

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

CEASE AND DESIST ORDER NO. R4-2009-00XX

**REQUIRING THE BOEING COMPANY, SANTA SUSANA FIELD LABORATORY
TO CEASE AND DESIST DISCHARGES OF CONTAMINANT CONCENTRATIONS IN EXCESS
OF APPLICABLE WATER QUALITY STANDARDS FROM OUTFALLS 008 AND 009 TO
WATERS OF THE UNITED STATES**

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) finds:

BACKGROUND

1. The Boeing Company (Permittee), Santa Susana Field Laboratory (SSFL) occupies 2,850 acres and it is located at the top of Woolsey Canyon Road in the Simi Hills, Ventura County, California. SSFL is owned by both the Permittee and the National Aeronautics and Space Administration (NASA). NASA owns 451.2 acres of the property, 41.7 acres in Area I, which includes the area commonly referred to as the former location of the Liquid Oxygen Plant (LOX) and 409.5 acres in Area II. The United States Department of Energy (DOE) leases approximately ninety acres and owns several buildings located in Area IV.
2. The Permittee and its predecessors' operations at SSFL since 1950 included research, development, assembly, disassembly, and testing of rocket engines, and chemical lasers. NASA operations included rocket engine assembly and testing, propellant and fuel storage and loading. DOE conducted past operations in research and development of energy related programs, including nuclear reactors, and seismic testing experiments.
3. Nuclear research and development for DOE and its predecessors was conducted at the SSFL from 1954 – 1989. The activities included developing and operating reactors, and fabricating and disassembling nuclear fuel. The government began to phase out the program in the 1960s. The last reactor was shut down in 1980, and nuclear research was terminated in 1989. Current DOE activities onsite are solely related to facility closure, environmental remediation, and restoration. This research and the associated activities resulted in onsite contamination.

There are currently no programs at the SSFL which employ special nuclear materials. Current decommissioning activities have reduced the inventory of radioactive waste at the SSFL to approximately 5 curies. Essentially all of this material is stored in shielded vaults located at the Radioactive Materials Handling Facility (RMHF). SSFL continues to utilize radioisotopes in the form of calibration sources which are necessary to calibrate radiation detectors and counting equipment. Three radiological facilities located in Area IV of the SSFL remain to be decommissioned. Storm water run-off from Area IV of the SSFL is monitored for radioactivity. The DOE is responsible for the cost of decontamination and decommissioning, the California Department of Health Services (Radiological Health Branch) has radiological oversight responsibilities at Area IV of the SSFL.

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March 11, 2009

4. Historical activities at SSFL that contributed to discharges from the site included rocket engine testing cooling water, operation of fire suppression equipment, and pressure testing of equipment used to support rocket engine testing. Other facility support activities such as cooling, heating, domestic waste treatment, and groundwater treatment also contributed to discharges from the site.
5. During the early 1950s to the mid-1970s, volatile organic compounds were utilized for the cleaning of hardware and rocket engine thrust chambers as well as other equipment. These solvents migrated into the subsurface, contaminating groundwater primarily with trichloroethylene (TCE) and 1, 2-dichloroethylene (1, 2-DCE). There was an extensive groundwater remediation/investigation program in progress at the SSFL, which historically included pumping, treating, and storing groundwater at the facility. This system was composed of eight treatment systems. These systems had the capability of producing up to 578 million gallons of treated groundwater per year. The groundwater was treated to remove volatile, and in some cases semi-volatile, organic compounds. The system was not designed to treat perchlorate or metals. Historically, treated groundwater was discharged directly into one of five water reclamation ponds via naturally occurring streambeds and in some cases man made watercourses present onsite. These treatment systems were regulated under Resource Conservation Recovery Act (RCRA) hazardous waste permits or administrative orders issued by Department of Toxic Substances Control (DTSC), and various air quality control permits issued by Ventura County.

The groundwater treatment system is being reconfigured. The plan is for one system that will be located in Area 1, near CTL-V. The groundwater from all over the site will be pumped to this location for treatment. After treatment the effluent will be tested and discharged to the streambed at Outfall 019. Outfall 019 is a new compliance point located downstream of Outfall 011 and upstream of Outfall 001. The new groundwater treatment system construction is scheduled to be complete in 2009.

6. SSFL has the potential to discharge a total of approximately 272 million gallons per day (MGD) of storm water runoff and wastewater that has the potential to contain pollutants from the facilities. Approximately 60% of the discharge exits the property via southerly discharge points (Discharge Outfalls 001, 002, 011, and 018) to Bell Creek, a tributary to the Los Angeles River, a navigable water of the United States, with its confluence located near the intersection of Bassett Street and Owensmouth Avenue in Canoga Park, above the estuary.

