



CHATSWORTH NEIGHBORHOOD COUNCIL

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September 3, 2013

Mr. Allen Elliott
SSFL Project Director
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**Comments of Chatsworth Neighborhood Council on
Draft Environmental Impact Statement for Demolition and Environmental Cleanup Activities for
the NASA-administered portion of the Santa Susana Field Laboratory (SSFL), Ventura County,
California, dated July 2013**

SUMMARY:

NASA's DEIS does not serve its purpose, which is to completely inform decision makers so they can decide how to best execute the cleanup. The DEIS is flawed because it lacks important information. DTSC must supply much of the missing information. The DEIS is so inadequate it should be re-issued after critical missing information is made available or determined.

1. The DEIS lacks guidance on situations and actions that depend on vague language in the 2010 Administrative Order on Consent (AOC) that governs the cleanup. DTSC must provide NASA with an authoritative and binding interpretation of the language of the AOC.

The DEIS is incomplete because it lacks guidance that still-undelivered DTSC documents, such as the DTSC EIR should include. This future EIR document must include a CEQA analysis that balances cleanup goals under various scenarios, including costs (both financial and environmental). Additionally, the DTSC EIR must provide information on what soils are to be removed in culturally sensitive areas, and what cultural resources will remain after the cleanup, as DTSC has sole authority to make these decisions under the AOC.

2. The DEIS is incomplete because it does not specify expected outcomes for cultural resources, both archeological and architectural.
3. The DEIS is incomplete because it excludes analysis of all possible levels of cleanup except the "cleanup to background" alternative. Many commentators specifically requested inclusion of other reasonable alternatives during the scoping process.
4. The DEIS is incomplete because it does not address how to obtain replacement soil that will meet the requirements in the AOC.

5. The DEIS is incomplete in its specification of cumulative impacts with other concurrent projects; viz., the DOE and Boeing cleanups.
6. The DEIS is incomplete in its survey and mitigation methods for plants.

ESSENTIAL POINT OF CHATSWORTH NEIGHBORHOOD COUNCIL'S COMMENTARY:

NASA must acquire from DTSC important missing information, and NASA must issue a corrected, comprehensive DEIS that provides decision makers adequate information to make an informed decision on how the cleanup should proceed.

COMMENTS:

1 DEIS Lacks Guidance on AOC Language and on Site-Specific Guidelines

- 1a. The AOC charged DTSC with oversight authority for the cleanup.^{1a} DTSC must provide NASA with a binding, authoritative interpretation of the language of the AOC. NASA must learn what SSFL-situation-specific rules will govern decisions and actions for the cleanup.
- 1b. DTSC must provide NASA with much information that a DTSC EIR-type document would contain.
- 1c. DTSC must provide guidance to NASA on many subject areas before NASA can complete its DEIS. Of major consequence for every decision is the requirement under the AOC that at least 95% of any soil that has ANY amount of contamination over background level must be removed.^{1c} This ambiguous requirement has pervasive impact on every item discussed below.
- 1d. DTSC does not expect to deliver its EIR until some unspecified time in the future.^{1d} NASA needs information from such EIR to complete a valid EIS that can be used as a decision making guide. Does this lack of a realistic schedule not call into question the feasibility of the AOC-mandated completion date of 2017? Can the governing AOC therefore any longer be considered 'binding'?
- 1e. The NASA Associate Administrator for Mission Support Directorate notes that NASA will be assisting DTSC in a CEQA analysis estimated to be complete by the end of 2015, but also notes that analysis will be restricted to the AOC cleanup level.^{1e.1} (See **Attachment 1**.) To the best of our knowledge, both NEPA and CEQA set standards for environmental considerations that must be addressed in environmental documents, and contracts that are inconsistent with that law do not trump NEPA and CEQA provisions. The NEPA and CEQA analysis must consider all options, not the single path set by the AOC^{1e.2} When will DTSC's actual EIR, including CEQA considerations, be issued as a draft? When will it be issued in final form? It appears these documents are not scheduled before execution of the cleanup to the constraints of the AOC. That is not our understanding of CEQA or environmental policy.
- 1f. There are many environmental cleanup projects in the U.S. They "all" (as far as anyone knows) MUST operate according to federal and state EPA laws that were passed by legislators concerned with the environment. Operating under EPA processes means any

toxic cleanup MUST evaluate multiple reasonable alternatives. The SSFL cleanup was forced to be uniquely different from other projects, because the AOC was signed before any EIS-type document. Why the difference? ^{1f} See **Attachment 2**. How is the different treatment of this project explained? We can fathom no reasonable explanation.

