

**From:** Abe Weitzberg  
**To:** [Rohlfes.Larry@DTSC](mailto:Rohlfes.Larry@DTSC)  
**Cc:** [Kracov.Gideon@DTSC](mailto:Kracov.Gideon@DTSC); [Campbell.Arezoo@DTSC](mailto:Campbell.Arezoo@DTSC); [Vizzier.Mike@DTSC](mailto:Vizzier.Mike@DTSC); [allan.ono@doj.ca.gov](mailto:allan.ono@doj.ca.gov); [Negri.Francesca@DTSC](mailto:Negri.Francesca@DTSC); [Cordero.Antonette@DTSC](mailto:Cordero.Antonette@DTSC); [Leclerc.Ray@DTSC](mailto:Leclerc.Ray@DTSC)  
**Subject:** FW: SSFL and superfund  
**Date:** Saturday, November 12, 2016 11:24:11 AM  
**Attachments:** [Signed-Response\\_letters\\_to\\_2008-1611\[1\].pdf](#)  
[noreply@dtsc.ca.gov\\_20150206\\_092727-TASC\\_and\\_Chris\\_Rowe.pdf](#)  
[noreply@dtsc.ca.gov\\_20150206\\_092324-NPR\\_listing\\_letter.pdf](#)  
[noreply@dtsc.ca.gov\\_20150206\\_085636\\_Redacted.pdf](#)  
[Re\\_telcon\\_today\\_w\\_Louise\\_&\\_me\\_\(2\)-3-30-09.pdf](#)  
[dec6letterepassfl.pdf](#)  
[3080\\_Nastri\\_SSFL\\_011508.pdf](#)  
[3668\\_WAYNE\\_NASTRI\\_LETT\\_FROM\\_SECY\\_ADAMS\\_SSFL\\_NPL.pdf](#)

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Larry,

After my presentation to the IRP at their September 20th meeting in Chatsworth, I was asked a question about SSFL cleanup as a Superfund site. Attached are documents relating to the prior history of that issue.

The documents include a DOE letter requesting inclusion of SSFL on the National Priorities List as a Superfund site, and CalEPA letters delaying and eventually rejecting inclusion. The documents also include email trails (just representative samples) from Dan Hirsch showing his involvement in Linda Adams' decision. Other emails show similar improper influence by Hirsch on DTSC actions. It is not unreasonable to ask by what perversion of the California regulatory process for the remediation of SSFL is it appropriate for Dan Hirsch, a private citizen antinuclear activist, to comment on a draft response from Linda Adams, California Secretary for Environmental Protection, to the EPA, eventually leading to California's rejection of SSFL as a superfund site.

I have previously supplied documentation of Hirsch's involvement with the 2010 AOCs and the unconstitutional SB-990. DTSC has not been willing to provide their internal documentation of how these were drafted and whether or not there was improper influence by Hirsch. It should be noted that the recipients of the Hirsch emails include most of the elected officials from the area as well as Grant Cope, formerly of Senator Boxer's office and now Deputy Secretary for Environmental Policy for CalEPA as well as William Craven, now of Senator Pavley's office.

The issue of improper political influence by special interests be it from the public or from responsible parties should be of concern to the IRP as they address issues and recommendations for DTSC site remediation activities. Hirsch and his surrogates have rejected the remediation of SSFL using EPA risk-based methods as are universally applied throughout the US. Via SB-990 and the 2010 AOCs they forced implementation of arbitrary standards of cleanup to background or detect, independent of risk. As members of the SSFL Workgroup and the Rocketdyne Cleanup Coalition they have effectively prevented any outside review of SSFL risks, be it from CDC/ATSDR or EPA TASC, and denigrated those citizens who oppose the Workgroup narrative and support a risk-based cleanup.

I respectfully request the IRP to review the information that I have provided and ultimately recommend that DTSC act to remove political and special interest interference in future SSFL remediation decisions as well precluding any potential interference at other sites. Director Barbara Lee has stated that SSFL decisions would be based on science and the law but it would be difficult, if not impossible, to do that if the political interference remained paramount.

Thank you,  
Abe

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Abe Weitzberg phone: 818-347-5068  
5711 Como Circle mobile: 301-254-9601  
Woodland Hills, CA 91367



## Department of Energy

Washington, DC 20585

October 10, 2008

The Honorable Susan Bodine  
Assistant Administrator  
Office of Solid Waste and Emergency Response  
U.S. Environmental Protection Agency  
Washington, DC 20460

Dear Ms. Bodine:

The U.S. Department of Energy (DOE) supports a comprehensive cleanup at the Santa Susana Field Laboratory (SSFL) in Ventura County California and has become increasingly concerned about the inability of the multiple parties to coordinate and make progress toward environmental remediation at the site. DOE is responsible for environmental remediation of a portion of the SSFL as a result of DOE sponsored nuclear energy research at its Energy Technology Engineering Center (ETEC) in SSFL's Area IV. This past summer, DOE and the U.S. Environmental Protection Agency (EPA) entered into an Interagency Agreement, as directed by Congress in P.L. 110-161, in which DOE provided funding for EPA to develop a radiological background study at SSFL and to draft a proposed scope, schedule and cost estimate for a radiological survey of SSFL Area IV. DOE and EPA staff have worked together and consulted with each other over the past 18 months on these and other issues at SSFL.

In December 2007, the results of EPA's hazard ranking survey of the entire SSFL site indicated that the site qualifies for listing on the National Priority List (NPL) as a Superfund site. Since that time, the State of California has twice requested that EPA defer listing the site on the NPL while discussions are held with the site owners (the Boeing Company and the National Aeronautics and Space Administration), DOE, EPA and selected community representatives. EPA has granted both deferral requests and stated in its September 2008 letter to the Secretary of the California Environmental Protection Agency that EPA would not consider listing the site until spring 2009. In DOE's estimation, these ongoing discussions are unlikely to resolve all of the issues that currently inhibit comprehensive and timely cleanup of the SSFL.

The September 2008 letter from Mr. Wayne Nastri, EPA's Regional Administrator, for Region IX granting the second deferral, contained the following statement:

At this time, four laws (state hazardous waste law, state Superfund law, NEPA and CERCLA) and their attendant process are being used to address this site. Multiple parties are conducting investigations in different parts of the site without the coordinated review and approval of a single regulatory agency. Absent listing SSFL, it is not clear who will be held accountable for all site contaminants and implement a fully protective cleanup at SSFL.



DOE agrees with this statement and believes the most effective approach is for EPA to list SSFL on the NPL with site-wide cleanup under EPA's Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) authority, coordinated with state Resource Conservation and Recovery Act (RCRA) authority (e.g., using a Federal Facility Agreement). This approach provides EPA oversight of cleanup activities by DOE, as well as by landowners Boeing and NASA. Additionally, it provides an opportunity for a comprehensive cleanup to proceed in a more efficient and effective manner by eliminating some of the overlap and duplication of cost and effort that appears unavoidable under the current regulatory regime.

The Superfund program also provides an orderly way to comprehensively evaluate the site and determine appropriate cleanup methods and goals and thus would provide a way to resolve current controversies over cleanup in a fashion that is well understood by both DOE and EPA. DOE has worked effectively with EPA as the CERCLA regulator and various state entities as the RCRA regulator under federal facility agreements at a number of environmental remediation sites across the country. This type of regulatory regime also succeeds by including considerable public participation and community involvement, which is an essential element of the cleanup of SSFL.

DOE recommends listing SSFL on the NPL as soon as feasible and supports EPA in taking this step. Ultimately, NPL listing will expedite a comprehensive cleanup of SSFL and should result in a more efficient cleanup.

If you have any questions, please contact me at (202) 586-7709.

Sincerely,



James A. Rispoli  
Assistant Secretary for  
Environmental Management

cc: Mark Batkin, NASA  
W. James Biederman, U.S. General Services Administration  
Steven Rogers, The Boeing Company



## Department of Energy

Washington, DC 20585

October 10, 2008

Mr. Wayne Natri  
Regional Administrator  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

Dear Mr. Natri:

The U.S. Department of Energy (DOE) supports a comprehensive cleanup at the Santa Susana Field Laboratory (SSFL) in Ventura County California and has become increasingly concerned about the inability of the multiple parties to coordinate and make progress toward environmental remediation at the site. DOE is responsible for environmental remediation of a portion of the SSFL as a result of DOE sponsored nuclear energy research at its Energy Technology Engineering Center (ETEC) in SSFL's Area IV. This past summer, DOE and the U.S. Environmental Protection Agency (EPA) entered into an Interagency Agreement, as directed by Congress in P.L. 110-161, in which DOE provided funding for EPA to develop a radiological background study at SSFL and to draft a proposed scope, schedule and cost estimate for a radiological survey of SSFL Area IV. DOE and EPA staff have worked together and consulted with each other over the past 18 months on these and other issues at SSFL.

