

# **Responses to Comments**

## **Draft Administrative Order on Consent State of California and the United States Department of Energy**

prepared by  
**California Department of Toxic Substances Control**  
and the  
**United States Department of Energy**  
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### **Introduction**

The State of California's Department of Toxic Substances Control (DTSC) and the Department of Energy (DOE) held a public comment period from October 27, 2010 through November 22, 2010 on the draft Administrative Order on Consent to be signed by DTSC and DOE. Over the course of the comment period, DTSC and DOE received comments and questions from nearly 2000 interested community members and stakeholders. Nearly all expressed support for the Administrative Order on Consent and urged that it be signed without delay. There were also 20 individual commenters who made more specific comments, describing the elements of the Administrative Order on Consent that they liked or asking questions, or raising issues, concerns, or made suggestions for changes.

DTSC and DOE appreciate all of the comments received. No comments that were submitted were assigned greater or lesser weight than any other. All comments submitted were reviewed and considered and, in fact, as described in this Response to Comments, changes on the Administrative Order on Consent were made based on the public comments that were received. It should also be noted, that at each step in the process to cleanup outlined in the Administrative Order on Consent the public will have the opportunity to provide comment.

This Response to Comments document summarizes the issues, concerns, or suggestions for changes from the more specific commenters, and either identifies specific changes made to the draft Administrative Order on Consent and supporting documents, or explains why changes were not made.

### **Modifications to the Administrative Order on Consent**

A number of the comments received by DTSC and DOE resulted in decisions to modify the Administrative Order on Consent or its associated documents. A summary of the comments received, and the modifications made, are provided below.

#### **Groundwater Cleanup**

Commenters again expressed their desire to ensure that groundwater contaminated with both chemicals and radioactivity be fully addressed in a final agreement. In addition,

commenters noted that, because the contamination of soil and groundwater is closely related, the investigation and cleanup of groundwater contamination must be closely coordinated with that of soils.

**Response: The Administrative Order on Consent has been crafted to specifically address soils contamination. However, the Administrative Order on Consent also leaves the 2007 agreement between DTSC and DOE, NASA and Boeing intact, specifically for the purpose of ensuring that groundwater investigation and cleanup will continue. Groundwater contamination is to be addressed under the requirements of the 2007 agreement.**

**DTSC and DOE do note and agree that there is a close relationship between soil and groundwater contamination, and that the investigation and cleanup of soils and groundwater must be coordinated. In Section 1.5.2 of the Administrative Order on Consent, language has been added to ensure that, to the extent practicable, the investigative efforts are coordinated.**

#### **Sampling Efforts**

Commenters noted that the plan requirements for the Chemical Data Gap Investigation Workplan in Section 2.5.3 should be applied to all chemical investigative activities in the Administrative Order on Consent, not just the Chemical Data Gap Investigation Workplan.

**Response: DTSC and DOE appreciate the commenters' observation, and agree that the plan requirements apply more broadly to all elements of the chemical investigation efforts, not only the draft Chemical Data Gap Investigation Workplan. The Administrative Order on Consent has been modified to move the section from Section 2.5.3.3 to a new section 2.5.4.**

#### **Feasibility Studies**

Several commenters had comments and questions about feasibility studies, some expressing concern that under the Administrative Order on Consent such studies would not be required. While recognizing that process streamlining does save time, some expressed a desire to see information that would typically be found in a feasibility study, and if no feasibility study is to be prepared, desire to see that information presented in the context of other documents that will be prepared. The concern is heightened with the possible use of in situ or onsite treatment. Some commenters expressed their desire to see some method of ensuring that, because of the amounts of soils that could be impacted, the use of in situ or onsite treatment should be preferred as options considered.

**Response: DTSC and DOE appreciate the commenters' observation, and understand the desire to see in situ and onsite treatment methods used to the maximum extent possible to reduce contaminated soil volumes. The Administrative Order on Consent has been**

**modified in Section 2.9, to include, as part of the draft Remedial Action Implementation Workplan, instruction to DOE to “propose in situ or onsite treatment options to the maximum extent possible in areas where in situ or onsite treatment can be demonstrated to effectively achieve the cleanup goals.”**

#### **Public Participation Process**

Commenters expressed concern that the reference to the Public Participation Plan in the Administrative Order on Consent was not specific, and could as easily refer to the 1992 Public Participation Plan as to the 2009 Public Participation Plan. Others expressed a desire to ensure that public review and comment would be part of all documents prepared, prior to DTSC decisions or approvals.