The Chatsworth Neighborhood Council advocates a cleanup based on scientific results, testing and standards, not political pressures.

- 1g. NASA should include the AOC document as an Appendix to the DEIS.
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2 DEIS Does Not Specify Expected Outcomes for Cultural Resources

- 2a. DTSC must interpret the AOC on the handling of Native American cultural resources. The AOC language is vague in its definition of Archaeology, defining it as “Artifacts.” They must be “formally recognized as Cultural Resources”.^{2a} What does a “formally recognized cultural resource” mean? Who needs to recognize what to meet that odd definition? Interpretive guidance is critically needed, because much of the Burro Flats Cave area, registered in the National Register of Historic Places, is on the NASA property. The future of Burro Flats and related nearby Native American areas is yet to be decided by DTSC. An artifact is generally understood to represent a movable, historically used, significant object. Given that definition, the Burro Flats Cave itself could be eliminated by the language in the AOC, as well as bedrock mortars that are very significant in the immediate area. An explanation of how the Burro Flats Cave, and nearby related sites, will be treated must be provided by NASA and DTSC in the DEIS.
- 2b. The DEIS states that cleanup of approximately 0.65 acres of the Burro Flats site (CA-VEN-1072) will be undertaken.^{2b} At the August 28 public comment session on this DEIS, a NASA representative indicated they have been told the Cultural Resource definition in the AOC means the National Register of Historic Places (only). Under that definition, this site is exempt from cleanup. Why would this DEIS indicate any portion of this site is to be cleaned? This discrepancy highlights the problem of who controls the cleanup, an ongoing issue as we reviewed the DEIS. We do note, however, the definition of Artifact still was not clarified so the Burro Flats site may still be subject to cleanup under the AOC; since this site may still be subject to cleanup due to vague language, we object to cleanup of the Burro Flats site, as it is an identified and registered National Register of Historic Places area, and as it is an identified Native American Sacred Site.

What are the contamination levels at the archaeological sites, and in particular, the 0.65 acre Burro Flats parcel slated for cleanup?

- 2c. The DEIS does not provide any information on how the boundaries of the archaeological sites on the property were determined. What survey methods were used? When was that done? What was found on the site? How was it tested? At what depth? What will DTSC do with an artifact NASA found in that survey, or a midden area that would not qualify as an artifact (that surely would be “contaminated”)?
- 2d. Only a pedestrian survey of the site boundaries was done. Are additional pedestrian studies, and more detailed studies needed in the area where soil is to be removed? The DEIR lacks sufficient specificity to understand what has been surveyed.^{2d} A more

comprehensive survey using soil sampling techniques must be undertaken to determine the true size of the District. The Burro Flats Archaeological District likely extends outside the borders of Area II into Areas III and possibly into Area IV. This site should not be segmented between the 3 RPs, but should be looked at holistically as part of the entirety of the Cultural Resources of SSFL. New, detailed surveys of this site must be accomplished prior to making irrecoverable decisions to “clean up” this exceptional and irreplaceable Native American Sacred Site.