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Your September 2008 letter, granting the second deferral, contained the following statement:

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DOE agrees with this statement and believes the most effective approach is for EPA to list SSFL on the NPL with site-wide cleanup under EPA's Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) authority, coordinated with state Resource Conservation and Recovery Act (RCRA) authority (*e.g.*, using a Federal Facility Agreement). This approach provides EPA oversight of cleanup activities by DOE, as well as by landowners Boeing and NASA. Additionally, it provides an opportunity for a comprehensive cleanup to proceed in a more efficient and effective manner by eliminating some of the overlap and duplication of cost and effort that appears unavoidable under the current regulatory regime.

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DOE recommends listing SSFL on the NPL as soon as feasible and supports EPA in taking this step. Ultimately, NPL listing will expedite a comprehensive cleanup of SSFL and should result in a more efficient cleanup.

If you have any questions, please contact me at (202) 586-7709.

Sincerely,



James A. Rispoli  
Assistant Secretary for  
Environmental Management

cc: Mark Batkin, NASA  
W. James Biederman, U.S. General Services Administration  
Steven Rogers, The Boeing Company

**From:** Daniel Hirsch <CBGHirsch@aol.com>  
**To:** Rick Brausch <RBrausch@dtsc.ca.gov>  
**Date:** 1/13/2009 9:20 AM  
**Subject:** NPL listing ltr

Hope you felt the briefing yesterday worked out OK. Was awkward to have both the electeds/staffs and the community at the same time, because of that difficult Chris Rowe being present. Seemed to go fine, all things considered.

Can you take a look at current draft of ltr to USEPA on NPL and see if the language on reserving right to revisit the issue if circumstances change is sufficient? Original draft had no such statement; I talked to Norm, who put in a sentence, but it sounded a bit anemic to me. Linda said it well at the briefing, and language like hers ought to be in the letter, it seems to me.

Dan

**From:** [Daniel O Hirsch](#)  
**To:** [Brausch, Rick](#)  
**Subject:** Re: telcon today w Louise & me?  
**Date:** Monday, March 30, 2009 11:06:55 AM

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Rick,

Yes.

The crisis that triggered all of this was the secret decision in December by EPA to pull the plug on all support -- technical, financial, leadership, energy -- from the SSFL InterAgency Workgroup (by the way, that is its formal title, not Community Workgroup). This placed the entire continuation of the Workgroup at risk, as the RPs refused to fund it, saying they didn't like "getting beat up by Hirsch," but would fund a CAG.

But the larger issue was the effort by EPA to essentially withdraw all of its involvement and cooperation from the cleanup, with the exception of the radiation survey which EPA is being forced, against its will, by Congress to undertake. EPA's pullback efforts have been an incremental problem during the Bush Administration, but has escalated in the last few months. They want out.

The Workgroup had been established in the early 90s at the request of Congressman Gallegly to get deep involvement by EPA in this site. DOE is a self-regulating entity that polluted its sites around the country through decades of ignoring the environmental laws of the nation and conducting its operations in secret. EPA is the repository of environmental expertise. So Gallegly got EPA to agree to convene and chair an InterAgency Workgroup, with community participation, and provide EPA technical expertise and coordination to the cleanup effort.

This involved things like having Gregg Dempsey from the EPA national rad lab overseeing the radiation survey of the nearby Brandeis Camp and the Sage Ranch park and critique DOE's onsite radiation survey (a piece of junk) which led to DOE having to abandon the prior work. DOE didn't like EPA's criticisms, and the two agencies were at loggerheads much of the time. The community was critical of both agencies -- DOE for breaking its promises, EPA for being so weak in carrying out the task it had been assigned.

When the NPL listing issue arose, the EPA Region IX folks transferred SSFL internally from its RCRA division to new people at its CERCLA division; and things then got even worse for us. If they couldn't get NPL listing, they would pull out entirely was the threat.

The community, long bruised, had minimal expectations. So it focused on the biggest threat -- the shutting down of the Work Group. But what it really wants, besides continuation of the Work Group, is for EPA to start acting in a cooperative fashion; providing the technical expertise long requested; helping move the cleanup along rather than impeding it.

So the crisis regarding EPA pulling the plug on the Work Group was

part of a much larger picture: EPA, DOE, NASA, and Boeing all working to resist 990, place roadblocks to getting the cleanup going, and hostility to the community and its health concerns.

The big task ahead is to get the federals--EPA, DOE, and NASA--to stop impeding the cleanup progress. A strategy as to how to do that, given the new Administration in DC, is needed.

Dan

On Mar 26, 2009, at 6:37 PM, Rick Brausch wrote:

> I need to clarify something with you regarding the SSFL Community  
> Workgroup. The discussions for the most part about the continuation  
> of the workgroup have been around the funding - from EPA or the  
> State or Boeing. It was what Norm was negotiating for, and is the  
> message Linda carried to Administrator Jackson (even though her  
> letter was not specific as to the nature of the support she sought).  
>  
> A distinction this is catching my eye, most specifically in Asm  
> Brownley's letter, although you may have been saying it all along  
> and I missed it, has to do with more than just funding, but EPA's  
> involvement. Asm Brownley's letter makes reference to her  
> disappointment that EPA is ending its administrative and oversight  
> role, even though it has agreed to interim funding. My initial  
> reaction to her statement centered on the short term nature of the  
> funding arrangement EPA has made using DOE's funds. On careful  
> reading, it seems to me that I may have been too focused on the  
> money, and not on other substantive issues - EPA's administrative  
> and oversight role of the Working Group. I know that Norm has  
> committed DTSC to the continuing administrative and oversight role  
> using EPA/DOE's money, but my question:  
>  
> Does DTSC's assumption of the administrative and oversight role for  
> the Working Group pose a problem, or at least not solve the problem  
> being raised? As I perceive it, the Working Group with EPA running  
> it is a different animal than the Working Group with DTSC running  
> it. Can you tell me if we've missed the mark here? Should we have  
> been asking and pushing EPA for something more than just money?  
> Thanks



# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



*LINDA S. ADAMS*  
SECRETARY FOR  
ENVIRONMENTAL  
PROTECTION

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*ARNOLD  
SCHWARZENEGGER*  
GOVERNOR

## VIA CERTIFIED MAIL

January 15, 2008

Mr. Wayne Nastri  
Regional Administrator  
U.S. Environmental Protection Agency  
Region IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

Re: Santa Susana Field Laboratory, Ventura County

Dear Mr. Nastri:

Thank you for your December 6, 2007 letter regarding the possible placement of the Santa Susana Field Laboratory (SSFL) site on the federal Superfund National Priorities List (NPL). The Governor has asked me to reply on his behalf. The State strongly agrees with the need for a comprehensive and protective cleanup of this site and welcomes the opportunity to partner with the U.S. Environmental Protection Agency (USEPA) to ensure that the cleanup is completed at the earliest possible date.

Recent State actions create an unprecedented opportunity to achieve a comprehensive, protective and expedited cleanup of the SSFL site. Those actions include the following:

- 1) In August 2007, the State entered into a formal agreement with Boeing, the U.S. Department of Energy (DOE), and the National Aeronautics and Space Administration (NASA) for the investigation and cleanup of the site (with the soils to be cleaned up and a groundwater treatment system to be in place by 2017);
- 2) The Governor signed into law SB 990 (Kuehl, 2007) regarding the cleanup of this site;

3) The California Resources Agency and the California Environmental Protection Agency (CalEPA) signed a Letter of Intent with Boeing in which Boeing agreed to clean up the property to protective standards and to transfer the property to the State for open space or parkland after it has been fully cleaned up (residential use would be prohibited); and

4) The State intends to negotiate a formal agreement with Boeing that is consistent with SB 990 and the Letter of Intent with Boeing within the next six months.

In light of these recent breakthroughs, I request on behalf of the State that USEPA defer for six months the decision regarding whether to propose listing for this site, in order that the State may negotiate a formal clean-up agreement and may fully evaluate possible impacts and ramifications of an NPL listing on achieving our goals. Attached is a new Letter of Intent between the State and individuals and organizations that care greatly about the cleanup of this site. In this Letter of Intent, the individuals and organizations **concur** with the State's request for a deferral of USEPA's decision regarding whether USEPA should propose NPL listing for the site.

