
23350 Lake Manor Drive, Chatsworth, CA 91311

January 12, 2009

Governor Arnold Schwarzenegger
State Capitol Building
Sacramento, CA 95814

Cc: CalEPA Secretary Linda Adams; SSFL Project Director, DTSC Norman Riley

Re: NPL Listing of Santa Susana Field Laboratory
Position: Non-concurrence with stipulation to revisit

Dear Governor Schwarzenegger,

Cleanuprocketdyne.org and ACME the Aerospace Cancer Museum of Education has been deeply involved in the clean-up efforts and lack thereof, for eight years now. We have seen extraordinary changes in the State's commitment to the site, thereby its' ability to enact change in an otherwise stalled process through past appellant efforts at every turn.

Today is different. Today, we have law on our side. SB 990 passed overwhelmingly and with bipartisan support. The City of Los Angeles, as well as the West Hills Neighborhood Council supported SB990 when it was ratified into law, as well as previous legislative efforts such as SB1444 also by Kuehl. We now have a mechanism, to get this right. Our confidence is with the State and the current leadership, who has been largely responsible for the Consent Order which has moved us into a long-needed, new and positive direction.

It is California's legacy, not EPAs and therefore ours to get right. This is not about blame, this is about responsibility. We cannot afford to allow another generation to go by, and say, "we tried, we did all we could." We now have a law, and a responsibility to that law, to get it right and see it through. We MUST see to the details of the best, most protective clean-up possible, and we have that in SB990, and the collaborative work we see ahead. We cannot just skip ahead to building a park with a monument because some don't have the attention-span or patience to bother. The only monument that I see as appropriate, needs to include the name of every person impacted, and their cancer or other illness, and we have now started that process in the "ACME Memorial Tile Project." The test-stands are contaminated with TCE from more than 200,000 rocket tests according to Rocketdyne's own brochure. We need proper characterization and clean-up of all pollutants of concern before any discussion of reducing the work to be done by putting a plaque on a test-stand. No one will be back again, there is no do-over, so we must think about the big-picture.

ARAR Applicable or Relevant Appropriate Requirement

The fact that EPA is signaling its intent to file an ARAR waiver on SB990 should tell us that we cannot afford to have EPA in the lead here. There are requirements under NCP¹ that require public notice, public process and comments from the community and state. The very idea that EPA might file a waiver to SB990 on the basis of specificity is even further alarming. It is inappropriate for EPA to make such a claim where a law might not be ARAR on the basis of specificity. JPL or perhaps Rocketdyne Canoga, now owned by Pratt Whitney could potentially make a claim that SB990 is not ARAR to them because it was written for Santa Susana Field Laboratory, and they are not the SSFL. The law was written to mandate action on the part of the owner/operator, or “polluter,” which EPA is neither. EPA’ job is to carry out and apply the law. If they are saying they will have trouble doing so, I think we need to listen, and say, “thanks, but no thanks” to NPL listing and USEPA lead over the State.

SB990 was written and passed through legislation to mandate clean-up that was otherwise not occurring to the satisfaction of the constituents of California. It is the specific circumstances about SSFL that are unique, in being the only nuclear melt-down in California’s history that inspired, and require specific law to apply. That is what the legislative process is for. It is not appropriate to now question this law, when our job is to carry out this law, in the best possible way. Time for opposition is long since past, like it or not, the law was signed in 2007. It is now 2009 and it’s time to get to work.

Since California can only legislate on issues within the State, and all other nuclear melt-down sites are located outside of the state, they therefore can only execute legislation within its borders. To then, claim that the law is not ARAR for that very same reason is outrageous, especially to make such a claim, so early in the process of characterization. We cannot afford to hand leadership of this site in the face of this knowledge of the impending result of that action – to do less than the law in the State of California.

Section 121(d) of CERCLA² where “Superfund will invoke an ARAR waiver (front-end decision) they must provide notice of this intent. This process under § 300.500-515 and § 300.430. This will clearly add to the time for the clean-up by perhaps a decade or more. It is also clear under EPA guidance that “shorter remediation timeframe reduce potential for human exposure and environmental receptors. Within the State process, we have an aggressive and attainable timeline in place in the Consent Order as signed by all parties in 2007. That process with SB990 implementation is on the desks of each of the parties today, and it is their responsibility to re-state their commitment to clean-up as they did when originally signing this binding document in 2007. “Clean up standards may take longer when EPA invokes ARAR waiver..”³

¹ NCP National Oil and Hazardous Substances Pollution Contingency Plan, 1990: requires compliance with ARARs during remedial actions and removal actions to the extent practicable.

² CERCLA Comprehensive Environmental Response Compensation Liability Act of 1980 require that remedial actions “attain” or “waive” all federal ARARs or more stringent State Environmental ARARs

³ CERCLA USEPA Guidance on ARAR.

We need to remember the behavior that got us here. We have several studies that all show increased cancers around the site, so instead of trying to trump those scientific efforts with new ones to erase the facts, let's put that energy into the best possible clean-up with our eyes open.

It wasn't because of a few beads left in the creek by the Chumash, that caused the ISEO to be issued on the Northern Drainage (Outfall 9). The headwaters to this creek is a drain pipe from the IEL and B1 areas of the SSFL and it was lead, asbestos, PAHs that were the problem, and the problem continued for decades. Let's not hide behind archeological issues when it was 1100 rocket igniters that were buried under an oak tree in a creek bed...in the park next door. It is **these** behaviors, that has left a legacy of a toxic mountain, and a mountain of issues. It wasn't a lone-"disposal operator" from the fifties, it was a mindset. We cannot afford to go back to that mindset today.

As far as SB990 implementation, there are really very few radionuclides where we have a problem with detection limits vs. the true PRG and for those, we need to deal with it, with our eyes open and agree to methods and technology and that involve compromise. But we cannot compromise on the law. We can work to these solutions and find fair background for comparison. We need to be careful that we don't just bull-doze the process or the site, in an effort of a "quick exit" or "quick park."

Finally, with SB990 the clean-up guidance is under chapter 6.8 of the H&S code, wherein there is no appeal process, we therefore, should not continue to stagnate under appellant efforts such as those [Boeing] efforts that took us to the State Water Resources Control Board due to violations of the Clean Water Act in recent years. The attention and effort will therefore remain with the proper remedy efforts emphasizing science and technology, instead of litigious efforts to avoid compliance. We have been defending SB990 for a year now. We feel it is time for us all to roll up our sleeves and get to work and see what can be accomplished.

Thank you for the opportunity to provide our perspective in this important decision.
With sincere thanks for your time and consideration,

Christina Walsh
Cleanuprocketdyne.org, founder/director
ACME Aerospace Cancer Museum of Education
A project of the International Humanities Center
and made possible by the Annenberg Foundation
<http://www.cleanuprocketdyne.org>
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