- 2e. What will be done with newly discovered archaeological Artifacts found in the process of the cleanup, that are not “culturally recognized”? How will these items be preserved or protected?
- 2f. The Appendix for Cultural Resources^{2f} lists multiple sites within a mile of the NASA property that have Cultural Resources. We have heard that multiple additional sites have been identified during recent surveys on nearby SSFL properties. It appears the list in the Appendix at Table 4 has not been updated to reflect current information. The segmented nature of the various studies is of concern. Please review and update as needed.
- 2g. DTSC must interpret the AOC on the handling of Architectural Structures that are eligible historic structures (rocket engine testing facilities). Three structures at each of the Alpha, Bravo and Coca test stand areas have been found eligible under NRHP and SHPO (nine total structures).^{2g} What contamination has been found in the soils under the test stands? Have testing boreholes been drilled under these structures? What has been found? Appendix C, Figure 8 at page C-53, shows significant contamination in the Test Stand Areas, but does not disclose information specific to the key structures. The DEIR is deficient in not disclosing specific information on contamination issues in these areas, and particularly in the foundation areas of the NRHP and SHPO-eligible structures.
- 2h. Will DTSC allow some or all of these historic structures to remain?
- 2i. Since test stands are not “artifacts”, but are recognized as significant historic structures under Section 106, NRHP and SHPO, what will happen to these structures?
- 2j. The standards established by Section 106 (reproduced below) provide a mandate to seek ways to avoid or mitigate adverse effects on historic properties. Both NASA and DTSC need to indicate their intention for these structures that could be irreparably destroyed and a key part of our country’s rocket history forever thereby lost. Because the NASA property holds key remnants of our country’s space and rocket development, consideration of the possible end use of the property as a park should be incorporated in the preservation decisions. If the NASA parcel ultimately is joined with the larger Boeing parcel that is expected to become a park, preservation of appropriate NRHP and SHPO-eligible structures to inspire future generations should be given a much higher priority. These decisions should be documented in Alternatives presented in the re-issued DEIS.

Appendix C, Section 5.1 is reproduced in part below (emphasis added):

“The enabling legislation for Section 106 is contained in 36 CFR 800, “Protection of Historic Properties.” The Section 106 process entails three basic steps:

1. Identify historic properties potentially affected by the undertaking.
2. Assess adverse effects on historic properties.
3. Seek ways to avoid, minimize, or mitigate adverse effects on historic

properties.”

- 2k.** Prepare and present a cost/benefit analysis for preserving and maintaining the historic structures and Districts. Include contamination analysis (soil and building), as well as costs and benefits identified in the study, to make informed decisions about which to preserve, and which can be preserved and be safe for visitors. We encourage special attention to Coca V and Alfa III and their associated blockhouses, as those were targeted early as preferred candidates for preservation, if preservation choices ultimately are necessary.
- 2l.** With respect to all cultural resources, please provide information for the groundwater and surface water effects due to soil mitigation. Specifically include consideration of the effect of the 330,000 cubic yard reduction in site soils noted in the soil replacement plan, including collateral re-contamination and other effects from flooding and silt runoff due to soil changes.

The impacts anticipated to the archaeological cultural resources from removal of soil from parcels within the designated archaeological site have not been reviewed or disclosed in the DEIS.

The impacts anticipated to the archaeological cultural resources from removal of soil from parcels outside of the designated archaeological site, but within the NASA DEIS study area have not been reviewed or disclosed in the DEIS.

Nothing is disclosed relative to the Burro Flats cave except that soil is to be removed from 0.65 acres – from where?

The impacts anticipated to the historic test stands (Alpha, Bravo, Coca) from removal of soil from parcels within the designated historic area have not been reviewed or disclosed in the DEIS.

The impacts anticipated to the historic test stands (Alpha, Bravo, Coca) from removal of soil from parcels outside of the designated historic area, but within the NASA DEIS study area, have not been reviewed or disclosed in the DEIS.

3 DEIS Excludes Consideration of Alternative Cleanup Levels

- 3a.** Exclusion of any possible cleanup alternatives, except one, is a momentous detriment to the usefulness of the DEIS. The DEIS excludes from consideration reasonable alternatives supported by authorized standards of the State of California including cleanup to Suburban Residential, Commercial/Industrial, and Recreational levels.
- 3b.** The DEIS should be expanded to include those excluded alternatives, presenting comparison of costs and all related effects on transportation, biological resources, cultural resources, soil, water, and air.
- 3c.** We include as **Attachment 3** charts NASA presented at past public meetings. The charts show estimates for cost and materials that could be expected for Background, Suburban Residential, Industrial, and Recreation level cleanup alternatives. Presented just behind

these charts, is a summary of the anticipated costs for each type of cleanup and a chart summarizing the meaning of each cleanup standard.^{3c} These charts and related commentary on cleanup standards and costs should be included in the re-issued DEIS.