As the Department of Toxic Substances Control (DTSC) takes strong action to lead the cleanup of the SSFL site, Cal/EPA and DTSC request that USEPA take the following actions to work as a partner with the State for effective and expedited cleanup:

1) Take the lead role in the USEPA/Department of Energy radiological characterization survey of the SSFL site that is required by H.R. 2764; conduct a full and comprehensive radiological characterization survey based on the cleanup standards in SB 990; and involve the DTSC in the preparation, performance and completion of that survey;

2) Provide technical assistance to DTSC in its evaluation of radiological contamination at the site and in surrounding areas;

3) Provide technical assistance to DTSC in the development and implementation of a comprehensive study to establish background values for both chemical and radiological contaminants at the site;

4) Provide DTSC and USEPA regional staff with access, as needed, to CERCLA radiation experts in the Office of Superfund Remediation and Technology Innovation at USEPA headquarters, for technical consultations; and

5) Provide technical support through USEPA's Radiation and Indoor Environments National Laboratory in Las Vegas, Nevada.

Please note that in the attached Letter of Intent, the undersigned individuals and organizations are stating that they concur with this request for USEPA support.

Mr. Wayne Nastri  
Page 3  
January 15, 2008

CalEPA welcomes the opportunity to brief you and your staff on the progress the State has made and the ambitious schedule. We look forward to clearly establishing how best to collaborate on an expeditious cleanup that protects the residents in the vicinity of the site.

Sincerely,

Linda S. Adams  
Secretary for Environmental Protection

Attachment

cc: The Honorable Arnold Schwarzenegger  
Governor of California  
State Capitol Building  
Sacramento, California 95814

The Honorable Diane Feinstein  
United States Senate  
331 Hart Senate Office Building  
Constitution Avenue & 2<sup>nd</sup> Street NE  
Washington, DC 20510

The Honorable Barbara Boxer  
United States Senate  
112 Hart Senate Office Building  
Constitution Avenue & 2<sup>nd</sup> Street NE  
Washington, DC 20510

The Honorable Henry Waxman  
U.S. House of Representatives  
2204 Rayburn House Office Building  
Washington, DC 20515-0523

The Honorable Elton Gallegly  
U.S. House of Representatives  
2309 Rayburn House Office Building  
Washington, DC 20515-0523

The Honorable Brad Sherman  
U.S. House of Representatives  
2242 Rayburn House Office Building  
Washington, DC 20515-0524

Mr. Wayne Nastri  
Page 4  
January 15, 2008

The Honorable Sheila James Kuehl  
California State Senate  
State Capitol, Room 5108  
Sacramento, California 94249-0041

The Honorable Julia Brownley  
California State Assembly  
State Capitol, Room 6011  
Sacramento, California 95814

The Honorable Audra Strickland  
California State Assembly  
State Capitol, Room 4208  
Sacramento, California 95814

The Honorable Member Cameron Smyth  
California State Assembly  
State Capitol, Room 4153  
Sacramento, California 95814

Chris Kahn, Legislative Secretary  
Governor's Office  
State Capitol  
Sacramento, California 95814

Mike Chrisman, Secretary  
Resources Agency  
1416 Ninth Street, Suite 1311  
Sacramento, CA 95814

Karen Scarborough, Undersecretary  
Resources Agency  
1416 Ninth Street, Suite 1311  
Sacramento, CA 95814

Cindy Tuck, Undersecretary  
California Environmental Protection Agency  
P.O. Box 2815  
Sacramento, California 95812-2815

**From:** Daniel O Hirsch <cbghirsch@aol.com>  
**To:** Rick Brausch <RBrausch@dtsc.ca.gov>  
**Date:** 5/15/2009 11:25 AM  
**Subject:** "fact sheet"

Rick,

Note that the M.O. is always the same -- they misrepresent 990, claim it isn't technically achievable, that 990's cleanup level (usually asserted by them to be capped at 10-6, rather than point of departure) is below background and you would have to clean up to below background. That is what they claimed a year and a half ago, which led to the fiasco with the Governor and Linda being led to believe they needed to do the deal to vitiate 990, corrected when they learned they had been misled about this; it is what DOE, NASA, and Boeing claimed to outgoing EPA Assistant Administrator Bodine when they tried the end-run around 990 with the effort to list the site before Bush left office; and what they are doing now with the Congress and Justice Dept. Smells like the same people behind each effort, same pattern -- knowingly lie about 990, saying it is technically impossible to meet because you would have to clean up below background, as part of a push to evade or bypass the law.

Dan



**From:** Daniel O Hirsch <cbghirsch@aol.com>  
**To:** "Rick Brausch" <RBrausch@dtsc.ca.gov>  
**Date:** 5/15/2009 8:46 PM  
**Subject:** Re: SSFL - NASA

Rick,

Thanks for the report, and the progress.

Fran Pavley would like to send a letter to Boxer on both the transfer and the broader indications of efforts to break out of 990, asking her to intervene. Let's talk Monday about what would be helpful.

A good weekend for you, I hope.

Dan

On May 15, 2009, at 7:01 PM, Rick Brausch wrote:

- > Dan
- > We had a good call with the Congressional staff today. Grant and
- > Ryan are going to be talking to the Senators to ask them to act
- > through the Senate Committee to object to the transfer process.
- > Waxman and Gallegly's staff will be pursuing similar on the HR side.
- > They asked if Linda could send a letter similar to the one Maziar
- > did to help push it. I spoke with Linda, and will be sending it to
- > them on Monday, so it's ready to go.
- >
- > We also raised the alarm bells about the misrepresentations in GSA's
- > fact sheet regarding SB 990 and a concern that there may be issues
- > with their commitment to comply with state law. So they're on
- > notice. No particular course of action set for that - the more
- > immediate issue is the transfer process.
- >
- > Have a good weekend.
- > Rick
- >
- > PS. I informed Linda of Norm's recent episodes of apologetics. She
- > was mortified. I told her that Maziar was aware and working on it.



**From:** Daniel O Hirsch <dohirsch@ucsc.edu>  
**To:** Rick Brausch <RBrausch@dtsc.ca.gov>  
**Date:** 5/17/2009 9:09 PM  
**Subject:** I figured it out

Rick,

I think I have figured out what the RPs are up to, and what you need to look for in the Consent Order draft. If I'm right, a pretty bold set of moves, and clear why they didn't want me to see it.

Boeing, on behalf of itself, NASA, and DOE, a month ago submitted to Norm an extraordinary document. I wasn't provided a copy let alone informed of it, but by accident stumbled across it yesterday. Download it here

[http://www.dtsc-ssfl.com/files/lib\\_feasibilitystudy/feasibilitystudywork/Feasibility Study Work Plan April 2009.pdf](http://www.dtsc-ssfl.com/files/lib_feasibilitystudy/feasibilitystudywork/Feasibility%20Study%20Plan%20April%202009.pdf)

It claims to be prepared in anticipation of the revised Consent Order, so it gives us interesting hints of what the RPs think they were able to get into the Order.

I call your attention particularly to the discussion of what laws they say they must comply with, on pages 3-9, 3-14; also look at 3-16, 4-1, and 2-2.

In short, they are implying that the Consent Order requires them to follow 25356.1.5 of Chapter 8 (the long-existing provisions of State Superfund), but NOT 25359.20, which is SB990, which they leave out. They interpret 25356.1.5 (with 990 left out), as permitting them to use current and expected land use rather than the rural residential scenario required in 25359.20, and allow them to rely on remedies of land use restrictions rather than cleanup. In short, they imply they get to follow federal CERCLA and don't have to follow 990's specific directions. Just as they tried to get the site on the NPL, because they figured they could get out of the rural residential requirement that way, they are now trying to interpret state law as being identical in all particulars to CERCLA and thus can ignore the 990 requirements.

The question is whether they succeeded in fact in getting such language into the draft Order. It would give what Boeing said it wanted all along -- be returned to the situation they were in before 990 became law.

Let's talk as soon as possible.

Dan



**From:** Daniel O Hirsch <CBGHirsch@aol.com>  
**To:** Rick Brausch <RBrausch@dtsc.ca.gov>  
**Date:** 5/18/2009 8:54 PM  
**Subject:** Linda to DC?

Rick,

I see that the Governor and Senator Pavley have been invited to DC for tomorrow's announcement of the deal regarding auto mileage standards. Is Secretary Adams going as well? If so, might she have an opportunity to press anyone at the White House (e.g., Sutley?) or on the Hill to help stop the SSFL land transfer and to get DOE, NASA, etc. to stop resisting 990?

Dan



**From:** Daniel O Hirsch <cbghirsch@aol.com>  
**To:** Rick Brausch <RBrausch@dtsc.ca.gov>  
**CC:** Louise Rishoff <Louise.Rishoff@asm.ca.gov>  
**Date:** 5/20/2009 9:46 AM  
**Subject:** deadline for blocking NASA action?

Rick,

When does the time run out that NASA said it would defer the action of telling GSA the land is excess and starting the train rolling at GSA? When were the Congressional staff going to go to their respective committees acting them to intervene?

