

1 April 2009

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Tracy J. Egoscue
Executive Officer
Los Angeles Regional Water Quality Control Board
320 West 4th Street, #200
Los Angeles, CA 90013

Re: SSFL Preliminary Interim Source Removal
Action Work Plan

Dear Ms. Egoscue:

Thank you for the opportunity to comment on the Preliminary Interim Source Removal Action (ISRA) Work Plan for the Santa Susana Field Laboratory, submitted by the Boeing Company and the National Aeronautics and Space Administration (NASA) in February 2009.

At the core of our concerns are the significant differences between what we understood from the January meeting you held with community representatives and staff of local electeds about what was planned and what we find in the actual text of the ISRA Work Plan submitted by Boeing/NASA and the tentative new Cease & Desist Order prepared by your staff. Perhaps we misunderstood, or perhaps Boeing/NASA and your staff are making proposals at variance with what you intended. In either case, we would appreciate getting the matters cleared up.

We came away from January meeting with the following understandings:

1. The Board found the very long history of repeated violations at SSFL unacceptable and would tolerate no further delays in coming into compliance.

2. Rather than relying solely on treatment of contaminated surface water, which Boeing had indicated would still result in violations, the Board had now ordered prompt interim removal of the sources of contamination.
3. This was supposedly to be done quickly, before the next rainy season.
4. Interim source removal would involve not just the particular contaminants that had been exceeded recently at a particular outfall, but all contaminants of concern.
5. The interim actions would be done consistent with SB990.
6. There would be close coordination with DTSC to assure the interim steps did not interfere with the final cleanup remedy.
7. It was hoped that the interim source removal would result in an end to violations and exceedances.

However, our review of the ISRA Work Plan and the tentative new Cease and Desist Order disclose the following:

1. Interim source removal is only proposed for certain contaminated watersheds associated with Outfalls 8 and 9. No source removal is contemplated for the other outfalls.
2. Those other outfalls represent the great majority of violations. On 11 June 2008, the Board issued a Notice of Violation (NOV) identifying twenty-four – 24! – violations of the site's discharge permits in a little over a year, from December 2006 to February 2008. (We note that once again, there has been, to date, no enforcement action taken on these 24 violations.) Twenty-one of the violations were for outfalls other than Outfalls 8 and 9.¹ This demonstrates that the Best Management Practices (BMPs) Boeing has touted for the rest of the outfalls are in fact failing to prevent contaminated water at unsafe levels from leaving the

¹ We are not here implying that the exceedances in Outfalls 8 and 9 are not important, only that the exceedances elsewhere are also important. There is a discrepancy between the Board's NOV and the ISRA. The former reports 3 violations for Outfall 9 and none for Outfall 8 during the period Dec 2006-February 2008. The latter reports 5 violations during the same time period for Outfall 9 and 1 for Outfall 8. The discrepancy is not explained. The ISRA reports 11 exceedances for Outfall 8 and 24 for Outfall 9 over the longer period October 2004 to February 2008. Because of the use of monitoring requirements and benchmarks instead of enforceable limits for many constituents and outfalls, and some outfalls being relatively new, the true number of exceedances is much higher than the violation total.

site. The problem, thus, is not just Outfalls 8 and 9, for which ENTS are proposed instead of BMPs; the existing BMPs at the other outfalls are not working either. For example, there is a known area of soil contaminated with mercury just above the SRE outfall which has just been left there for a decade or so; is it not to be removed in this source removal?

3. As for Outfalls 8 and 9, the existing CDO, issued in November 2007, requires that releases from them come into compliance by 10 June 2009, allowing Boeing to construct ENTS as a means of reaching compliance, to be implemented by that same date. No ENTS has been constructed, however, nor any source removal conducted, and thus Boeing will be in violation of the CDO at the beginning of the upcoming rainy season. To prevent this, it was our understanding at the meeting that the interim source removal was to be completed before the next rainy season.

4. However, Boeing and NASA propose in their ISRA Work Plan a schedule that has the work extending into Winter 2011 with final implementation reports submitted at some unspecified time thereafter.

5. Worse even is the proposed schedule by the Board's staff in the tentative revised CDO. The draft CDO extends the date for coming into compliance to 26 June 2012, with report submission on the ISRA and ENTS implementation due 31 August 2012—three and a half years from now.

6. Most troubling is that the tentative CDO eliminates all enforceable limits for Outfalls 8 and 9 through June 2012. This is incomprehensible to us. As you know, there has been great concern in the past about efforts to convert enforceable numeric limits into unenforceable "benchmarks." The State Water Board ordered the Regional Board in 2006 to establish a compliance schedule with the shortest possible time. The Board, in its 2007 CDO, established that time frame as ending in June 2009, with the enforceable limits applicable at that time. Now the Board staff is proposing waiving enforceable limits for Outfalls 8 and 9 for another three years beyond that date. This would appear to violate the State Water Board order and will create a firestorm of concern within the community. And it is at odds with what we understood in our meeting with you – that the Board was tired of Boeing failing to comply, would keep Boeing's feet to the fire, and was requiring immediate source removal so that they would be in compliance with the schedule in the existing CDO; i.e., no more violations or exceedances come the next rainy season.

