



Linda S. Adams  
Secretary for  
Environmental Protection



## Department of Toxic Substances Control

Maureen F. Gorsen, Director  
1001 "I" Street  
P.O. Box 806  
Sacramento, California 95812-0806



Arnold Schwarzenegger  
Governor

August 7, 2007

CORRECTED COPY

Mr. Thomas Johnson, Jr.  
Deputy Federal Project Director  
Oakland Project Office  
U. S. Department of Energy  
5800 Woolsey Canyon Road, Bldg #436  
Canoga Park, CA 91304

### **COMMENTS ON THE DRAFT "STATEMENT OF WORK" FOR PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT FOR AREA IV OF THE SANTA SUSANA FIELD LABORATORY**

Dear Mr. Johnson:

On July 26, 2007, at a meeting in San Francisco between our respective organizations and officials from U.S. EPA Region IX, The U.S. Department of Energy (DOE) asked the California Department of Toxic Substances Control (DTSC) to review and comment on a draft Statement of Work (SOW) for preparation of an Environmental Impact Statement (EIS) for the Area IV of the Santa Susana Field Laboratory (SSFL). DTSC appreciates the opportunity to review the draft SOW, and offers the following comments for your consideration.

1. Section 1.4 of the SOW mentions the May 2, 2007 U.S. District Court decision and Section 4.0 identifies the Court Order as one of the "drivers for completion of the EIS." We think DOE should call special attention to deficiencies outlined in that Court Order, including all of the following:

- a. consider the effects of possible contamination by other non-radiological toxic or otherwise hazardous materials (see pages 15, 17, and 18 of the Court Order);
- b. address multiple exposures, i.e., chemical and radiological, as well as exposure to multiple radionuclides (see pages 18, 41, and 45 of the Court Order)
- c. use the USEPA's "Draft Scoping Document for Development of Workplan for Soil Remediation of Santa Susana Field Laboratory Area IV" rather than the Rocketdyne Survey (see pages 11, 18, and 41 of the Court Order);
- d. consider potential effects of the proposed action on surrounding communities and health effects of adjacent communities (see pages 10, 20, and 41 of the Court Order);
- e. consider the suitability of the site for future residential use (see pages 19, 20, 41 of the Court Order); and

- f. consider possible radiological contamination of groundwater (see pages 17, 26, 41 of the Court Order).

2. The SOW needs to be clear about whether the EIS will address the Energy Technology Engineering Center (ETEC) or all of Area IV as we believe it will based on DOE's response to this same question at our July 26 meeting in San Francisco. Although the title of the SOW document indicates that all of Area IV will be covered, Section 1.1 discusses evaluation of potential environmental impacts associated with environmental restoration and waste management activities for closure of the "Energy Technology Engineering Center." Other portions of the SOW refer to the "Area IV EIS." Section 1.1 states that the facilities to be covered in the EIS include former radiological facilities, however, U.S. EPA found fault with the draft environmental assessment in that it lacked planned examination of other areas in Area IV that might be radiologically or otherwise contaminated (see pages 14 and 17 of the Court Order). The former "radiological facilities" DOE intends to address must necessarily include the facilities that were decommissioned in the past according to non-NEPA standards (see pages 17 and 18 of the Court Order). In addition, DTSC's prior correspondence with DOE about its ceasing all decontamination and decommissioning (D&D) work on the Radioactive Materials Handling Facility (RMHF) was based on DTSC's interpretation of the Court Order as requiring the EIS as a prerequisite for continuing with that D&D. Section 1.1 of SOW appears to indicate that RMHF D&D will not be evaluated in the EIS.<sup>1</sup> DTSC objects to this apparent exclusion.