Are they waiting for the local legislators to send the confirming letter to their prior email?

I am concerned NASA could act before Louise is able to move her letter, or more importantly, before the Congressionals act with their committees to object and stop it.

Have you had any contact with the Congressional staff this week? Do you know if they have acted, and do they understand the practical deadline?

Dan



**From:** Daniel O Hirsch <cbghirsch@aol.com>  
**To:** "Rick Brausch" <RBrausch@dtsc.ca.gov>  
**CC:** "Louise Rishoff" <Louise.Rishoff@asm.ca.gov>  
**Date:** 5/20/2009 10:38 AM  
**Subject:** Re: deadline for blocking NASA action?

Thanks. On May 12, Merrilee Fellows of NASA transmitted to Louise and the other Cal leg staff who had raised concerns an email responding in part to the concerns they had raised and stating, "NASA has not yet forwarded its Report of Excess to GSA; we plan to submit that report next week." As that statement was made last week, it would mean the report was being forwarded this week, so we may be running out of time. On May 20, 2009, at 10:05 AM, Rick Brausch wrote:

> I have calls in to both Grant and Ryan. I'll let you know what I  
> hear.  
>  
> Rick Brausch  
> Deputy Director  
> Office of Legislative and Regulatory Policy  
> Department of Toxic Substances Control  
> (916) 327-1186  
> fax (916) 324-1808  
>  
>  
>>>> Daniel O Hirsch <cbghirsch@aol.com> 5/20/2009 9:45 AM >>>  
> Rick,  
>  
> When does the time run out that NASA said it would defer the action of  
> telling GSA the land is excess and starting the train rolling at GSA?  
> When were the Congressional staff going to go to their respective  
> committees acting them to intervene?  
>  
> Are they waiting for the local legislators to send the confirming  
> letter to their prior email?  
>  
> I am concerned NASA could act before Louise is able to move her  
> letter, or more importantly, before the Congressionals act with their  
> committees to object and stop it.  
>  
> Have you had any contact with the Congressional staff this week? Do  
> you know if they have acted, and do they understand the practical  
> deadline?  
>  
> Dan



**From:** Daniel O Hirsch <cbghirsch@aol.com>  
**To:** Louise Rishoff <Louise.Rishoff@asm.ca.gov>, Rick Brausch <RBrausch@dtsc....>  
**Date:** 5/21/2009 3:23 PM  
**Subject:** any word re Congressional action on NASA?



**From:** Daniel O Hirsch <CBGHirsch@aol.com>  
**To:** Rick Brausch <RBrausch@dtsc.ca.gov>, Louise Rishoff <Louise.Rishoff@asm....>  
**Date:** 5/21/2009 9:47 PM  
**Subject:** pre-emption

Obama just announced new policy that fed agencies should not claim pre-emption regarding state laws unless absolutely necessary:

[http://www.washingtonpost.com/wp-dyn/content/article/2009/05/21/AR2009052104016\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2009/05/21/AR2009052104016_pf.html)

[http://www.whitehouse.gov/the\\_press\\_office/Presidential-Memorandum-Regarding-Preemption/](http://www.whitehouse.gov/the_press_office/Presidential-Memorandum-Regarding-Preemption/)

also cites a 1999 Executive Order

<http://www.epa.gov/fedrgstr/eo/eo13132.htm>



**From:** Daniel O Hirsch <cbghirsch@aol.com>  
**To:** Rick Brausch <RBrausch@dtsc.ca.gov>, Louise Rishoff <Louise.Rishoff@asm....>  
**Date:** 5/26/2009 9:44 AM  
**Subject:** Fwd: Santa Susana Mountain Area Committee Meeting Agenda for May 27 2009  
**Attachments:** C5SSMACAGENDA052709.doc

Rick and Louise,

The latest from Chris Rowe, for a meeting she has called for Wed night.

1. Note that although GSA has so far declined to meet with the state over the land transfer, they are sending a representative to Chris Rowe's 5 person committee. NASA, DOE, Boeing, and DTSC will all be there.

2. Rowe is putting forward motions urging:

- (a) formation of a CAG
- (b) changing the composition of the Work Group

Dan

Begin forwarded message:

> From: Chris Rowe <crwhnc@gmail.com>  
> Date: May 23, 2009 5:41:52 PM PDT  
> To: Chris.Rowe@westhillsnc.org  
> Subject: Santa Susana Mountain Area Committee Meeting Agenda for May  
> 27 2009  
>  
> Attached is the agenda for the May 27 2009 SSMAC meeting.  
>  
> Chris Rowe  
> Vice Chair - Santa Susana Mountain Area Committee  
> West Hills Neighborhood Council

**The WEST HILLS NEIGHBORHOOD COUNCIL's  
SANTA SUSANA MOUNTAIN AREA COMMITTEE  
AGENDA**

**WEDNESDAY, May 27, 2009 @ 7:00 p.m.**

**at the Fairwinds Retirement Center, 8138 Woodlake Ave, West Hills**

(the Southwest corner of Roscoe and Woodlake – enter from Woodlake)

1. **CALL TO ORDER** and **SELF-INTRODUCTION OF PARTICIPANTS** with **BRIEF** elaboration of recent activities, conferences, meetings or communications of interest.
2. **APPROVAL of the AGENDA**
3. **CHAIRPERSON's COMMENTS:**
4. **Tom Seckington, a hydrogeologist with DTSC for the Santa Susana Field Lab project will be discussing the "Dynamics of surface and deep water flow at SSFL".**
5. Allen Elliott and Merrilee Fellows of NASA will be present to update our committee on the Santa Susana Field Lab portion owned by NASA. We are in a public comment period with DTSC for the cleanup of AREA II and the LOX area which are owned by NASA. "THE GROUP 2 RCRA FACILITY - Public Comment Period: April 20, 2009 – June 4, 2009"  
[http://www.dtsc-ssfl.com/files/lib\\_public\\_involvement\\_notices/3758\\_SSFLGroup2%20PN409.pdf](http://www.dtsc-ssfl.com/files/lib_public_involvement_notices/3758_SSFLGroup2%20PN409.pdf)
6. **W. James Biederman of the U.S. Federal General Services Administration (G.S.A.) will be present to explain the process that NASA must go through when they decide that they have no further use for a particular property.**
7. **Thomas Johnson and Stephanie Jennings of ETEC (DOE) will make a report on the AREA IV cleanup of the Santa Susana Field Lab.**
8. **Alec Uzemeck of the WHNC will report on the current status of the Corporate Pointe site. There will be discussions regarding this property in regards to recent sampling required by DTSC and an Order for Sampling from the LARWQCB.**
- 9) **Action Items - Motions to take to the full Board on June 3, 2009:**
  - 1) **A Motion by the WHNC Board to request that a formal group be formed that recognizes all of the communities that are impacted by the Santa Susana Field Lab. This motion will be formalized prior to the meeting and discussed.**

2) A recommendation by the WHNC Board that the existing SSFL Workgroup be required to include representatives from the many groups involved in the cleanup of the Santa Susana Field Laboratory. There are only two community members on the Workgroup at this time – they represent Simi Valley.

3) The request for a health risk analysis for the communities surrounding the Santa Susana Field Lab.

4) The request for a health risk analysis for the communities surrounding the Corporate Pointe site.

10. Discussion on the proceedings of the TASC meeting of May 26<sup>th</sup>

11. ANNOUNCEMENTS of Important Meetings.

a. TASC Meeting – Tuesday, May 26<sup>th</sup>, 2009, 6:30 PM – 9:30 PM at the Radisson Hotel, 9777 Topanga Canyon Blvd, Chatsworth. This is a meeting with the EPA to discuss getting help from experts to read technical documents.

b. Santa Susana Field Lab Workgroup Meeting - Thursday, May 28<sup>th</sup>, 2009, 6:30M – 10:00 PM. Simi Valley Cultural Arts Center, 3050 Los Angeles Avenue, Simi Valley, CA 93063

12. Communication with other concerned groups, agencies, and government officials.

13. PREPARATIONS for our next meeting – June 24 – Fairwinds – 7 p.m.

a. Chatsworth Nature Preserve

b. San Fernando Valley Aquifer System

c. Stormwater and the Los Angeles River system

d. Dayton Canyon - a request for a new EIR

e. Orcutt Ranch – is it safe to eat the fruit and vegetables grown there?

