

December 7, 2017

Secretary Matthew Rodriquez
California Environmental Protection Agency
1001 I Street
Sacramento CA 95812

Director Barbara Lee
California Department of Toxic Substances Control
1001 I Street
Sacramento CA 95812

Re: *Comments on the Draft Program Environmental Impact Report and Draft Program Management Plan for the Santa Susana Field Laboratory*

Dear Secretary Rodriquez and Director Lee:

Thank you for the opportunity to comment on the September 2017 Draft Program Environmental Impact Report (PEIR) for remediation of contamination at the Santa Susana Field Laboratory (SSFL). We object to the approval of the project as currently proposed based on various deficiencies in the PEIR described here and in other submitted comments.

Background – A Highly Contaminated Site With Half a Million People Living Nearby

SSFL is one of the most contaminated sites in the state.¹ Over the years, the site maintained ten nuclear reactors, a plutonium fuel fabrication facility, a “hot lab” for disassembling highly irradiated nuclear fuel, and open-air “burn pits” where radioactively and chemically contaminated items were burned. The poor environmental and safety practices of the Responsible Parties [the Department of Energy (DOE), NASA, and Boeing] and their predecessors resulted in numerous releases and spills on the site which subsequently

¹ The PEIR (p. 2-1) indicates that the cleanup of SSFL is in part pursuant to State Superfund law, which is for the most contaminated sites in the state.

contaminated soil, groundwater, and surface water with radioactivity and toxic chemicals, as well as numerous buildings. Examples of poor practices and negligence included a partial meltdown in one reactor; three others had accidents; radioactive fires occurred in the hot lab, and decades of open burning of contaminated items.² Tens of thousands of rocket tests and associated activities further contributed to widespread contamination with highly toxic substances such as polychlorinated biphenyls (PCBs), dioxins and furans, metals, perchlorate, and volatile and semi-volatile organic compounds.³

SSFL was established 70 years ago and was supposed to be a remote field lab for work too dangerous to conduct near populated areas. However, over the decades the nearby population mushroomed so that there are now more than 150,000 people living within 5 miles of the site and more than half a million people living within 10 miles.

Federally funded studies found significant increases in death rates from key cancers among previous SSFL workers associated with occupational exposures(s).⁴ Additionally, studies have measured offsite migration of pollutants at concentrations in excess of U.S. Environmental Protection Agency (USEPA) levels of concerns, with a greater than 60 percent higher incidence of key cancers among people living near SSFL than those living further away.⁵ Because SSFL is located in hills overlooking the City of Los Angeles and other populated areas below, the contamination migrates downgradient, where neighboring communities can be exposed. Cleanup of the contamination source is therefore critical. However, the Responsible Parties have had a history of resisting those cleanup obligations.

NRDC, City of Los Angeles, CBG v. DOE Lawsuit Blocked DOE's Prior Attempt to Walk Away from Cleaning Up Most of the Contamination

The Responsible Parties have had a history of resisting previous cleanup obligations. Fifteen years ago, DOE proposed cleanup standards for SSFL that would have left the great majority of the contamination not cleaned up. The City of Los Angeles, the Natural Resources Defense Council (NRDC), and the Committee to Bridge the Gap (CBG) filed a lawsuit in U.S. District Court, challenging the legality of DOE's actions under the National Environmental Policy Act (NEPA), 42 U.S.C. §4321, *et seq.* In 2007, in an Order highly critical of DOE,

² HydroGeoLogic, Final Historical Site Assessment, Santa Susana Field Laboratory Site, Area IV Radiological Study, October 2012, prepared for US EPA

³ Draft PEIR §2.2.2, Figure 3-5

⁴ Morgenstern, Froines, Ritz, & Young, UCLA School of Public Health, Epidemiologic Study to Determine Possible Adverse Effects to Rocketdyne/Atomics International Workers from Exposure to Ionizing Radiation June 1997; and, same authors, Epidemiologic Study to Determine Possible Adverse Effects to Rocketdyne/Atomics International Workers from Exposure to Selected Chemicals, January 1999

⁵ Yoram Cohen et al., Center for Environmental Risk Reduction, UCLA, The Potential for Offsite Exposures Associated with Santa Susana Field Laboratory, Ventura County, California, February 2, 2006; and Hal Morgenstern et al., Cancer Incidence in the Community Surrounding the Rocketdyne Facility in Southern California, February 2007; both prepared under contract to the federal Agency for Toxic Substances and Disease Registry

Federal District Judge Samuel Conti, granted summary judgment for the plaintiffs and against DOE.

In 2010, DOE, NASA, and the California Department of Toxic Substances Control (DTSC) executed Administrative Orders on Consent (AOC), legally binding agreements requiring the cleanup of contaminated soil (including the buildings) to background, i.e., to the condition it was in before being polluted. In 2010, DTSC committed that Boeing would be required to clean up its portion of the property to background concentrations so as to be safe for all land use designations allowed under the Ventura County General Plan.