- 3d.** A discussion of alternatives should include what NASA will do if the Appeals Court supports the lower court decision, which will have the effect of stating that special, stricter cleanup standards are not required at SSFL under California law. An explanation should be provided to explain why the public should pay for a cleanup that is inconsistent with the law, and why local residents should be subjected to significant environmental contaminants from emissions, disturbed soil and related fugitive dust effects, and surface water runoffs that are greatly increased by unavoidable consequences of a background level cleanup of the site. See, in **Attachment 4**, the text of the District Court decision filed May 5, 2011, which prohibits DTSC from compelling compliance with SB990. The AOC appears to operate as a substitute for a questionable law, but the justification for its position requiring a “background level cleanup” on this important site is very unclear.
- 3e.** The February 2013 Report of the Inspector General of NASA brought up many similar questions.^{3e.1} The report requested that the level of cleanup be re-evaluated. The Inspector General also questioned whether NASA would receive funding allocations within its own budget to perform the cleanup to the draconian^{3e.2} standards required by the AOC. How will this be resolved? Will NASA be provided sufficient funding for cleanup to this background standard, even if the cleanup to SB990-type levels is again held unlawful by the Appeals Court? See **Attachment 5**, “NASA Inspector General Overview February 14, 2013”.

4 DEIS Is Not Complete Regarding Basic Soil Considerations

- 4a.** The DEIS does not fully address how appropriate backfill soil will be sourced. Some possible suppliers are noted, but there is no guidance on how soils that must match the specific background levels for SSFL will be identified. Source sites from which sufficient quantities of such soils may be obtained are not identified.^{4a}
- 4b.** The DEIS does not explain why or how three times as much soil will be removed from the site as will be backfilled. Can permanent reduction (by non-backfilled removal) of up to 333,000 cubic yards of soil be deemed appropriate mitigation?^{4b}
- 4c.** The site, apparently to be reconstituted with up 333,000 cubic yards less soil, will have significant effects on surface water runoff. A major problem on the SSFL site has been surface water runoff and related contamination effects. Although the site has had a better record in the last two years, rainfall levels have been very low. Surface water runoff effects resulting from substantial reduction in surface soils must be reviewed, explained, and disclosed. It is well settled that a reduction in permeable surfaces (typically associated with development) causes significantly increased runoffs. What will be the runoff effects of the decreased soil in a year with average rainfall? What is expected when rainfall is significantly over average levels?
- 4d.** The EIS states “onsite” (*ex situ* and *in situ* treatment) soil cleanup may be performed where appropriate.^{4d.1} The AOC seems to prohibit this promising alternative and states the only allowable method for soil cleanup is removal.^{4d.2} DTSC and NASA must both explain how this seeming contradiction is possible based on the AOC language. The

“leave in place” remediation alternative should be considered in the NEPA and CEQA analysis, as well as in the DEIS, because such a remediation approach would entail significantly less environmental impact, by reducing soil excavation, hauling, and soil replacement.

- 4e. The DEIS includes a review of Environmental Justice which generally looks at the impacts to lower income and minority populations that will be affected by the hauling. Nothing is presented to address such demographics in the areas that are proposed to receive, and then permanently live with possible effects from the contaminated material, such as Buttonwillow, Kettleman, and Beatty. The Environmental Justice analysis should be extended in the re-issued DEIS to include these areas.
- 4f. At the August 28, 2013, public comment session on the DEIS, it was disclosed the haul trucks are merely covered with tarps when traveling with contaminated material. We request much more complete protection for our community from the contaminated material that the AOC’s require to be removed. Better alternatives for reduced dust from the trucks need to be developed and implemented.

5 DEIS Is Not Complete Regarding Cumulative and Combined Impacts

- 5a. The combined impacts of all concurrently operating SSFL projects regarding traffic and transportation-related pollution are non-specific: (e.g., “...likely would be noticeable ...”).^{5a}
- 5b. What transportation routes will the other related projects (concurrent DOE, Boeing cleanups) use. Will they use the same or different haul routes?
- 5c. What will the transportation emissions be for all projects combined? What will be the total effect on surrounding communities?
- 5d. The number of trucks on all projects, travelling on Woolsey Canyon during daylight hours must be disclosed, as well as twilight and night truck traffic volumes for all projects combined. This disclosure should be presented in a table format, and specify the anticipated number of incoming and outgoing trucks in one hour increments during weekdays and weekends (if applicable), for all projects to present a realistic understanding of the traffic impact. Include a column for worker arrivals and departures from the site. Provide hour of the day in the rows, and in columns show incoming and outgoing traffic for each of NASA, DOE, Boeing. Combine all workers for all projects in the last set of columns for cumulative incoming and outgoing traffic.