The remaining storm water is discharged offsite via Outfalls 003 through 007, 009, and 010 to the northwest toward the Arroyo Simi, a tributary of Calleguas Creek. Discharges from Outfall 008 in Happy Valley flows via Dayton Canyon Creek to Chatsworth Creek. Chatsworth Creek flows south to Bell Creek southwest of the intersection of Shoup Avenue and Sherman Way. Bell Creek subsequently flows southeast to the Los Angeles River.

7. This Order addresses the watershed areas of Outfalls 008 and 009 only.
 - Outfall 008 – This outfall is located in the area commonly referred to as Happy Valley. The entire watershed covers approximately 62 acres. The area receives storm water runoff from the former solid propellant testing area. Operations in the area terminated in 1994. A major component of the propellant was perchlorate. Heavy metals are also associated with these types of operations and they have been detected at concentrations that exceed water quality objectives in storm water exiting the area. Storm water from the area is discharged to Dayton Canyon Creek. The flow from Dayton Canyon Creek joins Chatsworth Creek which flows south to Bell

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Creek southwest of the intersection of Shoup Avenue and Sherman Way. Bell Creek subsequently flows east to the Los Angeles River. In September 2004, an interim measure with oversight from the DTSC was implemented in Happy Valley to remove perchlorate contaminated soil. Data collected in the area since the completion of the interim measure demonstrated compliance with the perchlorate effluent limit of 6 µg/L.

- Outfall 009- Outfall 009 begins near the entrance to the property and traverses several potential areas of concern. The entire watershed is approximately 536 acres. It collects storm water runoff from the Area 1 and Area 2 Landfills, and from the former LOX plant, which is located on NASA property. The outfall also picks up storm water runoff from Sage Ranch. The Sage Ranch property was previously used for agricultural operations and it includes a gun shooting range. Discharges via this outfall exit the property, enter the American Jewish University/ Brandeis Bardin Campus and travel to Arroyo Simi.

Storm water discharges from these outfalls continue to have concentrations of contaminants in excess of water quality based effluent limits. The Regional Board believes that contaminant source removal actions that target areas which have elevated levels of contaminants will result in compliance with the NPDES permit.

DISCHARGE HISTORY FOR OUTFALLS 008 AND 009

7. On July 1, 2004, the Regional Board adopted Order No. R4-2004-0111 replacing Order No. 98-051, which prescribes waste discharge requirements to the Permittee for the discharge of storm water runoff and wastewater from SSFL. This order added eleven new compliance points including Outfalls 008 and 009 and incorporated requirements based on the California Toxics Rule (CTR).
8. On July 30, 2004, a Petition from Committee to Bridge the Gap for Review of Regional Board Order No R4-2004-0111 was filed. The petition requested a stay of the requirements included in Order R4-2004-0111 to the extent it would remove water quality based effluent limitations for certain metals and volatile organic compounds applicable to seven outfalls at the site. On September 17, 2004, the State Board adopted Order WQO 2004-0014, which denied the petitioners request.
9. Subsequent to the adoption of Order R4-2004-0111, on August 2, 2004, the Permittee filed a petition of the permit with the State Water Resources Control Board. The permittee immediately put the petition in abeyance.
10. On March 14, 2005, the Regional Board issued a NOV to the Permittee for violations of the effluent limits set forth in Board Order No. R4-2004-0111. The Permittee's effluent exceeded the limits for Cu, Hg, 2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD), and pH during the 4th Quarter 2004. The NOV required submittal of a report detailing the corrective actions taken by the Permittee to achieve compliance with Board Order No. R4-2004-0111.
11. In a letter dated April 14, 2005, the Permittee, in response to the March 14, 2005 NOV, submitted a report detailing corrective actions taken. The Permittee asserted that most of the exceedances are the result of natural causes and/or new constituents, effluent limits or methodologies in the renewed permit. The Permittee also asserted that they planned to request that the permit be modified to remove permitted discharges that were generated by operations that have been terminated (sewage treatment plants).

