Soil%20Sampling_Pages%201%20to%20171_110300.pdf

P. 9 of this 171 page PDF: Review of the applicable radionuclides results (Table 1) indicated that the concentrations of tritium in all of the samples collected were below the minimum detectable activity (MDA). In addition, the concentrations of cesium -137 in all of the samples except S-I were also below the MDA The cesium-137 concentration in sample SS-1 at 0.09 pCi/g just exceeded the MDA of 0.077 pCi/g In terms of strontium - 90 results, six of the seventeen original samples submitted exceeded the MDA in concentrations that ranged from 4.756 pCi/g in SS-6 to 0.686 pCi/g in SS-16.

The cesium-137 exceeds the EPA's Preliminary Remediation Goal for an unrestricted residential setting. **The 0.09 pCi/g cesium-137 result is 151% of the PRG of 0.0597 pCi/g.**

The strontium-90 ex exceeds the EPA's Preliminary Remediation Goal for an unrestricted residential setting. **The 0.686 pCi/g strontium-90 result is 297% of the PRG** of 0.231 pCi/g.

The 4.756 pCi/g strontium-90 result is 2,059% of the PRG for Sr-90 or over 20 times the strontium-90 PRG.

The report goes on to compare this numbers to the Department of Energy's "dose-based" figures for the radionuclides, which is not how the Environmental Protection Agency calculates radiation danger. The EPA uses a risk-based numerical approach embodied by the use of Preliminary Remediation Goals.

The report goes on to show that the highest numbers were the ones closest to Rocketdyne, which *EnviroReporter.com* maintains that it indicates that the radionuclide may have come from the lab, and that "further systematic random soil sampling should be performed."

4T. Could DTSC respond in detail to the above observations?

4U. October 19, 2000: "Runkle Canyon_Miller Brooks_Phase I & Soil Smapling_Pgs 1-97_101900" available at http://www.envirostor.dtsc.ca.gov/public/community_involvement/8307798087/Runkle%20Canyon_Miller%20Brooks_Phase%20I%20&%20Soil%20Smapling_Pgs%201-97_101900.pdf

p. 9 out of 97 page PDF: *The primary contaminants of concern at the SSFL Facility are TCE and cis-1,2-dichloroethylene (1,2-DCE). However, other contaminants detected in groundwater beneath the SSFL facility during 1999 and 2000 include trans-1,2- DCE acetone, 1,4-dioxane, methylene chloride, nitrosodimethylamine, tetrachloroethylene (PCE), toluene, benzene, carbon disulfide, Freon 11, Freon 113, chloroform, perchlorate, total petroleum hydrocarbons (TPH) as gasoline, radiochemicals, vinyl chloride, nickel, and selenium (Haley Aldrich Inc. 2000).*

It is noteworthy that many of these contaminants are found in adjacent and down-elevation Runkle Canyon as well.

P. 13/97: *During the site visit on the Subject property on September 2000 soil removal activities were being conducted on the western portion of the SSFL Facility. The soil in the removal area was reportedly impacted with PCBs, mercury and dioxin (Figure 2). In phone conversation with Mr. Art Lenox from Boeing Environmental Group, it was stated that approximately 10,000 tons of soil had been removed from the site over the past two to three months Concentrations of PCBs mercury and dioxin in the soil exceeded the Preliminary Remediation Goals (PRGs) for residential soil. This information was the basis for the soil sampling plan conducted by MBE.*

EnviroReporter.com was never aware that such a large amount of contaminated dirt was removed from Area IV from this area which has an 11-acre drainage into Runkle Canyon according to Boeing maps.

P. 15/97: On September 13, 2000, two MBE personell surveyed the Rocketdyne/Runkle Canyon border area with a pancake Geiger-Mueller detector, passing it over the soil within 2 o 3 centimeters. They concluded there was no obvious sign of radiation above background. *EnviroReporter.com* contends that this is not a satisfactory way to conduct a radiation survey as it does not have the ability to detect the various radionuclides that may be impacting the area. The report's finding of "no gross contamination" cannot be supported by such a limited survey.