14. ADJOURNMENT – 9:00 p.m.



**From:** Daniel O Hirsch <cbghirsch@aol.com>  
**To:** Rick Brausch <RBrausch@dtsc.ca.gov>, Louise Rishoff <Louise.Rishoff@asm....>  
**Date:** 5/26/2009 10:28 AM  
**Subject:** busy SSFL week

G'Day,

Hope you had a restful holiday weekend. This coming week looks pretty full:

1. Tonight (Tuesday): EPA TASC mtg [6:30-9 pm Radisson Hotel, 9777 Topanga Canyon Blvd., Chatsworth], likely to be heated

Chris Rowe requested that EPA provide her with a technical advisor through the Technical Assistance Services for Communities (TASC) program. Rowe said the community was unduly concerned about risks from radiation and chemicals at the site, wanted the cleanup standards in 990 which she believes should be dramatically relaxed, and asked for a technical advisor who could help counter public concerns.

EPA promised me Rowe's request would not go anywhere; and if EPA were to even consider such a TASC grant, would not do so without substantial consultation with and OK by the community more generally. Once again, it broke its word.

We had to read in an EPA newsletter that EPA had gone ahead and granted the Rowe request and had chosen a TASC consultant; had scheduled a meeting in the community for Tuesday night to introduce the TASC consultant that had been chosen for the community. This meeting was called without consulting with the community and over vociferous subsequent objections.

The community is furious; doesn't trust EPA or the TASC consultant; had no say in the matter. It may be a difficult meeting.

2. Wednesday: Rowe has called a meeting of the Santa Susana Mountains Advisory Committee, a committee of the West Hills Neighborhood Council, for 7 pm, Fairwinds Retirement Center, 8138 Woodlake Avenue, West Hills. I have forwarded to you separately her email and the agenda.

You will note:

(a) Although GSA has to date declined the state's requests to meet and discuss its plans for the transfer of SSFL land, it is sending a representative, along with NASA representatives, to Rowe's 5 person-committee to discuss the matter.

DOE and DTSC are also scheduled to make presentations on other subjects, and Boeing generally attends. Obviously there is an attempt by the RPs to use this tiny committee as a de facto CAG.

(b) Rowe proposes the committee vote to:

(i) call for formation of a Community Advisory Group (CAG), and

(ii) call for changes to the membership of the Inter-Agency Work Group.

These resolutions, if passed, would then go to the W. Hills Neighborhood Council the following Wednesday for a vote.

Christina Walsh is very angry that the agencies are meeting with Rowe's group but not hers. NASA has subsequently agreed to meet with Christina Walsh's folks Wednesday mornig, but without GSA.

3. Thursday: SSFL InterAgency Work Group, 6:30-10 pm, Simi Valley Cultural Arts Center, 3050 Los Angeles Avenue, Simi.

Rick, who is going to make the DTSC presentations, and has the content been worked out in advance?

GSA and NASA will be there to present on the land transfer; it is important that the state's position be clearly enunciated.

There will be discussion of the consent order process, following up on the discussion at the previous meeting about it being made secret. DOE will present and NASA, and the whole issue of the contradictory statements made about compliance with 990. The regular facillitator Marie Rainwater will not be there, and the EPA staffer who will substitute for her, David Cooper, is pretty new to the project and may not be able to make this all good relatively smoothly.

4. Friday: Secretary Adams tour of SSFL.

Is it confirmed for 1 pm? Have the participants been confirmed? Am I to go, and if so, will I be permitted to point things out to her on the tour, or will it be a Boeing show?

Will she be able to meet privately with Holly, Dawn, and Marie? If so, when?

5. The big gorilla in the room: where do things stand regarding Congressional action to block the land transfer move?

Would it be useful to have a conf call today or tomorrow to deal with all these matters?

Dan



**From:** Rick Brausch  
**To:** Daniel O Hirsch  
**CC:** Bill Craven; Louise Rishoff  
**Date:** 5/26/2009 2:01 PM  
**Subject:** Re: busy SSFL week

Does tomorrow afternoon work to have a call to discuss the laundry list? I'm open, so name the time that works best for you all.

As for Friday, yes, the tour is scheduled to begin at 1pm. I believe Linda would like you to participate. I'm assuming it's a matter of Louise notifying Boeing of another tour participant.

Rick Brausch  
Deputy Director  
Office of Legislative and Regulatory Policy  
Department of Toxic Substances Control  
(916) 327-1186  
fax (916) 324-1808

>>> Daniel O Hirsch <[cbghirsch@aol.com](mailto:cbghirsch@aol.com)> 5/26/2009 10:20 AM >>>  
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Would it be useful to have a conf call today or tomorrow to deal with all these matters?

Dan



**From:** Rick Brausch  
**To:** Daniel O Hirsch; Louise Rishoff  
**CC:** William Craven  
**Date:** 5/26/2009 3:41 PM  
**Subject:** Re: busy SSFL week

1. Let's shoot for 3pm, unless that time doesn't work for Bill.
2. Yes, the Secretary plans to join Marie, Holly and Dawn. I just emailed them with word.
3. Last I heard from DC was from Ryan late last week. He was having trouble contacting Grant Cope. As I understand it, since Congress is on recess, there's nothing that can happen, but there's no telling if NASA plans to deliver its excess property notice to GSA to start the process.

Rick Brausch  
Deputy Director  
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Department of Toxic Substances Control  
(916) 327-1186  
fax (916) 324-1808

>>> Daniel O Hirsch <[cbghirsch@aol.com](mailto:cbghirsch@aol.com)> 5/26/2009 3:00 PM >>>  
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Any word on whether there will be the private get-together with the Secretary and Marie, Holly, and Dawn?

Any word from DC on whether they have gone to the respective committees to block the transfer? (I just talked to Brian Miller, Gallegly's aide, who wasn't on the Friday call with you and the other elected's staff a week ago, and he was unaware of the plan, although his office had already approached minority staff on the committee, but needed Waxman to do so as well.)

D  
On May 26, 2009, at 2:06 PM, Rishoff, Louise wrote:

- > I have a lunch meeting, but should be back in the office by 3:00 at
- > the
- > very latest.
- >
- > Thanks for confirming that Dan should be on the tour. I e-mailed the
- > list to Boeing earlier including him, so this will help if there is
- > any
- > resistance.
- >
- > -----Original Message-----
- > From: Rick Brausch [<mailto:RBrausch@dtsc.ca.gov>]
- > Sent: Tuesday, May 26, 2009 2:02 PM
- > To: Daniel O Hirsch
- > Cc: Rishoff, Louise; Craven, William
- > Subject: Re: busy SSFL week
- >
- > Does tomorrow afternoon work to have a call to discuss the laundry
- > list?
- > I'm open, so name the time that works best for you all.
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- > As for Friday, yes, the tour is scheduled to begin at 1pm. I believe

- > Linda would like you to participate. I'm assuming it's a matter of
- > Louise notifying Boeing of another tour participant.



**From:** Rick Brausch  
**To:** Daniel O Hirsch; Louise Rishoff; William Craven  
**CC:** Aron Miller  
**Date:** 5/26/2009 3:53 PM  
**Subject:** RE: busy SSFL week

You can use my call-in number if you'd like.

Access #: 877-923-2509  
Participant Code#: 8226071

Rick Brausch  
Deputy Director  
Office of Legislative and Regulatory Policy  
Department of Toxic Substances Control  
(916) 327-1186  
fax (916) 324-1808

>>> "Rishoff, Louise" <[Louise.Rishoff@asm.ca.gov](mailto:Louise.Rishoff@asm.ca.gov)> 5/26/2009 3:49 PM >>>  
Who will be setting up the call?

-----Original Message-----

From: Craven, William  
Sent: Tuesday, May 26, 2009 3:47 PM  
To: Brausch, Rick (DTSC.CA.GOV); 'Daniel O Hirsch'; Rishoff, Louise  
Subject: RE: busy SSFL week

I can do call at 3 pm tomorrow. Let me know info. Thanks. Bill

-----Original Message-----

From: Rick Brausch [<mailto:RBrausch@dtsc.ca.gov>]  
Sent: Tuesday, May 26, 2009 3:42 PM  
To: Daniel O Hirsch; Rishoff, Louise  
Cc: Craven, William  
Subject: Re: busy SSFL week

1. Let's shoot for 3pm, unless that time doesn't work for Bill.
2. Yes, the Secretary plans to join Marie, Holly and Dawn. I just emailed them with word.
3. Last I heard from DC was from Ryan late last week. He was having trouble contacting Grant Cope. As I understand it, since Congress is on recess, there's nothing that can happen, but there's no telling if NASA plans to deliver its excess property notice to GSA to start the process.