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12. By a letter to the Regional Board dated July 15, 2005, the Permittee requested that the Regional Board reopen and revise the NPDES permit issued in July 2004 to provide a compliance schedule for all outfalls where the Regional Board adopted more stringent numerical standards or analytical procedures that are different than the previous permit ("1998 permit").
13. On October 7, 2005, the Regional Board issued a NOV to the Permittee for violations of effluent limits set forth in Board Order No. R4-2004-0111. The Permittee's effluent exceeded the limits for Hg, TCDD, residual chlorine, oil and grease, sulfate, MBAS, chromium (Cr), iron (Fe), lead (Pb), manganese (Mn), total dissolved solids (TDS), and chronic toxicity from 1st Quarter 2005 through 2nd Quarter 2005. The NOV required a report detailing the corrective actions taken by the Permittee to achieve compliance with Board Order No. R4-2004-0111.
14. In a letter dated November 4, 2005, the Permittee, in response to the October 7, 2005, NOV, again asserted that the permit exceedances were consistent with the presence of naturally occurring constituents in site soils or in ash from area wildfires, rather than a result of site operations. The Permittee asserted that significant upgrades to the Best Management Practices (BMPs), to control runoff and to attempt to bring their discharge into full compliance with the waste discharge requirements had been implemented. However, due to the Topanga Wildfire on September 28, 2005, most of the BMPs were destroyed.
15. On November 22, 2005, pursuant to section 13267 of the California Water Code, the Regional Board issued a letter and directed the Permittee to submit a technical report including a workplan outlining how and when the Permittee proposed to meet the final effluent limitations of Board Order No. R4-2004-0111. The technical report was submitted to the Regional Board on December 16, 2005.
16. On November 30, 2005, a Cleanup and Abatement Order (CAO) No. R4-2005-0077 was issued to the Permittee. The CAO was issued in response to chronic exceedances of effluent limits contained in Regional Board Order Nos. 98-051 and R4-2004-0111 as well as the increased threat of erosion of soil and ash resulting from the Topanga wildfire. The CAO ordered the Permittee to: (i) initiate a cleanup and abatement program including the implementation of all BMPs necessary to abate impacts of any erosion and ash deposition to navigable waters of the United States; (ii) implement corrective and preventative actions to bring the Permittee's discharge into full compliance with Effluent Limitations and Receiving Water Requirements contained in Regional Board Order No. R4-2004-0111; and (iii) prepare a technical report summarizing the efforts being made to cleanup and abate the condition of pollution.
17. On November 30, 2005, a tentative Order amending Order No. R4-2004-0111 was issued for public comment. The tentative Order would incorporate new effluent limits based on the reasonable potential analysis of data collected since August 20, 2004, the effective date of Order No. R4-2004-0111. The tentative order was considered at the January 19, 2006, Board Meeting, updated by the Board and adopted as Order R4-2006-0008.
18. On January 24, 2006, a tentative Order, which incorporated updates associated with the metals and nutrients TMDLs for Los Angeles River was issued for public comment. During the March 9, 2006, Board Meeting the item was considered and the proposed amendment adopted as Order No. R4-2006-0036.

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19. After the adoption of Order R4-2006-0008 in January 2006, the Permittee petitioned that order, activated the previous petition and petitioned the pending amendment, Order R4-2006-0036. The permittee also requested that the permit be stayed pending a decision on the permit on the basis of merit.
20. On April 3, 2006, there was a State Board Hearing on the Permittee's request for a stay. Order WQ 2006-0002, which was adopted on April 7, 2006, from the State Board stayed effluent limitations for specified constituents at various outfalls. Subsequently, the State Board met en banc. After considering the evidence, the Board adopted Order WQ 2006-0007 on June 21, 2006, which vacated the previous Order and denied the request for a stay.
21. On December 13, 2006, after issuing a draft Order, the State Board held a public hearing to discuss issues related to the petition of the permit on the basis of merit. On that day, Order WQ 2006-0012 was issued by State Board. The Order:
 - Remanded the permit to the Regional Board to revise the provisions concerning Outfalls 001, 002, 011, and 018,
 - Stayed the effluent limitations at Outfalls 011 and 018 pending a determination by the Regional Board deleting either Outfalls 011 and 018 or Outfalls 001 and 002,
 - Directed the Regional Board to issue a Cease and Desist Order (CDO) with the shortest possible compliance schedule and interim effluent limitations, based on the effects of the Topanga Fire. The effective date of the CDO was to be January 19, 2006, and
 - Review the permit to ensure that numeric effluent limitations for different outfalls do not count the same violation twice in such a manner as to treat a single violation as multiple violations.

In all other respects, the petitions were denied.