Five soil samples were also collected the same day and a week later. *EnviroReporter.com* contends that a definitive soil analysis can be ascertained based upon this limited a soil sample performed without adherence to proper EPA protocol.

4U. Could DTSC respond in detail to the above observations?

4V. October 1, 1999: "Runkle Canyon_Foster Wheele_Invest._Vol I_Pgs 1-108_101999" available at http://www.envirostor.dtsc.ca.gov/public/community_involvement/5247556388/Runkle%20Canyon_Foster%20Wheele_Invest._Vol%20I_Pgs%201-108_101999.pdf

This report was commented on in the print, online, and online-annotated version of the *Los Angeles CityBeat* cover story "Neighborhood Threat" by Michael Collins, March 10, 2005.

The following comments are from the newspaper article and serve to address the report in its entirety, **including the eight sections below.**

In its October 25, 1999 report, Foster Wheeler states that "the exposure limit chosen was 15 mrem/year (millirems per year) above natural background, which is a value already proposed by the EPA... 15 mrem/year is generally considered to be an acceptable end point, which is considered to be protective of human health by the USEPA."

This 'dose-based' number measured in millirem is not the way the EPA measures a radionuclide's toxicity. The agency calculates the presumably safe levels of radionuclides by using "preliminary remediation goals," or PRGs. The Foster Wheeler statement that the EPA proposed this is also apparently inaccurate.

"An EPA limit was never formally proposed and the informal suggestion was withdrawn due to, basically, Department of Energy and Nuclear Regulatory Commission pressure," says Stuart Walker, an EPA official who specializes in Superfund radiation issues. "The PRG levels are kind of the generic concentrations for Superfund cleanup sites although when you start talking about soil, we use a risk range for cancer of one-in-1,000,000 to one-in-10,000 as the risk limit range."

In other words, the EPA calculates a fatal cancer risk for each substance so that it would cause no more than one death per every 10,000 people exposed to that radionuclide. But the ultimate goal is no more than one death per million people exposed.

The PRG for strontium-90, and its accompanying decay product, yttrium-90, is 0.231 picocuries per gram (pCi/g). This is a measure of how much the substance decays, shooting out ions that cause cancer.

Foster Wheeler's 58 soil samples averaged 1.39 pCi/g, or six times the EPA's preliminary remediation goal and nearly 27 times above the typical EPA background level for Sr-90 in the area. The hottest sampling spot, and the one closest to the Rocketdyne's Santa Susana Field Laboratory, measured 12.34 pCi/g, which is over 54 times the EPA's PRG and 237 times the normal background for the radionuclide. Regardless, the GreenPark subcontractor gave a hardy thumbs-up to the results. "In perspective, the concentrations of strontium-90... were found to be insignificant," concluded the Foster Wheeler report.

"That's definitely within the risk range," says Walker, "unless something weird is going on with the site that would kick it up but, like I said, those are conservative numbers."

"(Foster Wheeler) found even higher rad levels in the second set of tests than the first and had to massage them through really flaky means, but the numbers don't lie," says longtime Rocketdyne critic, Dan Hirsch of the Santa Cruz-based Committee to Bridge the Gap.

This weird science made its way into the now-approved EIR. "This assessment found that radiation levels were within normal background levels," it reads. "Tritium and strontium-90 were not detected in any of the soil and groundwater samples at levels above normal background levels or at levels considered to pose a health risk."

"It is troubling that a project would be approved based on the assertion that no soil samples found strontium-90 ... at any level deemed to be a health concern, when virtually all of the several dozen samples exceeded background and EPA's preliminary remediation goals for radioactive contamination," says Hirsch.

