

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

The Boeing Company
5800 Woolsey Canyon Road
Canoga Park, CA 91304

U.S. Department of Energy
5800 Woolsey Canyon Road
Canoga Park, CA 91304

EPA ID # CA3890090001

Respondents

Docket HWCA 2008 - 1684

CONSENT AGREEMENT

Health and Safety Code

Section 25187

The State Department of Toxic Substances Control (Department) and The Boeing Company/U. S. Department of Energy (Respondents) enter into this Consent Agreement and agree as follows:

1. Respondents generate, handle, treat, store, and/or dispose of hazardous waste within Area IV of the Santa Susana Field Laboratory located at 5800 Woolsey Canyon Road, Canoga Park, CA 91304 (Site).
2. The Department inspected the Site on July 12 and August 28, 2007.
3. The Department alleges the following violation:
 - 3.1. Respondents violated Health and Safety Code section 25201(a), in that between July 2006 and March 2007, Respondents stored hazardous waste (lead shots and wool, lead debris, and lead dust) for a period longer than 90 days without a permit or grant of authorization from the Department. Eight containers of hazardous waste were generated during the demolition and decontamination of Building 4024 at the DOE site.
4. Respondents deny the alleged violation. Thus, a dispute exists regarding the alleged violation.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.
6. Jurisdiction exists pursuant to Health and Safety Code section 25187.
7. Respondents waive any right to a hearing in this matter.
8. This Consent Agreement shall constitute full settlement of the violation alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

SCHEDULE FOR COMPLIANCE

9. Respondents shall comply with the following:
 - 9.1. Respondents shipped the eight (8) containers of hazardous waste lead shots and wool to an appropriate permitted offsite facility. No further action is required.
 - 9.2. Respondents shall operate hereafter in a manner that shall prevent recurrences of the violation cited herein.
10. Submittals: All submittals from Respondents pursuant to this Consent Agreement shall be sent to:

Mukul Agarwal, Unit Chief
Enforcement & Emergency Response Program
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, CA 91311

Nancy Long
Senior Staff Counsel
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, CA 95826

- 10.1. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondents in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules,

or any other writings by Respondents shall be construed to relieve Respondents of its obligation to obtain such formal approvals as may be required.

10.2. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Consent Agreement fails to comply with the Agreement or fails to protect public health or safety or the environment, the Department may return the document to Respondents with recommended changes and a date by which Respondents must submit to the Department a revised document incorporating the recommended changes.

10.3. Compliance with Applicable Laws: Respondents shall carry out this Agreement in compliance with all applicable local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

10.4. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Consent Agreement) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondents to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Agreement directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

10.5. Liability: Nothing in this Consent 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 Respondents, except as provided in this Consent Agreement. Notwithstanding compliance with the terms of this Consent Agreement, Respondents may be required to take further actions as are necessary to protect public health or welfare or the environment.

10.6. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Agreement is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondents in carrying out the terms of this Consent Agreement; and conducting such tests as the Department may deem necessary. Respondents shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Agreement.

10.7. Sampling, Data, and Document Availability: Respondents shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondents or on Respondents' behalf in any way pertaining to work undertaken pursuant to this Consent Agreement. Respondents shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondents pursuant to this Consent Agreement. Respondents shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Agreement. All such data, reports, and other documents shall be preserved by Respondents for a minimum of six years after the conclusion of all activities under this Consent Agreement. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondents shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondents shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Consent Agreement.

10.8. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents or related parties specified in paragraph 12.2, in carrying out activities pursuant to this Consent Agreement, nor shall the State of California be held as a party to any contract entered into by Respondents or its agents in carrying out activities pursuant to this Consent Agreement.

10.9. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondents pursuant to this Consent Agreement are incorporated in this Consent Agreement upon approval by the Department.

10.10. Extension Requests: If Respondents are unable to perform any activity or submit any document within the time required under this Consent Agreement, the Respondents may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

10.11. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

11. Within 30 days of the effective date of this Consent Agreement, Respondents shall pay the Department a total of \$13,500. Respondents' check shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

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

A photocopy of the check shall be sent to:

Mukul Agarwal, Unit Chief
Enforcement & Emergency Response Program
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, CA 91311

If Respondents fail to make payment as provided above, Respondents agree to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

12. Additional Enforcement Actions: By agreeing to this Consent Agreement, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Agreement.

12.1. Penalties for Noncompliance: Failure to comply with the terms of this Consent Agreement may subject Respondents to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

12.2. Parties Bound: This Consent Agreement shall apply to and be binding upon Respondents and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Agreement.

12.3. Effective Date: The effective date of this Consent Agreement is the date it is signed by the Department.

12.4. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

12.5 Compliance with Waste Discharge Requirements: Respondents shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

12.6. No admission of Liability: This Consent Agreement is not, and shall not be construed as an admission of liability on the part of Respondents in this proceeding.

Dated: 12/18/2008

Original signed by Thomas D. Gallagher
The Boeing Company

Dated: 12/18/2008

Original signed by Thomas Johnson, Jr.
U. S. Department of Energy

Dated: 12/26/2008

Original signed by Mukul K. Agarwal
Department of Toxic Substances Control