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>>> Daniel O Hirsch <[cbghirsch@aol.com](mailto:cbghirsch@aol.com)> 5/26/2009 3:00 PM >>>  
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**From:** Daniel O Hirsch <cbghirsch@aol.com>  
**To:** "Rick Brausch" <RBrausch@dtsc.ca.gov>  
**CC:** "Louise Rishoff" <Louise.Rishoff@asm.ca.gov>, <damon.wing@ventura.org>  
**Date:** 5/27/2009 10:09 AM  
**Subject:** Re: May Transcript

Yes, see p. 121 at lines 10-18. In the context of the pp 119-120, Boeing's Gallacher's statements that Boeing hasn't been able to do source removals because of need to get DTSC approval, followed by Weiner's claim that DTSC won't approve any interim removals because DTSC has allegedly said, "No, you're not going to do anything until we've done all of our investigations and we're ready to say yes." And that Boeing couldn't do any interim removals until the Regional Board "cut the Gordian knot" by issuing its removal order.

See also p. 240.

Weiner: "We have welcomed the 13304 order.

16 We could have appealed it. We didn't. And we didn't

17 because we think it's the right thing to do. We think

18 it's right to finally dig up some of the dirt. We've been

19 stopped from doing that by DTSC.

20 This Board came forth and issued us an order to

21 do so, but to be blunt, we couldn't have done it

22 voluntarily, because DTSC wouldn't have let us."

Contradicting Weiner's claim that Boeing has been stopped by DTSC from doing any interim soil removals is the Boeing submission to DTSC of April 21, 2009, which has an entire appendix detailing all the interim removals Boeing has done to date -- all with DTSC OK. See Appendix B ("Summary of SSFL Interim Measures") in the Feasibility Study Work Plan I previously sent you (pp166-198 of the file).

On May 27, 2009, at 9:29 AM, Rick Brausch wrote:

> Thanks Louise. Looks like some of the relevant testimony begins  
> page 121.



**From:** Daniel O Hirsch <cbghirsch@aol.com>  
**To:** Rick Brausch <RBrausch@dtsc.ca.gov>  
**Date:** 5/27/2009 10:30 AM  
**Subject:** Grant Cope urgent

Rick,

In light of Louise's conversation with Ryan about urgent need to immediately have Boxer's office communicate to Committee to stop the transfer, which could occur by end of week, can you try to push Grant again? 202 224-7931. Seems really time urgent.

Dan



**From:** Daniel O Hirsch <CBGHirsch@aol.com>  
**To:** Rick Brausch <RBrausch@dtsc.ca.gov>  
**Date:** 5/27/2009 10:48 AM  
**Subject:** Cope cell

Brian Miller from Gallegly's office said most DC staff should be around this week, although perhaps in and out. If one can't connect with Grant on his office #, his cell is 202 536-9212

Grant's superior, deeply versed in SSFL matters, is Bettina Poirier, top staff person on EPW committee, which is at 202 224-8832 her cell is 703 407-5947



**From:** Daniel O Hirsch <cbghirsch@aol.com>  
**To:** Rick Brausch <RBrausch@dtsc.ca.gov>  
**Date:** 5/27/2009 4:34 PM  
**Subject:** contact info

Lisa Pinto, District Director for Congressman Waxman: 323 651-1040

Grant Cope 202 224-7931  
cell 202 536-9212

his superior Bettina Poirier  
cell 703 407-5947  
bettina\_poirier@epw.senate.gov

anything you can do to get them to immediately get the respective NASA oversight committees to object before it's too late would be deeply appreciated



**From:** Daniel O Hirsch <CBGHirsch@aol.com>  
**To:** Rick Brausch <RBrausch@dtsc.ca.gov>  
**Date:** 5/28/2009 9:08 AM  
**Subject:** Work Group agenda  
**Attachments:** WG Agenda 2nd Quarter 2009.doc.rtf; Part.002

attached

## SSFL WORKGROUP MEETING

May 28, 2009

6:30 – 10:00 pm

Simi Valley Cultural Arts Center  
Main Auditorium  
3050 Los Angeles Avenue, Simi Valley

### AGENDA

<b>6:30 – 6:35 pm</b>	<b>Introductions</b> <i>Process: Round table introductions of Workgroup</i>
<b>6:35 – 6:40</b>	<b>Review Agenda &amp; Meeting Ground Rules</b> <i>Goal: Present agenda and introduce ground rules</i> <i>Process: Presentation and clarifying Q&amp;A</i>
<b>6:40 – 6:45</b>	<b>Key Issues &amp; Upcoming Workgroup Agendas</b> <i>Goal: Provide a brief overview of key issues that are planned be addressed at future Workgroup meetings</i> <i>Process: Announcements</i>
<b>6:45 – 9:00</b>	<b>Updates</b> <i>Goal: Provide updates on several issues</i> <i>Process: Presentation, Workgroup Q&amp;A, and Public Comment</i> <ul style="list-style-type: none"><li>• Department of Toxic Substances Control (DTSC) Updates (6:45 – 7:15)<ul style="list-style-type: none"><li>○ Workgroup Funding and Operation</li><li>○ Consent Order</li><li>○ Chemical Background Study</li><li>○ Runkle Canyon</li><li>○ SB990</li><li>○ RFI Updates</li></ul></li><li>• Department of Energy Updates (7:15 – 7:25)</li><li>• Regional Water Quality Control Board Update (7:25 – 7:35)</li><li>• County Lead Environmental Work Update (7:35 – 7:50)</li><li>• Legislative Update on AB102 (7:50 – 8:00)</li><li>• Committee to Bridge the Gap (8:00 – 8:15)</li><li>• Workgroup Comments (8:15 – 8:25)</li><li>• Public Comments (8:25 – 9:00)</li></ul>
<b>9:00 – 10:00</b>	<b>Environmental Protection Agency (EPA) Radiological Survey</b> <i>Goal: Provide an update on recent developments</i> <i>Process: Presentation, Workgroup Q&amp;A, and Public Comment</i> <ul style="list-style-type: none"><li>• EPA Presentation (9:00– 9:20)</li><li>• Committee to Bridge the Gap (9:20 – 9:30)</li><li>• Workgroup Comments (9:30 – 9:40)</li><li>• Public Comments (9:40 – 10:00)</li></ul>
<b>10:00 pm</b>	<b>Adjourn</b>



**From:** Rick Brausch  
**To:** Bill Craven; Daniel O Hirsch; Louise Rishoff  
**Date:** 5/28/2009 11:28 AM  
**Subject:** Re: busy SSFL week

FYI

Spoke with Grant Cope (he called me back this morning). He was finalizing a letter from Senator Boxer (similar to one sent by Senator Feinstein) to the Commerce Committee objecting to NASA's transfer proposal. He plans to deliver it today, and will be in contact with the Committee's staff, and is even open to helping them write the letter from the committee to NASA. He will be forwarding to me a copy of the Boxer letter when it goes, and will let me know when he hears more.

Also left a message with Lisa Pinto, and am waiting for a return call.

Let us know how it goes tonight/tomorrow.  
Rick

Rick Brausch  
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You will note:

(a) Although GSA has to date declined the state's requests to meet and discuss its plans for the transfer of SSFL land, it is sending a representative, along with NASA representatives, to Rowe's 5 person-committee to discuss the matter.

DOE and DTSC are also scheduled to make presentations on other subjects, and Boeing generally attends. Obviously there is an attempt by the RPs to use this tiny committee as a de facto CAG.

(b) Rowe proposes the committee vote to:

(i) call for formation of a Community Advisory Group (CAG), and

(ii) call for changes to the membership of the Inter-Agency Work Group.

These resolutions, if passed, would then go to the W. Hills Neighborhood Council the following Wednesday for a vote.

Christina Walsh is very angry that the agencies are meeting with Rowe's group but not hers. NASA has subsequently agreed to meet with Christina Walsh's folks Wednesday mornig, but without GSA.

3. Thursday: SSFL InterAgency Work Group, 6:30-10 pm, Simi Valley Cultural Arts Center, 3050 Los Angeles Avenue, Simi.

Rick, who is going to make the DTSC presentations, and has the content been worked out in advance?

GSA and NASA will be there to present on the land transfer; it is important that the state's position be clearly enunciated.

There will be discussion of the consent order process, following up on the discussion at the previous meeting about it being made secret. DOE will present and NASA, and the whole issue of the contradictory statements made about compliance with 990. The regular facilitator Marie Rainwater will not be there, and the EPA staffer who will substitute for her, David Cooper, is pretty new to the project and may not be able to make this all good relatively smoothly.

4. Friday: Secretary Adams tour of SSFL.

Is it confirmed for 1 pm? Have the participants been confirmed? Am I to go, and if so, will I be permitted to point things out to her on the tour, or will it be a Boeing show?

Will she be able to meet privately with Holly, Dawn, and Marie? If so, when?

5. The big gorilla in the room: where do things stand regarding Congressional action to block the land transfer move?

Would it be useful to have a conf call today or tomorrow to deal with all these matters?

Dan



**From:** Daniel O Hirsch <cbghirsch@aol.com>  
**To:** "Rick Brausch" <RBrausch@dtsc.ca.gov>  
**Date:** 5/28/2009 11:34 AM  
**Subject:** Re: busy SSFL week

I sure hope Grant gets the Committee to get its objection out in time. enjoy the high school graduation! something real accomplished.