22. On February 21, 2007, the Permittee submitted the first of a number of deliverables with the final document delivered on May 24, 2007, which included a revised ROWD and other supplemental information considered during the update of the permit. The revised permit and a CDO were considered by the Regional Board at the November 1, 2007 Board Meeting.
23. The Regional Board issued Complaint No. R4-2007-0035 for Administrative Civil Liability against the Boeing Company in the amount of \$471,190. On August 27, 2007, Boeing waived its right to a hearing and submitted full payment of the civil liability. A Notice of Conclusion of Enforcement Action was issued referencing this case on September 11, 2007.
24. On November 1, 2007, the Regional Board adopted Order R4-2007-0055 which amended the NPDES permit that regulates discharges from the facility. The Order deleted limits for operations that had been terminated and incorporated findings documenting the Remand.
25. Order No R4-2007-0056, a CDO was adopted by this Regional Board at the November 1, 2007, Board Meeting. The CDO included interim effluent limits for discharges from Outfalls 001 through 011, and 018, in compliance with the requirements included in the Remand issued by the State Water Resources Control Board. The CDO also included requirements for the Discharger to develop and implement engineered natural treatment systems (ENTS) for the watershed areas included in Outfalls 008 and 009.

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26. On June 11, 2008, the Regional Board issued a Notice of Violation and Requirement to Submit Information for Violations of Order Nos. R4-2004-0111, R4-2006-008, R4-2006-0036, and R4-2007-0055.
27. On December 3, 2008, the Regional Board issued a Section 13304 Interim/Source Removal Action (ISRA) of Soil in the Areas of Outfalls 008 and 009 Drainage Areas, to the Boeing Company Santa Susana Field Laboratory. Boeing was directed to cleanup the waste that are discharging to waters of the State, minimize impacts to the streambed and to adjacent habitat during the cleanup, protect the water quality during and after the cleanup, and restore the streambed and surrounding habitat following the cleanup.

EVIDENCE OF CONTAMINATION AND BASIS FOR SECTION 13301 ORDER

28. On July 1, 2004, the Regional Board, adopted Order No. R4-2004-0111 (NPDES Permit No. CA0001309), containing Waste Discharge Requirements for the Boeing Santa Susana Field Laboratory including requirements as follows:
 - a) “Standard Provision A1: Neither the disposal nor any handling of wastes shall cause pollution or nuisance..”
 - b) “Standard Provision A2: The discharge shall not cause a violation of any applicable water quality standards for receiving waters adopted by the Regional Board or the State Water Resources Control Board as required by the Federal Clean Water Act and regulations adopted there under....”
 - c) “Standard Provision B3: The discharger must comply with all of the terms, requirements, and conditions of this order. Any violation of this order constitutes a violation of the Clean Water Act, its regulations and the California Water Code, and is grounds for enforcement action, Order termination, Order revocation and reissuance, denial of an application for reissuance; or a combination thereof.”
29. The Permittee, in self-monitoring reports submitted to the Regional Board, has reported violations of the waste discharge requirements contained in Order No. R4-2004-0111, R4-2006-0008, and R4-2006-0036. The Permittee has been discharging effluent that has chronically exceeded the effluent limits for TCDD, heavy metals and other pollutants from 1998 through 2008.

CONCLUSION

33. The unauthorized discharge of wastes by the Permittee was not permitted and is in violation of water quality objectives established in the *1994 Water Quality Control Plan for the Los Angeles Region*, as amended, and other applicable State and Federal Water Quality Standards.
34. The Permittee has upgraded and implemented a number of new BMPs onsite since the adoption of Order R4-2004-0111. However, discharges from the facility continue to have contaminant concentrations in excess of established effluent limitations even after the implementation of the new BMPs. This indicates that efforts to control the transport of contaminants to waters of the United States have been ineffective.

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37. Section 13301 of the California Water Code states, in part, that:

“When a regional board finds that a discharge of waste is taking place or threatening to take place in violation of requirements or discharge prohibitions prescribed by the regional board or the state board, the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventive action.....”

This CDO requires the Permittee to comply with established requirements or prohibitions, to comply with a time schedule, or, if the violation is threatening, to take appropriate remedial or preventative action.

38. 40 CFR part 122.44(l)(1) requires that when a permit is renewed or reissued, interim effluent limitations, standards or conditions must be at least as stringent as the final effluent limitations, standards or conditions in the previous permit (unless the circumstances on which the previous permit was based have materially and substantially changed since the time the permit was issued and would constitute cause for permit modification or revocation and reissuance under §122.62).
39. The data collected since the adoption of Order R4-2006-0008 and R4-2006-0036 provide new information about the discharge including the concentrations of contaminants in the discharge.

Review of the petition by the State Board resulted in a remand of the permit to the Regional Board with a directive to issue a CDO with the shortest possible compliance schedule and interim effluent limitations.