As per the 2007 Consent Order and 2010 AOCs, the soil cleanups were to be completed by 2017. However, *2017 is nearly over and the promised cleanup not only has not been completed, it has not yet even begun.*

The 2017 Draft PEIR Breaches DTSC's Cleanup Commitments

The project description states that the primary objective of the proposed project is to implement the 2007 Consent Order and the 2010 AOCs. The Draft PEIR for the SSFL site cleanup, however, is at odds in numerous respects with this stated primary project objective and DTSC's longstanding commitments in the orders. These defects taint the entire PEIR from the proposed project description and analysis, to the selection and analysis of project alternatives, to the proposed mitigation. Examples are:

1. The AOCs bar consideration of "leave in place" alternatives.
 - a. Yet, in the Draft PEIR, DTSC proposes to leave in place large amounts of contamination in the hope that over long periods of time concentrations would "naturally attenuate."
 - b. DTSC also proposes to leave in place large amounts of contamination based on biological and cultural considerations that appear to go far beyond the tightly delimited exemptions allowed in the AOCs. Proposing to exempt contaminated areas from cleanup for supposed biological reasons would have a contrary effect – allowing biological receptors to be damaged by radioactive and toxic chemical contamination at levels well above concentrations DTSC has already determined to cause adverse effects. It is the failure to clean up the contamination that would place those ecological receptors at risk, yet the Draft PEIR fails to analyze those risks and proposes cleanup levels and cleanup exemptions that would allow exposures far above the level DTSC itself has determined would put them at risk.
2. For the Boeing-controlled areas, DTSC had stated in 2010 that its normal procedures applicable to all cleanups required a cleanup so that all of the land uses allowed by local zoning and General Plan designations would be safe; DTSC noted that those designations for SSFL allow a wide range of suburban residential and rural residential/agricultural uses, the latter of which is the most protective standard; and that cleanup to that standard would be equivalent to the cleanup-to-background standard of the AOCs.

a. However, in the Draft PEIR, DTSC does not propose cleanup to any of these promised standards, and indeed, removes each of them from even consideration. In the Draft PEIR, DTSC declares that the cleanup required will be less rigorous than that required by the AOCs; it removes from consideration cleanup to background; and it does not even mention or in any fashion consider cleanup to the promised rural residential/agricultural standards.

b. Both Boeing and DTSC had long promised that the cleanup of the Boeing-controlled portion of SSFL would at least be to a suburban residential standard, so that the people living nearby would be reassured as to their safety. That standard, which includes risks from consumption of fruit and vegetables from a backyard garden, was established in the Standardized Risk Assessment Methodology (SRAM) prepared by Boeing and approved by DTSC, as the SRAM-based suburban residential garden standard.

i. However, in the Draft PEIR, DTSC removes from consideration its own SRAM-based suburban residential garden standard and instead asserts that it will only consider cleanup to levels that are more than 25 times less protective. Elsewhere in the Draft PEIR, even weaker standards are put forward, approximately 60 times less protective than DTSC's official SRAM-based suburban residential standard. This would leave the great majority of contamination not cleaned up.

ii. Furthermore, Boeing has recently announced it is reversing its longstanding promise to a suburban residential standard at all and wants to instead use a recreational standard, even weaker than the extremely lax cleanup levels being considered in the Draft PEIR, that would relieve them of cleaning up virtually any of the contamination.

3. The AOCs require cleanup of all structures, anthropogenic materials, and debris to background and that all wastes with radioactivity above background be disposed of in offsite licensed/authorized Low Level Radioactive Waste disposal facilities. However, in the Draft PEIR, DTSC ignores these requirements and says buildings in the SSFL areas controlled by the AOCs can be demolished and disposed of without DTSC approval and the debris sent to recyclers and disposal sites not licensed or authorized for Low Level Radioactive Waste.

The Draft PEIR is deficient in other ways, including:

4. A draft Environmental Impact Report has at its core the requirement for full disclosure of what project is being proposed, the alternatives, and the proposed mitigation. These requirements under CEQA facilitate the statute's informational role and are to allow the public, not involved in the preparation of the draft document, to understand and consider meaningfully the environmental issues raised by the proposed project. These requirements have not been met by the PEIR. DTSC is years late in issuing the Draft PEIR. It has had plenty of time to include the true program proposal. There is no good reason why what is actually being contemplated and the alternatives to be considered are not specified and properly evaluated in the Draft PEIR. For example,

a. DTSC states in the Draft PEIR that it intends to allow an unspecified amount of soil at unspecified locations that is contaminated with unspecified concentrations of unspecified contaminants to "naturally attenuate" over unspecified times based on unspecified mechanisms of attenuation according to unspecified sources.