Dan

On May 28, 2009, at 11:28 AM, Rick Brausch wrote:

- > FYI
- > Spoke with Grant Cope (he called me back this morning). He was
- > finalizing a letter from Senator Boxer (similar to one sent by
- > Senator Feinstein) to the Commerce Committee objecting to NASA's
- > transfer proposal. He plans to deliver it today, and will be in
- > contact with the Committee's staff, and is even open to helping them
- > write the letter from the committee to NASA. He will be forwarding
- > to me a copy of the Boxer letter when it goes, and will let me know
- > when he hears more.
- >
- > Also left a message with Lisa Pinto, and am waiting for a return call.
- >
- > Let us know how it goes tonight/tomorrow.
- > Rick



**From:** Rick Brausch  
**To:** Daniel O Hirsch  
**Date:** 5/28/2009 11:39 AM  
**Subject:** Re: busy SSFL week

Thanks. I did stress with him again the importance of stopping something before it created a mess for us in terms of conflict with State law. If NASA and GSA are relying on their past experience with federal property transactions to anticipate how this will go, they are not understanding fully how SB 990 changes things. It is true that the "normal" process has a CERCLA overlay to it that deals with contamination issues. This site is anything but normal, and my hope is that they take time to understand that before moving ahead.

I've also committed to keeping Grant informed of our ongoing discussions with NASA (and DOE) so that he has better information to gauge their level and attitude of "cooperation."

Rick Brausch  
Deputy Director  
Office of Legislative and Regulatory Policy  
Department of Toxic Substances Control  
(916) 327-1186  
fax (916) 324-1808

>>> Daniel O Hirsch <[cbghirsch@aol.com](mailto:cbghirsch@aol.com)> 5/28/2009 11:32 AM >>>  
I sure hope Grant gets the Committee to get its objection out in time.  
enjoy the high school graduation! something real accomplished.

Dan  
On May 28, 2009, at 11:28 AM, Rick Brausch wrote:

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- > Spoke with Grant Cope (he called me back this morning). He was
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- > Let us know how it goes tonight/tomorrow.
- > Rick



**From:** Daniel O Hirsch <cbghirsch@aol.com>  
**To:** Rick Brausch <RBrausch@dtsc.ca.gov>, Bill Craven <william.craven@sen.ca....>  
**CC:** Louise Rishoff <Louise.Rishoff@asm.ca.gov>  
**Date:** 6/2/2009 9:48 AM  
**Subject:** NASA land transfer

Rick and Bill,

When you were in touch with Grant Cope from Boxer's EPW staff last week, I understood he said he was delivering to the appropriate Committee Senator Boxer's request that they object to the NASA land transfer and that he would work with them to get such a letter out.

Might it be possible for you to check in with Grant and see (1) if Boxer's letter to the Committee did get delivered, and (2) the status of the Committee objecting? Also, it would probably be good to get copies of Boxer's letter and any Committee letter. The actual objection to and blockage by the Committee of the transfer proposal is critical.

Waxman's office contacted NASA and got a brief delay in the transfer, while NASA answered some questions put by Waxman. It might be useful to stay in touch also with Lisa Pinto to see what Waxman will do to arrange an actual objection to the transfer by the House Committee once the NASA non-answers come in.

We have a brief reprieve, but it needs to get stopped permanently.

Best wishes,  
Dan



**From:** Daniel O Hirsch <cbghirsch@aol.com>  
**To:** Linda Adams <ladams@calepa.ca.gov>, Maziar Movassaghi <Maziar@dtsc.ca.gov>  
**CC:** Rick Brausch <RBrausch@dtsc.ca.gov>, Patty Zwarts <PattyZ@calepa.ca.gov>  
**Date:** 6/2/2009 8:36 PM  
**Subject:** Consent Order

Dear Linda and Maziar,

I understand that what is planned to be the last negotiating session among Boeing, NASA, DOE, and the state before tentatively approving the draft Consent Order, subject to a public comment period, is to occur June 9. Not having been able to see the text, I am unable to provide any informed suggestions, but I did want to call to your attention three key issues that may or may not be issues in the draft.

1. We have been assured that the Consent Order binds the RPs (Boeing, NASA, DOE) to comply fully with SB990. However, the RPs submitted to DTSC in April a "Feasibility Study (FS) Work Plan" that they assert reflects the upcoming revised Consent Order and which in fact appears to suggest that they believe they do not have to comply with 990. In that FS Work Plan, [http://www.dtsc-ssfl.com/files/lib\\_feasibilitystudy/feasibilitystudywork/Feasibility Study Work Plan April 2009.pdf](http://www.dtsc-ssfl.com/files/lib_feasibilitystudy/feasibilitystudywork/Feasibility Study Work Plan April 2009.pdf), the RPs list the laws and regulations that they must comply with. SB990 is not included. (see in particular p. 3-9)

Instead, they cite to other provisions in Chapter 6.8 of the Health & Safety Code, section 25356.1.5, which generally references following standards at least as strict as the federal National Contingency Plan (federal Superfund). They call out in particular 25356.1, without describing it; it states that cleanup standards will be based upon expected land use. SB990, however, is explicit: for SSFL, the land use scenario must be either the rural residential (agricultural) or suburban residential, whichever is more protective (almost always the ag scenario). They ignore that requirement.

You will recall that in the fall the RPs tried to get SSFL placed on the federal Superfund list before Bush left office, in the belief that so doing would result in a less protective land use scenario being used and less cleanup being required. That effort was unsuccessful. It would appear from the FS study that they are trying to argue that the Consent Order merely requires them to follow federal Superfund requirements, not SB990's specific requirements for SSFL. (see also p. 3-14)

This evasion of SB990's requirements is reinforced on p. 2-2, in which they say the exposure scenarios include only a current trespasser, industrial worker, and future hypothetical resident and recreator, leaving out the ag scenario required by SB990. Similarly, on p. 4-1, they say the response actions they will consider for the contaminated soil includes institutional controls such as "access restrictions, monitoring, and land use restrictions." This is barred by SB990, which does not permit avoiding cleanup to the ag standards simply by declaring the land will not be used for ag/rural residential purposes.

I would urge that the Consent Order be carefully reviewed to see if indeed the RPs have managed to insert language that they can point to



as requiring consistency with federal Superfund guidance even if it conflicts with SB990; that cites to section 25356.1 rather than 990 itself (commencing with 25359.20); or that somehow implies land use restrictions can negate 990's cleanup requirements. I am particularly concerned that references may be purposely oblique in the Consent Order, but upon deeper scrutiny turn out to imply not having to use the land use scenario, EPA's defaults, and other requirements in 990.

These concerns are reinforced by the "Fact Sheet" submitted by GSA on behalf of itself, DOE, and NASA to Congressional staff a few weeks ago, that claims 990 is pre-empted by the feds and they don't have to comply; have notified Justice Dept.; and will sue to overturn 990 if they don't get their way in the Consent Order. This is at great variance to DOE's commitment to Senator Boxer in September testimony to strictly comply with all state laws and NASA's similar promise to fully comply with 990 made as recently as last week. If the Consent Order binds the RPs to full compliance with SB990, we should not be seeing either the claims made in the FS Work Plan or the "Fact Sheet." Since the latter documents contradict the promises made about strict compliance, there is a question about good faith negotiation over the Consent Order, and very careful scrutiny of all of its language is in order.

2. I understand that there may be citations in the Consent Order draft requiring the state to follow certain specified guidance documents and even computer models. One has to be very careful here. Some guidance that the RPs have previously cited turned out to be long-discarded EPA guidance overridden and contradicted by EPA's preliminary remediation goals (PRGs) as cited in SB990. For example, some guidance or computer programs that the RPs have previously cited include land use assumptions that contradict the default assumptions in EPA's PRGs and the requirements of SB990. Citing to that guidance would arguably put the state in the position of being said by the RPs to have agreed to negate 990.

The RPs may also have inserted references to documents that suggest permitting averaging contamination over wide areas. This would be troubling, as it could permit high levels of contamination be left in place at one location because other locations significant distance away were clean.

There is no reason to cite to specific guidance, or guidance at all. Guidance is just that, guidance; it is not regulation or law, and regulators are free to depart from it if they have reason to do so. And most of what the RPs referred to in the past as guidance is not even guidance (e.g., instead are computer programs) and not in effect (e.g., having been replaced by newer guidance such as EPA's PRG documentation cited in 990.) Nor should the state want to bind itself in a Consent Order to any particular guidance, which can change and evolve over time. But mostly I am concerned that by referencing certain guidance, the RPs may feel they have succeeded in contradicting requirements in 990 which with the guidance conflicts. Law trumps guidance, not the other way around.

