

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

BKK Landfills and
Leachate Treatment Plant
2210 South Asuza Avenue
West Covina, California 91792

Settling Respondents:

Boeing Company, on behalf of itself and its wholly-
owned subsidiary McDonnell Douglas Corporation,
successor to Douglas Aircraft Company

Gemini Industries, Inc.

Lockheed Martin Corporation, successor to
Lockheed California

Raytheon Company, successor to Hughes Missile
Systems

Docket No. I/SE-D 04/05-00XX

INTERIM SETTLEMENT AGREEMENT

Health and Safety Code
Section 25355.5(a)(1)(C)

The Parties to this agreement, the State Department of Toxic Substances Control ("DTSC") and Boeing Company, Gemini Industries, Inc., Lockheed Martin Corporation, and Raytheon Company ("the Settling Respondents") enter into this Interim Settlement Agreement and agree, as follows:

1. DTSC issued an Imminent and Substantial Endangerment Order and Remedial Action Order ("ISE Order") on December 2, 2004, which became effective on December 9, 2004. The ISE Order concerns the BKK Sanitary Landfills and Leachate Treatment Plant in West Covina, California, as described in Section 1.2 of the ISE Order ("the Site"). The Settling Respondents or associated entities were named as respondents in the ISE Order.

2. The Parties enter this Interim Settlement Agreement pursuant to Health and Safety Code section 25355.5(a) (1) (C). Health and Safety Code section 25355.5(a) (1) (C) authorizes DTSC to enter into an enforceable settlement agreement with a responsible party for a site.

3. Subject to the provisions of this Interim Settlement Agreement, and without admitting any responsibility or liability relating to any matter addressed herein, the Settling Respondents shall pay to DTSC up to one million, two hundred seventy five thousand dollars (\$1,275,000) to fund certain response actions at

the Site. The Settling Respondent shall make payments of \$255,000 to DTSC every three months for up to a fifteen-month period. The first payment shall be made to DTSC on August 15, 2005. Subsequent payments shall be made to DTSC, each in the amount of \$255,000, on October 29, 2005 (the Second Payment), January 29, 2006 (the Third Payment), April 30, 2006 (the Fourth Payment) and July 29, 2006 (the Fifth Payment). For each payment the Settling Respondents shall send a check made payable to the Department of Toxic Substances Control to:

Accounting Office
Department of Toxic Substances Control
1001 I Street, 21st Floor
P.O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Marilee Hanson, Esq.
Office of Legal Counsel and Investigations
Department of Toxic Substances Control
1001 I Street, 21st Floor
P.O. Box 806
Sacramento, California 95812-0806

On the check, the Settling Respondents shall state "BKK DTSC Contractor Costs."

4. DTSC agrees that the payments to be made under this Interim Settlement Agreement are to fund "response costs" at the Site as defined under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the State Hazardous Substances Account Act (HSAA), and that those response costs are consistent with the National Contingency Plan (NCP).

5. Upon receipt of the Settling Respondents' First Payment on August 15, 2005, DTSC:

(a) shall, subject to the terms of this paragraph, deem the Settling Respondents to be in compliance with the ISE Order from its effective date through October 28, 2005, or until such time as compliance is addressed as outlined in this paragraph. Upon timely receipt of the Second, Third, Fourth and Fifth Payments, DTSC shall, subject to the terms of this paragraph, deem the Settling Respondents to be in compliance with the ISE Order from its effective date through January 28, 2006, April 29, 2006, July 28, 2006 and October 29, 2006, respectively (the "compliance through dates"), or until such time as the Settling Respondents' compliance with the ISE Order is addressed in another document that the Parties agree in writing releases Respondents from the payment obligations of this Interim Settlement Agreement, whichever

occurs first. If Settling Respondents' compliance with the ISE Order is not resolved on or before October 29, 2006 (either as a final matter or on a continued interim basis), the Parties agree that the compliance determination referenced above shall no longer apply to the period from the effective date of the ISE Order through July 27, 2005, and as applicable after October 29, 2006.

(b) agrees not to initiate any enforcement action against the Settling Respondents with respect to the Site from this Interim Settlement Agreement's effective date through October 28, 2005. Upon receipt of each subsequent payment pursuant to this Interim Settlement Agreement, DTSC further agrees not to initiate any enforcement action against the Settling Respondents with respect to the Site from this Agreement's effective date through the compliance through date corresponding to the Settling Respondents' payment. However, DTSC reserves the right to take any enforcement action that is necessary to address imminent and substantial endangerment or emergency conditions at the Site (including, but not limited to, acts or occurrences such as fire, earthquake, explosion, landslide or imminent human exposure to hazardous substances caused by the release or threatened release of hazardous substances) that arise from this Interim Settlement Agreement's effective date through October 29, 2006.

6. This Interim Settlement Agreement is an interim agreement that has been negotiated for the limited purpose of facilitating Settling Respondents' opportunities to determine longer term approaches to comply with the ISE Order during and/or after the fifteen month period specified above. This Interim Settlement Agreement does not constitute compliance with or satisfaction of the ISE Order or the HSAA for any periods other than the compliance periods identified in Section 5 above. Nothing in this Interim Settlement Agreement shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Settling Respondents, except as provided in this Interim Settlement Agreement. Notwithstanding compliance with the terms of this Interim Settlement Agreement, DTSC reserves the right to initiate further actions as are necessary to protect public health or welfare or the environment.

7. The Settling Respondents' interim payments to DTSC shall be reflected in any future settlement agreement with the Settling Respondents concerning the ISE Order. Each of the Settling Respondents' payments to DTSC under this Interim Settlement Agreement shall be treated as a credit to be applied towards the Settling Respondents' liability with respect to the Site, if any, and the Settling Respondents reserve all

rights to seek contribution or otherwise apply for allocations and credits in the future for all amounts paid hereunder.

8. The effective date of this Interim Settlement Agreement is the date that it is signed by DTSC.

9. This Interim Settlement Agreement constitutes the entire agreement between the Parties and may not be amended, supplemented, or modified, except in writing that is signed by both the Parties. Nothing in this Interim Settlement Agreement shall be deemed to be an admission of liability or of any fact by the Settling Respondents with respect to the Site.

10. Each undersigned representative of the Parties certifies that he is fully authorized to enter into the terms and conditions of this Interim Settlement Agreement and to execute and legally bind the Parties to this Interim Settlement Agreement.

11. This Interim Settlement Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one and the same document.

FOR THE CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCES CONTROL:

Dated: August 8, 2005

By: //Original Signed By//-----
LEONARD E. ROBINSON, Chief Deputy Director

FOR THE STIPULATING RESPONDENTS:

Dated: August 1, 2005

By: //Original Signed By//-----
WENDY L. FENG, Esq.