7. In our January meeting, concern was raised that source removal deal not just with the specific constituent causing recent exceedances at a particular outfall, but all constituents of concern. We were given reassurances that that would be the case. However, the ISRA is restricted to source removal for constituents for which there has been an exceedance during the current permit period at the outfall in question. Thus, source removal only appears to be proposed to

address copper, lead and dioxin at Outfall 8 and cadmium, copper, lead, mercury, oil & grease, and dioxins at Outfall 9.

8. We were also given assurances that the interim removal would be consistent with SB990, the cleanup law for SSFL. However, the ISRA ignores SB990, and relies on RCRA Facility Investigation reports that were based on pre-990 far more lax standards.

9. We expressed concern that if there were not close coordination with DTSC, the interim measures ordered by the Board could conflict with the long-term cleanup program under DTSC's jurisdiction. We were particularly concerned that the "interim measures" could become final measures, as appears to have happened with the interim measures at the Area IV sodium burnpit. Given the resistance by the RPs to compliance with SB990, we remain concerned that a poorly coordinated interim cleanup will end up with pressure from the RPs to declare interim work as final, even though it was not to SB990 standards and didn't address most constituents of concern. We also remain concerned – and the ISRA does not address the matter – that the interim measures, if not carefully coordinated, will interfere with the final cleanup. Areas will be excavated and then fill placed on top of them, making difficult the further characterization for contamination that exceeds SB990 levels or involves other constituents of concern. ISRA is silent on how or if soil will be screened to determine if it must go to a hazardous landfill or if instead it will end up as fill elsewhere (on site, a school, a regular landfill, Sage Ranch?) even though it may contain other contaminants or exceed 990 levels. No mention is made of whether the soil will be screened for radioactivity, nor what standards (990?) would be used for such screening. Given past fiascos involving radioactively contaminated waste from the site being sent to local municipal landfills, these areas of silence are of concern.

10. We remain similarly concerned about the silence regarding coordination with Ventura County. The Regional Board has claimed exemption from CEQA for its orders to Boeing. The County must approve grading permits and CUP amendments for the ENTS, and presumably also for interim source removal efforts. The County has apparently been told by the Regional Board that the County will be the lead agency for CEQA for these efforts at the site. But the actions are being undertaken because of Orders by the Regional Board, and these matters involving chemical and radioactive contamination and effectiveness of various approaches in reducing pollutant levels in surface water runoff are beyond the competence of the County. It seems poor policy for the County to be stuck with lead responsibilities for CEQA review for complex technical issues associated with Orders from the Regional Board.

11. Furthermore, the interplay between the Interim Source Removal Order and the Order to put in place ENTS for Outfalls 8 and 9 remains very murky. In one place in the documents it sounds as though it is argued that source removal

eliminates the need for ENTS. In the tentative CDO, however, it is stated that the two together are required to reduce the likelihood of violations. The ENTS schedule seems to have been abandoned, replaced with nothing specific. The Boeing application to the County has been deemed by the County incomplete; Boeing hasn't filed the necessary information to complete it, so it remains in stasis. Is the Board requiring source removal as an alternative to ENTS for Outfalls 8 and 9, or requiring both? If the latter, will the ENTS design be changed in light of the source removal plan? And what happened to the schedule? When are the ENTS to be in place? ENTS were to be up and running now or very soon. Boeing seems to have stopped, but nothing has been made clear about plans for the ENTS or schedule.

12. The role of NASA remains unclear. For reasons we do not fully understand, the CDO and the source removal Order were directed to Boeing alone by the Board, even though the Orders indicate that part of Area I and all of Area II are owned by NASA, and that their areas are both responsible for much of the contamination and that much of the source removal work and ENTS must be done on their land. NASA has verbally stated at a public meeting last year at which Board staff were present that it was refusing to comply with any order requiring ENTS. It would neither pay for ENTS nor even allow Boeing to construct ENTS on NASA property. The Outfall 009 ENTS apparently must be located on NASA property, but NASA refuses. NASA says it prefers source removal. But the Board Orders appear to contemplate both source removal and ENTS. What the Board intends to do in response to NASA's refusal to cooperate on ENTS remains uncertain.

13. Even the role of the Santa Monica Mountains Conservancy is in question. We understand that part of the work is intended to be done on Sage Ranch property. Nothing about that is described in the documents released to date. What work? Has the Conservancy approved?

In short, we had come away from our January meeting with the understanding that the Board would no longer tolerate exceedances; the primary known contamination sources in these watersheds would be removed before the next rainy season; this would apply to all contaminants of concern; it would cover all outfalls where there are exceedances; and this would be done in close coordination with other agencies to assure it didn't interfere in any way with SB990.