Some commenters also expressed concern that the public be allowed to comment and that their commenters be appropriately incorporated on the treatability studies and the Soils Remedial Action Implementation Plan.

**Response: DTSC and DOE appreciate the commenters’ observation, and agree that the reference in the Administrative Order on Consent is not specific. The Administrative Order on Consent has been modified in Section 3.1, to include a specific reference to the final 2009 Public Participation Plan.**

**As for the comments regarding public review of plans and reports, although not an actual change to the Administrative Order on Consent, the public will have the opportunity to comment on all documents prepared by DOE, as described in Section 3, . . .”opportunities shall be provided for the public to review and comment on all draft plans and reports prepared by DOE. DTSC shall consider any comment received from the public as it evaluates draft plans and reports prepared by DOE. In response to comments received, DTSC shall prepare a response to the public comments, explaining the disposition of DTSC’s actions regarding the comments received.”**

#### **Confirmation Sampling Protocol**

Commenters pointed out concerns with the Confirmation Sampling Protocol, noting that it used the term “post-excavation” confirmation sampling. They pointed out that the use of the term in this way pre-supposes that excavation will be the cleanup method used, when the Administrative Order on Consent has been modified to allow for in situ or onsite treatment options to achieve its goals.

**Response: DTSC and DOE appreciate the commenters’ observation, and agree that the word choice in the Confirmation Sampling Protocol does not account for other cleanup methods that may be used. The Confirmation Sampling Protocol has been modified to replace the word “excavation” with the more general word “cleanup” so that the protocol**

**is understood to apply after any cleanup method is used, including in situ or onsite treatment methods.**

Commenters also continued to express concern about the reference to the largely undisturbed undeveloped land in the southern portion of the Site as a potential source of onsite soils for backfill and restoration of excavated areas.

**Response: As explained previously, the Confirmation Sampling Protocol does not create a requirement to use onsite sources of soil as backfill, nor does it create an authorization or approval to use any particular onsite location for use as a source of backfill. In response to the concern about the potential use of soils from the Southern Buffer Zone as backfill soils, DTSC and DOE have removed reference to the Southern Buffer Zone from the Confirmation Sampling Protocol. Identification of any backfill soils, whether from onsite or offsite locations, will be subject to all applicable federal, state and local requirements, and the use of any particular source must receive all necessary permits or authorizations prior to their use, and as described in the Confirmation Protocol, be approved for use by EPA and DTSC.**

#### **Comment**

One commenter had editorial suggestions to include the DTSC website address, add clarity to Attachment A, and include the date of May 2, 2007 relating to the federal court order.

**Response: The DTSC website address was added to the Administrative Order on Consent for clarity. The date of the federal court order was not included, however, because DTSC and DOE believe that the title of the court case is sufficiently specific.**

#### **Other Comments that did not Result in Modifications to the Administrative Order on Consent**

A number of the comments received by DTSC and DOE raised valid questions and concerns about the Administrative Order on Consent or its associated documents, but did not result in modification to the documents. Summaries of the comments received, and explanations for why modifications were not made, are provided below.

#### **Compliance with the National Environmental Policy Act (NEPA)**

There were several commenters who expressed concern related to compliance with NEPA and its relationship to the draft Administrative Order on Consent. In addition, there were concerns expressed about the federal district court's summary judgment order requirement, for DOE to prepare an Environmental Impact Statement (EIS). One commenter requested that DOE seek approval from the court to remove the remaining buildings in Area IV so that a more complete characterization could be completed, while another suggested that the building removal could not happen until an EIS.

**Response: DOE will continue to comply with the court's order unless the court grants relief from that order. As described in Section 6.1 and 6.2 of the Administrative Order on Consent, DTSC and DOE will seek the support of the plaintiffs obtaining relief from the court's order so as to allow the work under the Administrative Order on Consent to be performed.**

**Irrespective of the court's ruling, an environmental analysis including a complete analysis of environmental impacts to biological and historic resources; potential impacts due to increased truck traffic on Woolsey Canyon; and potential mitigation measures identified will be conducted under the California Environmental Quality Act (CEQA). In addition to the public review and comment period on this Administrative Order on Consent, the public will be able to review and comment on the draft Remedial Action Implementation Plan, as well as on the draft Environmental Impact Report being prepared under CEQA.**

#### **Preservation of Native American and other Historical Resources**

Commenters expressed concern that the Agreement in Principle, in establishing an exception for Native American Cultural Resources, limited that exclusion to Native American "artifacts," and believed that the term "artifacts" is too narrow and may not protect other key resources known to be at SSFL, such as cave drawings and rock art.

