



*Matthew Rodriguez*  
Secretary for  
Environmental Protection



## Department of Toxic Substances Control

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*Edmund G. Brown Jr.*  
Governor

May 22, 2012

Mr. Charles F. Bolden, Jr., Administrator  
National Aeronautics and Space Administration  
NASA Headquarters, Suite 5K39  
Washington, DC 20546-0001

SANTA SUSANA FIELD LABORATORY (SSFL)

Dear Mr. Bolden:

Thank you for taking the time to meet with us on April 24, 2012 with Senator Boxer to discuss the National Aeronautics and Space Administration's (NASA) activities related to the cleanup of its portion of SSFL, and California's concerns about NASA's activities under the National Environmental Policy Act (NEPA). On behalf of Mr. Matthew Rodriguez, Secretary for the California Environmental Protection Agency and myself, we appreciate NASA's continued support for and commitment to comply with the Administrative Order on Consent (AOC).

In our meeting, we reiterated California's two specific requests: 1) That NASA modify the scope of its NEPA process to align itself with the project that NASA is actually undertaking – a cleanup of the site to background levels of contaminants in compliance with the AOC – and not an evaluation of alternative cleanup standards that are not related to the project; and 2) That NASA postpone preparing its environmental analysis until more accurate information is available.

The resolution of the first request is awaiting more information and guidance from the President's Council on Environmental Quality (CEQ). In response to California's second request, you expressed concerns that postponing your schedule to any degree would prevent NASA from fulfilling its obligations to meet its cleanup schedule.

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Mr. Charles F. Bolden, Jr.  
May 22, 2012  
Page 2

While we greatly appreciate NASA's strong desire to fulfill its commitments and keep pace with its schedule, I want to restate a point that we made to NASA in our September 19, 2011 comments on NASA's Notice of Intent. No matter how quickly NASA proceeds with the preparation of an EIS and the issuance of a Record of Decision, no cleanup work can proceed until Department of Toxic Substances Control (DTSC) completes its California Environmental Quality Act (CEQA) analysis and makes its decision on NASA's Remedial Action Implementation Plan. DTSC, as the lead regulatory agency, still must approve all site activities, and must comply with CEQA in doing so. Thus, NASA would not gain any advantage by attempting to complete its Environmental Impact Statement (EIS) using the schedule it has communicated. To the contrary, if it continues to proceed as planned, NASA will be forced to conduct its analysis using gross assumptions and inaccurate estimations rather than relying upon actual assessments of environmental conditions at the site. Further, NASA will not have the benefit of knowing the specific cleanup techniques that will be available to accomplish the cleanup.

In response to the concerns you expressed about being able to meet your deadlines and commitments, Secretary Rodriguez offered that we would provide you with a list of the activities that we believe can and should continue as we develop the needed information to perform a meaningful and comprehensive environmental review. The following is a list of those activities, many of which are already underway and being accomplished in a very coordinated and cooperative fashion:

- Site Characterization – The gathering of specific measurements of the nature and extent of chemical (and radiological) contamination at the site is well underway, with field sampling plans having been reviewed and approved for implementation. This vital data gathering can and must continue, as this data is essential for NASA to develop its Remedial Action Implementation Plan.
- Building Demolition – NASA's preparation for demolishing and removing structures can continue.
  - NASA has prepared its draft demolition "standard operating procedure" and is working with DTSC to secure its approval.
  - California is willing to work with NASA and CEQ to facilitate the demolition process so that it can occur separate from, and prior to development of the cleanup plan and completion of an EIS on the cleanup plan. Demolition work plans could be prepared as Engineering Evaluations/Cost Assessments (as defined under the federal Comprehensive Environmental Response, Compensation and Liability Act), a process that, in DTSC's experience, has been used at other federal sites and deemed equivalent to or compliant with NEPA requirements.

- Environmental Data Gathering – A significant amount of data must be gathered to define the baseline conditions for the site and its surroundings, and to inventory the existing natural and cultural resources. This information will be used for not only the NEPA analysis but will also be needed in the CEQA analysis. Examples of the information gathering activities include:
  - Biological inventories
  - Cultural/Native American resource inventories
  - Archeological survey
  - Wetlands delineation/inventories
  - Traffic study

Coordination with DTSC does not need to result in the delay of activities of interest to NASA. Moreover, we believe that coordination of NASA's NEPA efforts with DTSC's CEQA process is the best approach for all concerned. There are no substantive or procedural barriers to developing a joint EIS/EIR document that complies with both NEPA and CEQA. DTSC has participated, in many instances, at other sites in California where EIR/EIS documents are developed collaboratively by both the federal and state entities; the final document produced satisfies the procedural and substantive requirements of both NEPA and CEQA. Although NASA has already commenced its initial scoping process, when DTSC commences its CEQA efforts, it could readily integrate NASA's work into its CEQA efforts, with no disruption of the process and no delay in the final timing of a decision.

The following is the approach that DTSC intends to follow in fulfilling its CEQA commitments:

As with NEPA, CEQA anticipates that a detailed informational document be developed by DTSC as the lead agency that analyzes a project's potential significant impacts and identifies mitigation measures and reasonable alternatives to avoid those effects. As we have outlined to you previously, the "project" is NASA's implementation of its cleanup obligations under the AOC, which includes the remediation of contaminated soils to background levels.

DTSC anticipates that its CEQA alternatives would be those that are consistent with the AOC and available for use in NASA's Remedial Action Implementation Plan. This plan will be developed after investigation activities have been completed and cleanup alternatives identified. When the various options that meet the AOC requirements are presented, DTSC will be in a position to evaluate and understand the environmental impacts associated with each of the options. Not only will the potential environmental impacts be identified, but also methods for mitigating those impacts, as required by

Mr. Charles F. Bolden, Jr.  
May 22, 2012  
Page 4

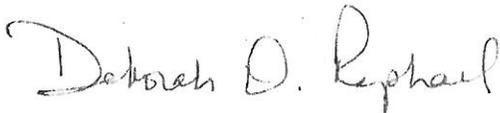
CEQA, will be identified and integrated into the Remedial Action Implementation Plan, prior to its approval.

This approach is consistent with the environment review proposal being communicated by the Department of Energy (DOE) for its portion of the SSFL site. DOE's NEPA early consultation efforts, as explained in its April 2012 factsheet for upcoming public workshops, make it clear that it is defining its project as a cleanup to background levels, as required by its AOC. DOE has been careful not to identify potential alternatives that do not meet its AOC cleanup objective. A copy of DOE's "fact sheet", dated April 2012, is enclosed for your information.

It is essential, for the sake of the continued success of the site investigation as well as cleanup efforts and more importantly, for the sake of the community surrounding SSFL, that NASA's and DTSC's efforts related to NEPA and CEQA be communicated and coordinated effectively. We have previously asked, and now insist, that NASA work closely with DTSC to develop a plan of action that will detail how our agencies will collaborate more closely to prepare and adopt environmental documentation under both NEPA and CEQA.

DTSC greatly appreciates NASA's commitment to clean up its portion of SSFL to background levels, and for its continued cooperation with DTSC in the investigation and cleanup process. We look forward to NASA's action in response to this letter. Should you have any questions, please feel free to contact me at (916) 322-0504 or Mr. Stewart Black, Deputy Director, Brownfields and Environmental Restoration at (916) 324-3148.

Sincerely,



Deborah O. Raphael  
Director

Enclosure

Mr. Charles F. Bolden, Jr.  
May 22, 2012  
Page 5

cc: The Honorable Diane Feinstein  
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The Honorable Barbara Boxer  
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