40. During discussions with the Permittee on February 23, 2007, there was a request to treat the discharges from Outfalls 008 and 009 differently from the other storm water only outfalls. Outfalls 008 and 009 are located in jurisdictional drainages where engineered BMP installation may be impractical. Historical data confirms that treatment is required to meet the effluent limitations included in the NPDES permit. The Permittee has proposed a conceptual ENTs design study as the mechanism to meet the final effluent limitations proposed for discharges from these locations. The ENTs will be strategically located to control erosion and sediment from specific source areas, and RCRA RFI Sites throughout the subwatershed. The ENTs include erosion and sediment controls (such as surface roughening and use of soil binders) and structural treatment devices (such as treatment wetlands and bioretention areas). An independent team of experts will be convened to evaluate site conditions including contaminants in the vicinity, evaluate the ENTs, their documented effectiveness and their performance under site conditions, to select the appropriate ENTs, the design and implementation.
41. Interim source removal coupled with the implementation of the ENTs at Outfalls 008 and 009 enhances the Dischargers ability to achieve full compliance with the NPDES permit. Consequently, on December 3, 2008, the Regional Board issued a Section 13304 Order for source removal in the watersheds associated with Outfalls 008 and 009.
42. This CDO is an action taken for the protection of the environment and, as such, is exempt from the provisions of the California Environmental Quality Act in accordance with California Code of Regulations, title 14, section 15321.

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The Regional Board notified Boeing, interested agencies, and parties of its intent to issue a CDO. The Regional Board heard and considered all testimony pertinent to this matter in a public hearing. All Orders referred to above and records of hearings and testimony therein are included herein by reference.

IT IS HEREBY ORDERED that, in accordance with section 13301 of the California Water Code, the Boeing Company shall cease and desist all discharges of contaminants in excess of the effluent limits stipulated in Order No. R4-2009-00XX and this CDO, by complying with the following:

1. Submit for approval to the Executive Officer by May 1, 2009, Final ISRA Work Plan, as specified in the Section 13304 Order issued by the Regional Board on December 3, 2008. The Work Plan must include a detailed schedule.
2. Compliance for storm water runoff discharges from Outfalls 008 and 009 from June 26, 2009, to June 26, 2012 shall utilize the final effluent limits that appear in I.B.4. of Order R4-2009-00XX as benchmarks. Exceedance of benchmarks triggers an evaluation of the BMPs in place with the potential for upgrading or replacing the BMPs (see Section II.C.7. of Order R4-2009-00XX).
3. Discharges from Outfalls 008 and 009 after June 26, 2012, shall comply with the final effluent limits that appear in I.B.4. of Order R4-2009-00XX
4. Submit a report on the results of the ISRA and ENTs implementation by August 31, 2012. The report should include a description of the areas targeted for ISRA, the volume of soil removed, the basis or data used to determine the disposition of excavated soil, the disposition of the excavated soil, and any storm water runoff data collected after completion of the ISRA and/or implementation of ENTs
5. Failure to comply with this Order will result in immediate termination of the Order and implementation of final effluent limitations at Outfalls 008 and 009.

The Permittee shall comply with all other effluent limitations and requirements contained in Order R4-2007-0055.

This CDO is not intended to permit or allow the Permittee to cease any work required by any other order issued by the Regional Board, nor shall it be used as a reason to stop or redirect any investigation or cleanup or remediation programs ordered by the Regional Board or any other agency. Furthermore, this CDO does not exempt the Permittee from compliance with any other laws, regulations, or ordinances which may be applicable, and it leaves unaffected any further restrictions which may be contained in other statutes or required by other agencies.

This CDO does not preclude the Regional Board from taking any enforcement action, including but not limited to complaints for administrative civil liability for the discharge of effluent concentrations exceeding the effluent limitations specified in Order R4-2004-0111, R4-2006-0008, R4-2006-0036, or subsequent Orders.

The action taken by this Regional Board does not preclude the possibility of actions to enforce this CDO by third parties pursuant to Section 505 of the Federal Clean Water Act.

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Should Permittee fail to comply with any provision of this CDO, the Executive Officer is authorized to request the Attorney General to take appropriate action against the Permittee, including injunction and civil monetary remedies, pursuant to appropriate California Water Code sections, including but not limited to, sections 13331, 13350, 13385 and 13386.

TERMINATION

Cease and Desist Order No. R4-2007-0056, adopted by this Regional Board November 1, 2007, is hereby terminated except for enforcement purposes.

I, Tracy J. Egoscue, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Los Angeles Region, on May 7, 2009.

Tracy J. Egoscue
Executive Officer

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