Other concerns and questions were raised regarding cultural and historical or archeological resources, properly describing those resources, and whether the Administrative Order on Consent offers sufficient protection for those resources. In addition, some commenters questioned previous DOE work related to surveys and consultation with appropriate state and federal agencies and Native American tribes.

**Response: DOE conducted a cultural resource survey for all of Area IV and the Northern Buffer Zone. In addition, an initial review for significance of the remaining buildings has been conducted by an architectural historian. As part of the CEQA evaluation, this work will be reviewed again and updated as necessary. Early in the development of the Environmental Impact Statement, DOE contacted the Native American Heritage Commission and has informally consulted with the entire list of tribes that was provided. As the CEQA analysis moves forward, and as part of the Soils Remedial Action Implementation, these documents will be reviewed, and formal consultation with Native American Tribes will be conducted.**

#### **Volume of Soil/Transportation Impacts**

Some commenters asked about the impacts of truck traffic that could result from the removal of contaminated soils from the site, and expressed their desire to see DTSC provide its own estimates of the amounts of contaminated soils that could be generated through

the proposed cleanup, as well as assess and mitigate any risks posed by the truck traffic that would result.

**Response: Regarding DTSC providing its own estimates of contaminated soil, as explained previously it is impossible to calculate the amount of contaminated soils that could require removal at this time – those calculations will be possible only after characterization is completed. Any calculations performed now rely largely upon assumptions that may or may not be accurate, and the estimates provided are of limited use.**

**Regarding impacts or risks due to anticipated truck traffic, DOE will need to identify, assess and mitigate any environmental impacts that result in the course of carrying out their cleanup responsibilities. The draft Remedial Action Implementation Plan, which will be made available for public review and comment, must include a detailed soils management and transportation plan, and the accompanying CEQA documents must identify environmental impacts attributable to the transportation of soils, as well as measures that are being proposed to mitigate those environmental impacts.**

#### **Accommodation of Fragile Ecosystems**

One commenter provided a list of areas of ecological or archaeological importance that he was concerned about. He also noted that the work that was just completed for the biological survey of Area IV will also provide more information.

**Response: As described in the Administrative Order on Consent, and in the Agreement in Principle, prior to remediation of any kind and after completion of characterization, a full evaluation of archaeological and ecological importance will be conducted in accordance with all state and federal requirements. This evaluation will be discussed in the Environmental Impact Report under CEQA and the Soils Remedial Action Implementation Plan. Consultation with appropriate state and federal agencies such as US Fish and Wildlife and California Department of Fish and Game will be conducted as required. In addition, all of this information will be shared with the public and formal public comment periods will be conducted.**

#### **Building Demolition**

Commenters expressed concern that the buildings remaining in Area IV be demolished as quickly as possible to enable characterization to be complete, while others suggested that no buildings could be demolished prior to the completion of an EIS. Other commenters noted that not all buildings in Area IV were owned by DOE, but some were owned by Boeing.

**Response: The commenters are correct in noting that not all buildings in Area IV are owned by DOE, and that a more complete characterization survey can be completed if the buildings were removed. As described more fully in Section 6.1 and 6.2, DTSC, DOE and the plaintiffs will seek relief from the federal court's order to enable immediate implementation of the requirements of the Administrative Order on Consent. Once that issue is resolved, demolition of the buildings after proper planning and DTSC approval can begin. Section 7.8.2 describes a process for access.**

#### **Follow State and Federal Laws**

Commenters expressed concern that the Administrative Order on Consent, although compliant with SB990, may violate other state and federal laws. Others expressed concern that the Order did not allow for an analysis of the "9 balancing criteria" found in Superfund and in State of California law. Others expressed concern that the Order does not allow for a risk assessment and is a departure from "traditional" cleanup approaches. Some questioned how the order can be successfully implemented and if it will result in extensive environmental damage for very little if any reduction in human health risk. One commenter noted that, "specifying that having a single constituent over a pre-specified table lookup value would require remediation independent of its risk."