b. DTSC additionally says in the Draft PEIR that it intends to allow an unspecified amount of soil at unspecified locations that is contaminated with unspecified concentrations of unspecified contaminants to be exempted for unspecified purported biological or cultural reasons with no attempt to even try to demonstrate how that would comply with the very narrow exemptions allowed in the AOCs.

c. Furthermore, DTSC states that the actual amount of contamination it will consider allowing Boeing to avoid cleaning up will not be disclosed until after finalization of the Draft PEIR, nor will the alternative amounts it will choose from be disclosed in the Draft PEIR. Additionally, the Draft PEIR does not disclose how much contamination is in the Boeing areas, so there is no way to precisely assess how much contamination is being contemplated to not be cleaned up.

d. Particularly troubling is that DTSC has failed to make publicly available the documents referenced in the Draft PEIR as forming the basis for assertions and conclusions therein, making it impossible to meaningfully comment on the Draft PEIR and to ascertain the validity of many of the Draft PEIR claims.

5. An EIR also has as its core the requirement for a thorough examination of the environmental impacts of the alternatives being considered, including the No Action Alternative. However, this Draft PEIR contains hundreds of pages identifying the purported negative impacts of cleaning up contamination at SSFL, but essentially no analysis of the environmental impacts of not cleaning up part or all of it. There is basically no review of the environmental impacts of the radioactive and toxic chemical contamination and the impacts that would ensue were DTSC to break its commitment to a full cleanup. As such, the Draft PEIR becomes not a genuine environmental review but instead a kind of advocacy, attacking the very commitments DTSC had made without a word about the impacts were it to break those promises to remediate the pollution. This results in the extraordinary claim in the Draft PEIR that the environmentally superior alternative is the No Action Alternative, because it supposedly involves no environmental impacts. That assertion is baseless, and can only be made because DTSC failed altogether to analyze any impact from the contamination that is what led to the need for cleanup in the first place.

6. DTSC argues for not requiring the full cleanup it had promised in the AOCs in part based on generalized assertions about protecting biological features, despite the fact that the AOCs already have carefully tailored provisions for such protection, which DTSC now appears to intend to go far beyond. However, DTSC fails in the Draft PEIR to consider impacts on plants and animals from the contamination that DTSC now is contemplating not cleaning up. DTSC has Ecological Risk-Based Screening Levels (EcoRBSLs) for the contaminants at SSFL, levels set to determine what levels one needs to bring concentrations down to in order to protect ecological receptors such as birds, mammals, and various plants. The Draft PEIR needs to use the invertebrate, plant, and Ecological Low TRV-Based RBSLs.

7. The Draft PEIR simply repeats, without critical review, soil volume estimates by DOE and NASA that grossly inflate the actual volume of contaminated soil. At the same time, the Draft PEIR accepts soil volume estimates by Boeing that grossly underestimate the amount of contaminated soil it should clean up.

8. Much of the Draft PEIR appears to be an attempt to inflate the impacts of cleaning up while trivializing the risks of abandoning in perpetuity significant amounts of radioactive and chemical contamination.

9. The Draft PEIR fails to identify and meaningfully evaluate reasonable alternative methods of contaminated soil conveyance and routes, including direct site to rail conveyance and other options including the use of fire roads and routes with less impact to residents and reduced traffic impact. Instead, straw men are put forward and rejected. The Draft PEIR is also silent about the harm from the toxic and radioactive pollution but spends many pages about the inconvenience from the trucks needed to transport the contaminated soil for disposal. Transportation alternatives, including alternative routes and means of conveyance that could reduce truck impacts, are not seriously examined.

Draft Program Management Plan

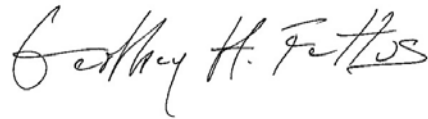
The Draft Program Management Plan is deficient in that it provides very little detail as to what is actually proposed regarding cleanup and defers to a post-PEIR, post-CEQA phase most identification of actual cleanup proposals.

Conclusion

The Draft PEIR is deficient in that it violates longstanding DTSC commitments for a full cleanup, is not clear in its disclosure of the proposed remediation, and does not address the negative ecological and human health impacts from exposure to the contamination itself and which would occur were the promised full cleanup not to occur. What DTSC appears to be contemplating is to leave in place the great majority of the contamination.

The public that resides in the area surrounding the site will be at continued and perpetual risk if DTSC continues on this course. CEQA also requires that the long term protection of the environment must be the guiding criterion in public decisions. Because the Draft PEIR is so fundamentally and basically inadequate and conclusory in nature, meaningful public review and comment have been precluded. We therefore request extensive revision and recirculation of the Draft PEIR, and careful selection of a responsible remediation approach that is fully in compliance with the DTSC's previous commitments for a complete cleanup of the SSFL contamination.

Sincerely,



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