

DEPARTMENT OF TOXIC SUBSTANCES CONTROL
Draft Consent Order for Response Action: Santa Susana Field Lab
Legend of Changes

| Section | Title of Section | DTSC's Draft Consent Order for Response Action |
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| 1.3.2, 1.3.3, and 1.6 | Federal Authorities, Additional Statement of Authorities Related to DOE, and Denial of Liability; Reservation of Rights; No Admissions | The draft order has been modified to contain language that DTSC believes balances the concerns of the parties, especially the federal agencies, in a way that does not impact their unique circumstances. The new draft does not, however, contain provisions that would extend the statute of limitations. |
| 2.11 | N/A | Language was removed that created a concern that the Respondents intended to argue the site's intended use as a means of avoiding compliance with SB 990 cleanup standards. |
| 3.0 | N/A | Language was added to the order in the form of a new section to make it clear that all of the work performed under the agreement is intended to comply with the cleanup standards required by SB 990, and to affirm that the discretion available to DTSC in making its cleanup decisions are within the range allowed by state and federal Superfund requirements. |
| 3.1. | N/A | Language was changed to make it clear that the work that has begun can continue (to avoid unnecessary delays) but that any of the documents that need revisions will be revised and updated as necessary, especially to make them comply with State law (SB990). Language was also changed to ensure that the available guidance documents to be used are not limited, and that in using any of the guidance that is available, it must be understood and interpreted in light of SB 990's requirements. |
| 3.1.1 | N/A | Minor editorial change |
| 3.2.1 | N/A | Language was removed to make it clear that DTSC's highest priority is that it be cleaned up to protect public health and the environment, regardless of how the site may be used in the future. |
| 3.2.2 | Historical Site Assessment | Language was returned to what was proposed in version 1.9, to ensure that historical information is gathered and reviewed before it is used or incorporated into workplans. This is important to ensure that the workplans accurately address any issues identified in reviewing the site's history, especially as it pertains to the use and management of radioactive materials. |
| 3.2.3.2 | N/A | Language was modified to ensure that Boeing and NASA cannot exclude areas from the survey without DTSC's approval, and that this type of information should be included in any workplan that is submitted and not through some other means which would not be available for public comment. |
| 3.2.4. | Standardized Risk Assessment Methodology for Radionuclides and Chemicals | Language was added to reinforce that the risk assessment methodology is required to yield results that comply with SB 990. Language was removed that created a concern that the Respondents intended to argue the site's intended use as a means of avoiding compliance with SB 990 cleanup |

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|----------|---|--|
| | | standards. |
| 3.2.5 | Compliance with Health and Safety Code section 25359.20 | Language was added to reinforce that the risk assessment methodology is required to yield results that comply with SB 990. Language was removed from the order that was viewed as unnecessary. |
| 3.2.5.1 | Human Health Risk Range and Point of Departure. | Language was included to make it clear that the land use assumption specified in SB 990 is to govern the assumptions used to calculate estimated risk, and to clarify that the standards specified in SB 990 pertain to the final cleanup decisions, not simply to the screening of the site for risks. |
| 3.2.5.2. | Human Health Risks Incremental to Background | Language was changed to ensure that background levels of contaminants are included in the calculations of risk. |
| 3.2.5.3 | Detection Limits | Language was added to specify that the reporting limits will be established and specified through the chemical background study, similar to the way that radiologic reporting limits are being established as part of U.S.EPA's radiologic background study. |
| 3.2.5.4 | Reasonable Maximum Exposure | Language was modified to clarify that chemical exposures are to be estimated using the assumptions U.S.EPA used in developing the radionuclide Preliminary Remediation Goals. Redundant and unnecessary language was also removed. |
| 3.2.5.5. | Exposure Point Concentrations. | Language was modified to remove a presumptive use of guidance and software, and to ensure that any approach used to calculate the estimates is presented in reports for consideration and comment. |
| 3.2.5.6. | Human Exposure Pathways and Parameters | Language was added to acknowledge that there may be certain differences between the exposure pathways related to chemicals and those related to radionuclides, but that no different pathways or parameters may be used if DTSC does not agree. Language was removed that created a concern that the Respondents intended to argue the site's intended use as a means of avoiding compliance with SB 990 cleanup standards. Language was clarified so that assumptions regarding groundwater risks that are being used in the risk assessment procedures do not imply or result in justification to not characterize and clean up the groundwater at the site. |
| 3.3.1. | N/A | Language was added to make it clear that the use interim cleanup work cannot be used to bypass the need for more comprehensive characterization and cleanup (or compliance with SB990). |
| 3.3.6 | N/A | Language was added to ensure that, with the exception of emergency or immediate actions where timing is critical, all interim response action workplans be made available for review and public comment. Any interim cleanup activities |