**Response: The Responses to Comments on the Agreements in Principle covered this topic, and DTSC and DOE suggest that the commenters refer to that discussion for the relationship between the cleanup activities to be conducted under the Administrative Order on Consent and the operation of the State and Federal Superfunds.**

**DTSC and DOE feel it is important to note, however, that all proposed cleanup actions are required to comply with applicable local, state and federal agency laws and requirements. This requirement is made clear and explicit in Section 7.11 of the Administrative Order on Consent. To assure that other state and federal agency requirements are understood and accommodated as plans developed, DTSC and DOE intend to coordinate closely with local, state and federal agencies with jurisdiction throughout the site characterization and cleanup process, and will also include an extensive public notice, comment, and response process.**

#### **Include California Department of Fish and Game**

Several commenters requested specific mention of the California Department of Fish and Game in the Administrative Order on Consent, expressing desire that the California Department of Fish and Game be consulted for impacts to state listed species, species of special concern and fully protected species, and for necessary mitigation requirements.

**Response: The Administrative Order on Consent does not limit or bypass the role and authority of the California Department of Fish and Game. All proposed cleanup actions**

**are required to fully comply with California Department of Fish and Game requirements, even if not specifically mentioned. The same holds true for any and all other local, state and federal agencies and their laws. For this reason the more general provision (Section 7.11) has been used, rather than attempting to identify all specific agencies and authorities and risk missing any.**

**To ensure that requirements are understood early and accommodated as plans developed, DTSC and DOE intend to coordinate closely with the California Department of Fish and Game and all other local, state and federal agencies with jurisdiction throughout the site characterization and cleanup process.**

### **Sampling Efforts**

Commenters had questions about the co-located sampling efforts and the relationship between the sample results from U.S.EPA's sampling efforts and those from the analysis of the co-located samples, as well as questions related to what constitutes a "proximate location."

**Response: The details of the co-located sampling efforts, its goals and objectives, and the procedures followed in selecting sampling locations, have been include in the workplan entitled "Work Plan/Field Sampling and Analysis Plan; Co-Located Chemical Sampling at Area IV," which was made available to and discussed with the public in October 2010. DTSC and DOE are working interactively with stakeholders and US EPA as EPA conducts the radiological characterization survey and DTSC/DOE conduct the chemical co-located sampling. "Proximate location" means that the chemical sampling is taken very near the spot that the EPA takes the radiological sample. It's not technically feasible to take "split" samples, due to the volume of soil needed for each radiological or chemical sample, the actual sample locations are more accurately described as "co-located" rather than "splits".**

### **Radiological Expertise**

Several commenters had questions about whether DTSC possessed the necessary technical expertise to oversee the radiological investigation and cleanup activities. Some commenters also expressed support for the role of US EPA for the characterization survey and the Conformation Protocol.

**Response: DTSC and DOE appreciate the comments and concur that the role of US EPA in this effort is critical to successful implementation of this Order. As stated in Section 5.0 of the Administrative Order on Consent, the involvement of the United States Environmental Protection Agency (U.S. EPA) has been included because of their technical expertise in radiological cleanups. DTSC and DOE expect that U.S. EPA will contribute the**

**benefits of its expertise throughout the Site investigation, cleanup and cleanup confirmation activities.**

#### **Background/Detection Limit Concentrations**

There were a number of comments related to the background cleanup standard. Several commenters were concerned about how background will be determined and what to do in terms of cleanup with soil that was “very near” or “marginally contaminated.” One commenter also noted that missing in the Order was how to deal with radionuclides and chemicals not naturally present in the SSFL environment/background data set. Some commenters expressed concern that detection limits will be used as an “excuse” not to clean up while others noted that laboratories are unable to meet background values. Others expressed concern about the delays in the DTSC chemical background study and its effect on the implementation of the requirements of the Order.

**Response: DTSC and DOE agree with the commenters that the determination of background by US EPA for radionuclides and DTSC for chemicals is a critical element for the eventual cleanup as described in the Order. Although there has been a delay in the implementation of the Chemical Background Study, the study will be conducted early in 2011. As the background study is conducted, DTSC and DOE anticipate that the issues presented by the commenters such as what to do when soil is “near background,” what to do with chemicals that are not naturally present, and most importantly the statistical evaluation will be an important part of the background study and the development of the lookup tables. In addition, the actual application of these concepts will be described fully in the Soils Remedial Action Implementation Plan which will be fully vetted with the public.**

#### **Disposal of Contaminated Soil**

Several commenters again expressed concern that soils contaminated with radioactive contaminants would be required to be disposed at a licensed low-level radioactive waste disposal site or an authorized low-level radioactive waste disposal facility at a DOE site, some offering views on how wastes with radioactive contaminants should be classified and disposed.