***4V.** *Could DTSC respond in detail to the above observations?**

4W. February 5, 1999: "Runkle Canyon_QST_Results of Preliminary Soil Sampling_020599" available at http://www.envirostor.dtsc.ca.gov/public/community_involvement/3088703751/Runkle%20Canyon_QST_Results%20of%20Preliminary%20Soil%20Sampling_020599.PDF

This report was commented on in the print, online, and online-annotated version of the *Los Angeles CityBeat* cover story "Neighborhood Threat" by Michael Collins, March 10, 2005. Here is the excerpt related to this report:

In December 1998, when GreenPark began its environmental investigation of the property, the developer hired Phoenix-based QST Environmental to do preliminary soil sampling of the canyon to see if the former Rocketdyne lab “had impacted on-site soils, based on surface run-off carrying radionuclides to the site.” The results “indicated the presence of Strontium in all samples collected... that exceeded the EPA average local background concentration.” Indeed, the four soil samples contained up to 17 times the amount of the radionuclide that the EPA says is naturally occurring in the area. “Based on the analytical results of the soil samples, it would appear that there may have been some impact of radionuclides to the site from the Rocketdyne facility,” the report said.
[snip]

When GreenPark subcontractor QST Environmental concluded the developer’s preliminary soil sampling of Runkle Canyon in February 1999, it apparently had planned to do more work. “QST is currently preparing a scope of work to conduct the next phase of the investigation at Runkle Ranch,” QST wrote at the conclusion of its report. But it was not to be.

***4W.** *Could DTSC respond in detail to the above observations?**

4Y. August 27, 1998: “Runkle Canyon_Ramco_Preliminary Site Assessment_82798” available at
http://www.envirostor.dtsc.ca.gov/public/community_involvement/3984540641/Runkle%20Canyon_Ramco_Preliminary%20Site%20Assessment_82798.PDF

“PRELIMINARY ENVIRONMENTAL SITE ASSESSMENT REPORT FOR PROPERTY TITLE TRANSFER” for LARRY RASMUSSEN et al SPIRIT HOLDING INC. 23120 LYONS AVENUE 5436, NEWHALL CALIFORNIA 91321 performed by REGULATORY AFFAIRS MANAGEMENT COMPANY LLC dba RAMCO Environmental

P. 3/65: “The United States Geological Survey (USGS) delineated Blue-Line surface water courses traversing the property south to north.

P. 5/65: Rasmussen is described as “prospective buyer.”

P. 5/65: “RAMCOs assessment did not include investigation for asbestos containing materials lead in ground or surface water or paint radon PCB polychlorinated biphenyls nor subsurface conditions of groundwater or soil specific to the Site.”

P. 6/65: “It should be noted that typical Preliminary Environmental Site Assessment during the time of this assessment did exclude subsurface exploration or chemical screening of soil and groundwater beneath subject site These data would accurately present evidence of contamination or impairment. Therefore in any study excluding sampling and analysis no statement of scientific certainty could be made or inferred regarding latent subsurface conditions that may have come from either on-Site or off-Site sources.”

P. 13/65: "The file review produced letter dated Sept 10 1984 from the County of Ventura stating that S.P Milling Co. was in violation of letting illegal dumping to occur on the property and that the dumping must be corrected within thirty days This suggests that possible regulated and/or hazardous materials were dumped on Site."

P. 15/65: "The unsaturated and saturated soil of the area was highly permeable and porous however the upper most saturated zone was estimated to be greater than 30 feet below ground surface. These conditions would enhance chemical migration. Based upon the anticipated flow path of groundwater and no recorded up gradient site of concern nearby contaminant migration from off site sources was considered very low potential threat."

P. 16/65: "The white fine grain material deposited by the leaching water of the aggregate stockpiles in the material processing area would suggest potential for regulated if not hazardous materials. The fact of equipment operations in the former material processing area has now been established this also presents the potential for hazardous materials releases. The presence of these materials presents potential for environmental risk to Site dwellers soil and possibly surface water."

4Y. Could DTSC respond in detail to the above observations?

Finally, how will DTSC involve the public, and public comment, in its analysis of all other relevant material regarding Runkle Canyon's environmental conditions as it expressed to the Simi Valley City Council and that is spelled out in the CLRRRA?

Respectfully,

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