3. And of course there is the tolling matter. An agreement to comply

with SB990--even if the Consent Order makes that crystal clear without contradiction, a matter I worry about--is essentially worthless if the parties insist on the right to break out of the agreement at any moment they wish, and even to challenge the state law beyond the expiration of the statute of limitations. That is no agreement at all. And it would leave a gun perpetually to the head of the DTSC Director, so that every single directive given to remove any particular contaminated , revise a report, take a measurements, etc. would be subject to the RPs saying "No," and threatening to break out of the Consent Order and challenge 990, no matter how long after the passing of the statute of limitations.

A commitment to comply with SB990 must be a binding commitment, not a promise today that can be broken with impunity tomorrow.

I continue to believe, given the behavior of the RPs in the FS Work Plan and the "Fact Sheet," raising questions about their promises to Congress and others to comply with state law and their good faith in the Consent Order negotiations, coupled by their resistance to permitting consultation by the Secretary with whomever she wished during these negotiations, indicates it is likely the issue may need to be escalated to Congressional representatives and senior Obama Administration officials to get DOE and NASA to live up to their commitments and to comply with the recent Obama directive to not claim pre-emption in any but the rarest of cases. The lower level people at DOE and NASA may need to hear from people considerably higher up in order to get these matters resolved.

Best wishes,

Dan



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, CA 94105-3901

DEC 06 2007

OFFICE OF THE  
REGIONAL ADMINISTRATOR

The Honorable Arnold Schwarzenegger  
Governor of California  
State Capitol Building  
Sacramento, California 95814

Re: The SSFL: Santa Susana Field Laboratory  
Ventura County, California

Dear Governor Schwarzenegger:

The United States Environmental Protection Agency (EPA) is considering placement of the SSFL: Santa Susana Field Laboratory facility ("the Site") on the Superfund National Priorities List (NPL) pursuant to its authority under Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. Section 9605. By this letter, EPA is seeking the position of the State of California on listing the Site on the NPL.

**Site Background**

The SSFL is a 2850 acre facility located in Ventura County approximately 2 miles south of the City of Simi Valley and 30 miles northwest of Los Angeles. The SSFL is divided into operating Areas I, II, III, and IV, with two buffer zones. The National Aeronautics and Space Administration (NASA) is the owner of 451 acres of Area II. The remainder of the site is owned and operated by The Boeing Company (Boeing), which purchased the site from Rockwell International in 1996. A portion of Area IV is leased to the U.S. Department of Energy (DOE).

Since 1948, Rocketdyne (a division of Rockwell International and, later, Boeing) and NASA have conducted large rocket engine research, assembly and testing in Areas I, II, and III of the SSFL. These activities resulted in extensive chemical contamination of onsite soil and groundwater. In 1980, onsite drinking water wells were found to be contaminated with trichloroethylene (TCE) and were shut down after workers were exposed to TCE at concentrations above Federal and State limits. The extent of chemical contamination has not been fully characterized, but it is estimated that more than 500,000 gallons of TCE lie beneath the Site.

From 1956 to 1988, Rocketdyne and DOE used Area IV for nuclear energy research and development. Soil and groundwater at the Site are contaminated with radionuclides associated with the historic Area IV nuclear operations.

Contamination from the Site has the potential to impact municipal drinking water supplies in the future. In addition, several endangered or threatened species have the

potential to be exposed to surface water contamination at the site. There is insufficient data to determine whether contamination from the Site has migrated offsite. However, asbestos and polyaromatic hydrocarbons attributable to site operations were recently discovered along the northern boundary of the site.

### **Regulatory History**

The ongoing cleanup of the chemical contamination is currently managed by the State of California Department of Toxic Substances Control (DTSC) under authority of the Resource Conservation and Recovery Act (RCRA). DTSC is overseeing the RCRA corrective action process. DOE is conducting the investigation and remediation of radiological contamination associated with nuclear operations in Area IV under CERCLA authority. DOE is currently preparing an Environmental Impact Statement evaluating the cumulative impacts associated with DOE's activities at Area IV.

### **Current Status**

In 2007, EPA conducted a Preliminary Assessment/Site Investigation (PA/SI) under CERCLA to determine whether additional federal response at the Site was necessary. EPA's report documenting this investigation was issued in early December, 2007 and copies have been provided to the state and local regulatory agencies. Based on the PA/SI, EPA believes that long-term remedial action is required to properly address environmental and human health risks posed by the site.

EPA is aware of efforts that are in progress at the State level. These efforts, which are directed at ensuring a comprehensive and protective cleanup of the SSFL facility, may be undertaken along with listing. However, it is EPA's understanding that an agreement is not yet final and that it does not include federal participation.

As in the past, EPA is committed to coordinating with the State of California regarding Superfund listing proposals, and EPA is interested in receiving the State's response in this matter. I would appreciate your written response within 30 days of this letter in order for EPA to complete its decision-making process and determine whether to issue a proposed rule for the Site.

Should you require any additional information on this matter, please do not hesitate to call me at (415) 947-8702. Your staff may also wish to contact Keith Takata, Director of the Superfund Division at (415) 947-8709.

Sincerely,



Wayne Natri  
Regional Administrator



# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



LINDA S. ADAMS  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

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ARNOLD SCHWARZENEGGER  
GOVERNOR

January 14, 2009

Mr. Wayne Nastri  
Regional Administrator  
U.S. Environmental Protection Agency  
75 Hawthorne Street  
San Francisco, California 94105-3901

Re: Santa Susana Field Laboratory  
Ventura County

Dear Mr. Nastri:

On December 6, 2007, the U.S. Environmental Protection Agency (U.S. EPA) asked the State of California for the State's position on whether or not U.S. EPA should list the Santa Susana Field Laboratory (SSFL) site on the Superfund National Priorities List (NPL). I write today on behalf of the State to inform you that that the State's position is that U.S. EPA should not list the site on the NPL. California has an unprecedented opportunity to achieve a comprehensive and expedited cleanup of the SSFL site. However, if the circumstances change, the State reserves the right to change this position at a later time.

During 2008, U.S. EPA granted the State's two requests for additional time to evaluate arguments for and against listing. We sincerely appreciate U.S. EPA's respect for our desire to thoroughly consider this matter. We have reached our decision after careful consideration of all factors that have been stated in letters and face-to-face discussions between our respective organizations.

A key factor for the State is implementation of Senate Bill 990 (Kuehl, Statutes of 2007, Chapter 729). SB 990 requires that this site be cleaned up to the strictest standards. With DTSC implementing SB 990 for both chemical and radiologic contamination, DTSC is in the best position to direct a comprehensive and protective cleanup and to ensure that the responsible parties meet their cleanup obligations by the earliest possible date. Another key factor is that members of the communities surrounding the SSFL support this decision.

We appreciate U.S. EPA's work on this site and coordination with the California Environmental Protection Agency and DTSC. We look forward to a continued partnership

Mr. Wayne Nastri, Regional Administrator  
U.S. Environmental Protection Agency  
January 14, 2009  
Page 2

with U.S. EPA that results in action to protect the health and safety of the affected communities around the site. In particular, the State appreciates U.S. EPA's ongoing involvement in the development of a background data set for radionuclides, and we look forward to U.S. EPA completing the radiologic characterization of SSFL Area IV in cooperation with the U.S. Department of Energy as required by H. R. 2764.

The State will lend whatever assistance it can to assure that those investigative projects are completed in a thorough and timely manner. At the same time, the State renews its requests, outlined in my letter of January 15, 2008, for U.S. EPA's support in the area of radiological assessments. We appreciate the assistance U.S. EPA has provided to date.

If you have any questions or concerns regarding this matter, please call me at (916) 324-9214.

Sincerely,



Linda Adams  
Secretary for Environmental Protection

cc: The Honorable Arnold Schwarzenegger  
Governor of California  
State Capitol Building  
Sacramento, California 95814

The Honorable Diane Feinstein  
United States Senate  
331 Hart Senate Office Building  
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The Honorable Barbara Boxer  
United States Senate  
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The Honorable Henry Waxman  
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2204 Rayburn House Office Building  
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The Honorable Elton Gallegly  
U.S. House of Representatives  
2309 Rayburn House Office Building  
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Mr. Wayne Nastri, Regional Administrator  
U.S. Environmental Protection Agency  
January 14, 2009  
Page 3

The Honorable Brad Sherman  
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California State Assembly  
State Capitol, Room 6011  
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The Honorable Audra Strickland  
California State Assembly  
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The Honorable Member Cameron Smyth  
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Mr. Wayne Natri, Regional Administrator  
U.S. Environmental Protection Agency  
January 14, 2009  
Page 4

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