#### **Response:**

**DOE and DTSC have agreed for implementation of actions required by this Order that all waste with radiological constituents greater than background will be sent to an offsite facility permitted or licensed to receive such waste in accordance its waste acceptance criteria.**

**The Administrative Order on Consent also allows for materials with radiological constituents to be treated onsite and reused as backfill. This approach may be used only if the treated material can be demonstrated to meet the post-cleanup requirements.**

**Radiological Contamination Outside of Area IV**

Commenters asked that radiologic contamination be studied outside of Area IV and the Northern Buffer Zone, and that if it is found outside of the area covered by DOE's Administrative Order on Consent, that DOE be required to address (and pay for) that contamination.

**Response: The Administrative Order on Consent has not been changed because DTSC and DOE are not aware, at this time, of any offsite migration of radioactive materials outside of Area IV. As a part of the EPA radiological characterization survey, EPA will be collecting drainage samples from drainages leading from Area IV and the Northern Undeveloped Land and has committed to collect additional samples, if warranted, to determine if radiological contamination leading from Area IV and the Northern Undeveloped Land.**

**DTSC will continue to work with NASA and Boeing to address the possibility that radiological contaminants may be present outside of Area IV, and ensure that the assessment of site conditions for the entirety of the site includes investigation for radiological contaminants. If radiological contaminants are found outside Area IV and the Northern Buffer Zone, and it is found to be contiguous contamination that emanates from within Area IV, DOE's Administrative Order on Consent requires DOE to clean up that contamination.**

**Cleanup Consistent with Future Land Use**

Several commenters expressed concerns that the cleanup requirements for the site are more stringent than is necessary, and expressed their belief that the cleanup standards should be more appropriately tailored to the future uses of the site.

**Response: For purposes of implementing a cleanup of the Santa Susana Field Laboratory, DTSC must implement the provisions of SB 990, which mandates that the anticipated land use in establishing cleanup standards be assumed to be rural residential or suburban residential, whichever is more protective.**

**Risks Due to the Site**

One commenter had specific concerns relating to health risks and the communication to the public regarding current potential risks to public health. She also noted that a health risk assessment was needed and asked that the California Department of Public Health be involved to assist in this assessment.

**Response:** DTSC and DOE appreciate the concerns about the health and welfare of the surrounding community, and whether the site poses any risks to the community. There is a significant difference between the concepts of “risk assessment” as it pertains to the investigation and cleanup activities at the site and “public health risks” as is being used by the commenter.

The concept of public health risk pertains to the potential health impacts to the community due to exposures to contaminants that may be leaving the site, or may have in the past emanated from the site. In the investigation and cleanup of any contaminated site, the potential for offsite migration of contaminants is always a concern.

The concept of risk assessment that is part of the site investigation and cleanup process pertains to the calculation of “potential” risks that could result from the exposure of future residents, occupants or users of a site coming in contact with any residual contaminants that may be at a site. The purpose of the risk assessment is to ensure that in the future, no exposures on the site exceed allowable levels.

The Agency for Toxic Substances and Disease Registry (ATSDR), part of the U.S. Department of Health and Human Services, has conducted assessments of public health in the vicinity of the site. In addition, the California Department of Public Health (formerly a part of the California Department of Health Services) has also conducted similar assessments. The findings of those past assessments are available from each of these agencies as well as on the DOE website.

#### **Exceptions**

Commenters expressed concern about the list of exceptions and how they would be evaluated and treated. Some commenters questioned the meaning of the 5% limit for unforeseen circumstances noting that this could be too liberal or too restrictive depending on its implementation. Others expressed concern that Native American artifacts should be treated the same as endangered species.

**Response:** The 5% limit applies only to the exception for unforeseen circumstances, and does not apply to the exceptions for endangered species, cultural resources or detection limits. Each of the exceptions listed in the Agreement in Principle is available for use by DOE as it evaluates the available chemical and radiological site data, site conditions, and feedback from governmental agencies and ecological and cultural experts and prepares the draft Remedial Action Implementation Plan. DOE, in that draft plan, can propose to not clean up any particular area to the background or detection limit standards, and include in the plan the rationale for the exercise of the exception. DTSC will evaluate that information as it reviews and evaluates the draft Remedial Action Implementation Plan. The draft plan will also be available to the public for review and comment.