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| | | that do not achieve SB 990 cleanup standards will be required to be revisited and additional work done to meet those standards. |
| 3.4.1. | N/A | Language was modified to clarify that any and all prior investigation reports are to be modified to ensure that they are in compliance with SB 990 standards, and to make sure that the use of any of these reports in developing Feasibility Study reports prior to their being updated may not result in the Feasibility Study reports not complying with SB 990. |
| 3.4.2. | N/A | Language was added that would allow any of the currently identified Operable Group Reporting Areas to be subdivided if that further subdivision helped in characterizing and cleaning up the site. |
| 3.4.5.1 | N/A | Language has been modified to ensure that confidential business information is handled appropriately, but also to ensure that DTSC is obligated to share relevant documents with the public even if they are initially identified as confidential business information. |
| 3.4.9. | N/A | Language was added to clarify that offsite wastes originating from any present or past operations at the site, including from activities of the employees of the Respondents, is subject to the order. |
| 3.4.12 | N/A | Language of the order has been changed to propose that rather than the Respondents conducting the chemical background study, that the Respondents will pay for a consultant that is under the direct control and direction of DTSC (similar to the website that Respondents have established, and also a similar arrangement to many CEQA EIR activities on DTSC projects). |
| 3.4.14. | N/A | Language inserted to further clarify that the land use covenant on the use of groundwater at the site is not intended as a final remedy, but only to ensure consistency with the assumptions being made in the risk assessment. |
| 3.5.1 | N/A | Language inserted to clarify that any Feasibility Study report prepared by Respondents complies with SB 990 specifically, as well as State Superfund in general. |
| 3.5.2 | N/A | <p>Language has been modified to not mandate specific technologies for evaluation (potentially requiring expenditure that is fruitless and unwarranted), but to allow Respondents to evaluate only those technologies that may exist that may prove beneficial.</p> <p>Language was eliminated that was not only redundant of a similar provision in 3.5.4.1, but also created the concern that Respondents might either use imported fill that was more contaminated than onsite soils, or alternately, create the possibility that cleanup would not occur due to difficulty in finding "clean" fill.</p> |
| 3.5.4.1 | N/A | Language was eliminated that was not only redundant of a similar provision in 3.5.4.1, but also created the concern that |

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| | | <p>Respondents might either use imported fill that was more contaminated than onsite soils, or alternately, create the possibility that cleanup would not occur due to difficulty in finding "clean" fill.</p> <p>In its place, language was added that any consideration of available fill would be made in the context of Feasibility Study workplans, rather than under an allowance created in the order.</p> |
| 3.5.5 | Impact on Resources | <p>Language was removed primarily because including the resource impact factors is unnecessary, and because it was included in such a way that was not linked to how the factors would be exercised.</p> <p>The removed language, absent any information as to how it would be used or procedurally where it would be used, created a concern that the Respondents intended to argue that resource impacts could be used as a means of avoiding compliance with SB 990 cleanup standards.</p> |
| 3.6.1 | N/A | <p>Language was added to make it clear that the cleanup decision represented in the draft Response Action Plan is to meet the cleanup standards of SB 990.</p> <p>Language regarding resource impact factors was removed because it was included in such a way that was not linked to how the additional factors would be exercised.</p> <p>As above, the removed language, absent any information as to how it would be used or procedurally where it would be used, created a concern that the Respondents intended to argue that resource impacts could be used as a means of avoiding compliance with SB 990 cleanup standards.</p> |
| 3.6.3 | N/A | <p>Language clarified to include state law considerations that must be included, as well as the NCP evaluation criteria.</p> |
| 3.7 | CEQA | <p>Language of the order has been changed to clarify the contractual mechanism through which DTSC would conduct the CEQA EIR. As in most other instances, this language requires the Respondents will pay for a consultant that is under the direct control and direction of DTSC.</p> |
| 3.8.1. | N/A | <p>Language added to clarify that an Operations and Maintenance plan is only to be prepared if it is necessary.</p> |
| 3.8.2 | N/A | <p>Language was modified to clarify that Boeing will maintain financial assurance for all relevant operation and maintenance activities at the site.</p> |
| 3.9. | Land Use Covenants. | <p>Language was modified to further clarify the circumstances under which institutional controls or land use covenants would be used, and to further clarify that restrictions on the use of groundwater at the site cannot be used as the only groundwater remedy.</p> |
| 4.8.1. | N/A | <p>Language was added to ensure that Respondents, to the extent they control access, are required to provide each</p> |

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| | | other mutual access to their respective portions of the site, and that refusal to provide each other access cannot be used as a reason for not carrying out responsibilities. |
| 4.10. | Change in Ownership | Language was clarified to ensure that a sale or transfer of ownership of Boeing does not alter its obligations under the order. Language was inserted to ensure that the conditions of SB 990 are met before a change in ownership can take place. |
| 4.16.1 | DOE and NASA. Availability of Federal Funds | Language was changed to require the federal agencies to make good faith efforts to seek the funds needed to do work required by the order. |
| 4.16.2. | Limitation of Federal Funds -- Boeing. | Language was modified to ensure that, regardless of the contractual relationship between Boeing and the federal agencies, because they too are a responsible party, the unavailability of federal funds cannot be used as a reason stop work at the site, and obligates Boeing to continue to clean up even if the federal funds are not available. |
| 4.20.4 | Dispute Resolution | Language was modified to ensure that disputes are elevated in an equivalent fashion between the disputing parties. |
| 4.21 | Force Majeure | Language was modified to compel Respondents to avoid circumstances that would impact their carrying out their responsibilities under the order. |
| 9.0. | N/A | Language was modified so that the existing 2007 Consent Agreement would only be suspended, rather than eliminated, so that it would be available to govern continued work at the site if this order or any of its provisions is found invalid or unenforceable. |
| 9.1. | N/A | Language was added to ensure that federal requirements regarding past operations are fulfilled. |