3. The list of statutes in section 4.0 of the SOW should be amended to specifically include the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) (42 U.S.C. Section 9601 et seq.), the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. Section 6901 et seq.), and the Administrative Procedures Act (APA) (5 U.S.C. Section 553 et seq.). The list of regulations in that same section should be expanded to include the National Contingency Plan (NCP) (40 C.F.R. Section 300 et seq.) and the Administrative Practice and Procedure Regulations (1 C.F.R. Section 1 et seq.). Also, the 1995 Joint Policy Act, S. Rep 108-105, pages 94-96 (2003) should be cited under a separate heading, e.g., "Legislation." Finally, DTSC recommends that applicable California State laws and regulations, e.g., the Hazardous Waste Control Law (Health and Safety Code Division 20, Chapter 6.5, Section 25100 et seq.), the Porter Cologne Water Quality Control Act (Division 7, Chapter 1, Section 13000 et seq.), and California Code of Regulations, Title 22, Division 4.5, Chapter 10, Section 66260.10 et seq.) be cited as well.

4. Section 4.0 identifies the DTSC Consent Order For Corrective Action as one of the drivers for the EIS. For the record, DTSC's Consent Order does not require DOE to prepare the EIS and is not being issued in response to the May 2, 2007 ruling.

---

<sup>1</sup> Section 1.1 states that "[w]aste management activities (which are not part of the scope of this task order) include operation, maintenance and closure of Resource Conservation [and] Recovery Act (RCRA) permitted facilities." The parenthetical remark plainly indicates that closure of RCRA-permitted facilities will not be addressed in the EIS. The RMHF is a RCRA-permitted facility.

Mr. Thomas Johnson, Jr.  
August 7, 2007  
Page 3

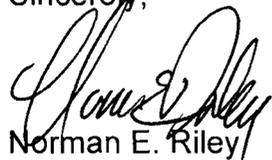
5. DTSC **strongly recommends** that DOE also solicit comments on the SOW from Plaintiffs City of Los Angeles, Natural Resources Defense Council, Inc., and Committee to Bridge the Gap.

6. DTSC will shortly execute the aforementioned Consent Order with DOE and its partners at the SSFL. As you know, that Order requires complete characterization of the site and construction of cleanup remedies by June 30, 2017 or earlier. The EIS contractor selected by DOE should consider the need to adequately characterize the extent of radioactive contamination in both the Surficial Media Operable Unit (SMOU) and the Chatsworth Formation Operable Unit (CFOU) to: (1) fulfill the requirements of that Order, and (2) produce a study that will, in turn, enable DTSC to prepare a comprehensive and adequate Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act (CEQA) and choose the appropriate remedies for cleaning up chemical contamination in the SMOU and CFOU.

7. We are enclosing for your reconsideration DTSC's April 26, 2002 comments on the January 2002 draft Environmental Assessment for cleanup and closure of the ETEC prepared by DOE.

Thank you again for your interest in DTSC's comments. We hope the preceding remarks are helpful to DOE.

Sincerely,



Norman E. Riley  
SSFL Project Director

Enclosure

cc: Simon Lipstein  
General Attorney  
U.S. Department of Energy  
Denver Federal Center, Building 55  
P.O. Box 25547  
Denver, CO 80225-0547

Steve Golian  
Environmental Scientist  
U.S. Department of Energy, EM-22  
20400 Century Boulevard  
Germantown, MD 20874

cc: continued next page

Mr. Thomas Johnson, Jr.  
August 7, 2007  
Page 4

cc: continued

Ravnesh Amar  
Brain Sujata  
DOE Site Closure  
The Boeing Company  
5800 Woolsey Canyon Road  
Canoga Park, CA 91304

Brian Hembacher  
Ann Rushton  
Deputy Attorneys General  
Office of the Attorney General  
300 South Spring Street, Ste. 5000  
Los Angeles, CA 90013

Mohinder Sandhu, P.E.  
Chief, Standardized Permitting and Corrective Action Branch  
Department of Toxic Substances Control  
700 Heinz Avenue  
Berkeley, CA 94710

Nancy Long, Esq.  
Senior Staff Counsel  
Office of Legal Counsel  
Department of Toxic Substances Control  
P.O. Box 806  
Sacramento, CA 95812-0806

Joseph Smith, Esq.  
Office of Legal Counsel  
Department of Toxic Substances Control  
P.O. Box 806  
Sacramento, CA 95812-0806