### **Liability for Cleanup Costs**

Commenters expressed concern that because this agreement was for all of Area IV and the Northern Undeveloped Land, DOE was accepting fiscal responsibility for areas where DOE did not do work and that had been previously shared with the landowner, Boeing.

**Response: In an effort to expedite cleanup, DOE has agreed to clean up these entire areas. There is a cost recovery provision in the Administrative Order on Consent that makes it clear that DOE is not prevented from recovering costs from any other responsible party.**

### **Timing of Signing the Administrative Order on Consent**

Several commenters asked that the signing of the Administrative Order on Consent be delayed until later, some asking for delay until after characterization of the site is completed. Other commenters asked that Administrative Order on Consent be signed as soon as possible.

**Response: DTSC and DOE appreciate all of the comments received, and understand the various perspectives on the timing of signing if the Administrative Order on Consent. It is common practice for regulatory agencies such as DTSC to negotiate agreements that encompass the whole investigation and cleanup process, so that the commitment of the responsible parties can be secured for the entirety of the process. DTSC and DOE believe that signing the Administrative Order on Consent will establish the necessary legal framework to guide and govern the entirety of the investigation and cleanup process.**

### **Miscellaneous**

This group of comments is quite diverse, consequently, DTSC and DOE have responded to each individually.

### **Comment**

The commenter notes in Section 5.1 that the word “will” is used when referring to DOE obtaining sufficient funds to support EPA’s work and in Section 7.15.1 of the Order the word “shall” is used. The commenter suggests that the “will” be changed to “shall. The commenter also asked about internal federal budget negotiations and if any have been conducted that are in violation of federal law.

**Response: DOE is committed to requesting necessary funds to support DTSC’s oversight work, EPA’s role in characterization, and to fund the cleanup outlined in the Order. Section 7.15.1 describes DOE’s requirement to follow federal law as it relates to the formation of its budget.**

**Comment**

One commenter asked if the Administrative Order on Consent involved a state or a federal Administrative Law Judge.

**Response: The Administrative Order on Consent does not involve a Law Judge, but is rather a negotiated settlement between the Department of Energy and the State of California. An administrative order would not require the use of or a hearing before an Administrative Law Judge or other hearing officer unless an order being issued by a regulatory agency is being challenged by the recipient of the order. In the Administrative Order on Consent, an alternative enforcement mechanism has been included that entails a dispute resolution process.**

**Comment**

One commenter asks why you are redirected away from the DTSC website when you click on the links associated with the DOE Agreement and the responses to the comments on the Agreements in Principle.

**Response: The web site that has been created to house DTSC's SSFL site information is not part of DTSC's web site, but has been created and operated under contract. Although the web site is not part of DTSC's web site, all content of the web site is under the control of DTSC.**

**Comment**

One commenter suggests that the SSFL must be dealt with as one site rather than having separate agreements with DOE, NASA, and Boeing.

**Response: The execution of separate agreements with each of the responsible parties does not prevent or interfere with cleaning up the SSFL site as a whole.**

**Comment**

Some commenters raised questions about volatile organic compounds and their effect on soils. One noted that volatile organic compounds that are in the groundwater at the site will recontaminate any clean soils that are brought in to backfill contaminated soils that will be removed, a phenomenon which has already occurred in areas of the site that have undergone prior cleanup activities. One expressed concern that the Administrative Order on Consent and its exclusion of "the cleanup of volatile organic contaminants that are found in the groundwater or in the soil or bedrock below the groundwater level" and "the cleanup of volatile organic contaminants that emanate from groundwater contaminated with volatile organic contaminants that migrate into and through the saturated and unsaturated soil and bedrock at the Site" could be used to allow a less protective cleanup of the site.

**Response: DTSC and DOE agree that it is futile to remove soils that are contaminated only with volatile organic compounds that may perpetually be recontaminated by those same volatile organic compounds that are found in the groundwater. DTSC and DOE developed the provisions of the Administrative Order on Consent to balance the two concerns. The Administrative Order on Consent requires the investigation and cleanup of both soils and groundwater to be carefully coordinated so that any risks posed by volatile organic compounds that contaminate the groundwater are fully addressed.**