Instead we learn that Board staff are now proposing to waive all enforceable numeric limits for Outfalls 8 and 9 for more than three years, making them unenforceable "benchmarks"; the interim measures could take until some time in 2012; they would apply only to Outfalls 8 and 9, and only to a few constituents of concern; and this would not comport with SB990 and raises the risk that interim measures that don't comply with 990 could end up permanent or interfere with final cleanup remedies.

We presume that what has happened is at variance with what you intended, and that both Boeing/NASA and your own staff have proposed approaches that don't comport with what you want and what you described to us.

But we are now in a difficult situation, as the actual proposals are so at variance with what we understood that if they were to go forward as specified, they might interfere with rather than facilitate getting the site cleaned up and public protection finally put in place. We should be clear: we are not opposing the plans as put forward, nor supporting them. We are troubled by them, and their divergence from what we had understood in January they are to be.

We recommend that you convene a meeting with yourself and your staff, key community representatives, staff of the electeds, and representatives of DTSC and Ventura County, and try to sort out these problems and get the situation back on track.

We have attached here some more detailed comments on specific pages of the ISRA.

Sincerely,

/S/

Daniel Hirsch

Page-by-Page Comments on ISRA

p1.-4 What is meant by statement that purged and extracted groundwater are “contained and disposed of offsite following appropriate regulatory requirements”? What requirements? How is it disposed of? Where?

Indicates that when the new groundwater extraction and treatment system is operational later this year, purged and extracted groundwater will be disposed of “as noted above.” Again, what is meant?

Fascinating – admits that parts of SSFL discharge surface water into Runkle Canyon and Woolsey Canyon. Previously Boeing had claimed no part of SSFL discharged into either via surface runoff. We’ve got contamination in Runkle and concern that Woolsey brought about contamination of Chatsworth Reservoir. This would seem to confirm that contaminated surface water from SSFL could have contaminated both.

1-6 claims Order directed them to control only the contaminants that are being exceeded, and only for Outfalls 008 and 009. We thought they were supposed to control all contaminants, and at all Outfalls. They have also limited the effect of the Order to only constituents exceeded between 2004 and March 2008. They have thus restricted their interpretation of the Order to lead for Outfall 008 and lead, copper, dioxins, oil and grease, and pH. This seems unbelievably limited. A key issue.

1-7 makes the same claim: action limited to removing sources of the constituents that are being exceeded in those Outfalls.

2-1 claims the 008 watershed is only 62 acres. seems low. are they narrowly defining the watershed?

2-2 note that despite all the description of perchlorate use at the 008 watershed, which drains to Dayton Canyon, where high perchlorate was found, they are exempting perchlorate from this plan, in part by only counting exceedances 2004 forward.

2-3 what “clean soil” borrow area on-site did they take the soil from for use in filling in the excavation? Area IV borrow area? what measurements were made of its contamination?

Note the very misleading discussion about monitoring “in Happy Valley as Outfall 008” in August 2004. I believe they had a different monitoring location for that outfall before then, with perchlorate hits though no enforceable limits at the time. They are referring only to the current NPDES discharge permit, and violations of it; not to previous permits. They say no exceedances except for lead; clearly there were for perchlorate before then. Indeed, claim limits and benchmarks were only established in 2006; so are they ignoring high readings before then?

p. 2-4 Note that 009 drainage drains to Arroyo Simi. Perchlorate containing igniters were found buried in the drainage; Dr. Tabidian had predicted perchlorate migration from SSFL down to the Arroyo Simi and thus contaminating groundwater in Simi, as had been now confirmed.

2-6 Note they had a PCB Storage Facility. We had always been led to believe PCBs were incidental quantities in transformers; now it appears they had so much PCBs, for unspecified uses, they had to have an entire PCBG Storage Facility.

And note the revelation about burning unspecified “operation wastes” in a catchment pond southeast of Bldg 2206 and in “the larger test stand skim ponds.” We had only been aware of burning wastes in the Area IV burnpit and the burnpit on Area I or II; now it appears wastes were burned in numerous skim ponds as well.

2-7 are they sure only non-hazardous wastes were burned in the Incinerator? seems unlikely, given the history of the site. Operational from mid 50s through the 70s but says STP was operational from 61 to 87. An incinerator operational from 50s on seems likely to have burned all sorts of hazardous stuff, given the history of the illegal burning of hazardous materials at the site.

2-8 again, misleadingly only deals with the 2004 permit. Was there no monitoring in Northern Drainage before that permit?

2-9 claims the oil and grease and pH exceedances are anomalies and ignores them. violates the order.

The primary part of the ISRA refers to past monitoring as part of the RFI process. That was pre-SB990; the RFIs are going to have be done over, or seriously revised, to reflect 990 required. Very few samples appear to have been taken. For one of the outfalls, only 1 sample for dioxin in the whole watershed, for example. The dataset appear very limited.