6 DEIS Is Not Complete Regarding Plants

- 6a. The DEIS survey and analysis of flora are insufficient. They lack quantification and specifics related to impacts.
- 6b. How many plants of each type are involved? How many coast live oak (*quercus agrifolia*) trees will be removed or otherwise endangered? How many western sycamores?

Although counts for Santa Susana tarplants are shown, presentation of plant density and expected soil removals (similar to Appendix C, Figure 8 at page C-53) would greatly improve the understanding of the effect of the project on this State-listed Rare species.

- 6c.** What steps will NASA take, over what period of time, to regenerate sensitive species? For example, we do not believe Santa Susana tarplant is part of the seed mix specified for replanting. How will plantings be monitored to encourage regrowth?
- 6d.** What steps will NASA take to eliminate introduction of invasive species as off-site soil is brought in as part of the soil replacement? How will plants be affected by re-filling the site with only one-third as much soil as was removed? How will the segmented cleanup and backfills affect the overall health of this habitat, which in many areas is uniquely unaffected by the major metropolitan community next door?

SUMMARY:

The Chatsworth Neighborhood Council looks forward to seeing responses to our comments in upcoming environmental documents and asks that you seriously consider them. We primarily represent Chatsworth and West Hills, two areas that will be most affected by the thousands of truckloads of materials that are required to be moved by the AOC. In a manner similar to that voiced so clearly by the NASA Inspector General⁷, we too, have great difficulty seeing that cleanup to these special AOC standards is of any tangible benefit. (See **Attachment 6**.) But we certainly see the detriment to our community and the huge governmental costs we will pay as taxpayers.

Please be assured that we resolutely support cleanup of this site to “reasonable” levels. We believe the “Suburban Residential” cleanup standard, set by the 2007 Consent Orders, is a very reasonable cleanup level (exceeding requirements) if the land will become open space, as almost all who are familiar with the property request.

Sincerely,

Note: The above letter was adopted unanimously (or by a vote of x to x) at the Chatsworth Neighborhood Council’s Board meeting on September 3, 2013.

ATTACHMENTS: TABLE OF CONTENTS

- Attachment 1, (1e) Audit Report: NASA's Environmental Remediation Efforts at the Santa Susana Field Laboratory, Report No. IG-13-007, Feb. 14, 2013, p. 33
<http://oig.nasa.gov/audits/reports/FY13/IG-13-007.pdf>
retrieved 8/20/2013
- Attachment 2, (1f) U. S. District Court Central District of California, Case CV-10-04839-JFW (MANx), Plaintiff the Boeing Company's Statement of Uncontroverted Facts and Conclusions of Law, p. 46-56 http://www.dtsc-ssfl.com/files/lib_boeinglawsuit%5Clegaldocs/64849_Boeing_statement_uncontroverted_facts.pdf
retrieved 8/20/2013
- Attachment 3, (3c) Three Documents:
 Cleanup NASA Alternatives (4 pages)
 NASA Cleanup and Related Costs (Table), p. 11
 NASA Remediation Levels Defined (Table), p. 6
- Attachment 4, (3d) U. S. District Court Central District of California, Case CV-10-04839-JFW (MANx), Judgment Pursuant to Fed. R. CIV. p. 54(b)
- Attachment 5, (3e) Audit Report: NASA's Environmental Remediation Efforts at the Santa Susana Field Laboratory, Report No. IG-13-007, Feb. 14, 2013, overview, p. i– iv
- Attachment 6, (7) Audit Report: NASA's Environmental Remediation Efforts at the Santa Susana Field Laboratory, Report No. IG-13-007, Feb. 14, 2013, p. 10

References:

- 1a** Docket No. HSA-CO 10/11 - 038 ADMINISTRATIVE ORDER ON CONSENT FOR REMEDIAL ACTION, section 5.19.1, http://ssfl.msfc.nasa.gov/documents/governance/NA_DTSC_Final_AOC_Dec_2010.pdf retrieved 8/20/2013
- 1c** Agreement in Principle between The National Aeronautics and Space Administration and the State of California, p. 1 http://ssfl.msfc.nasa.gov/documents/governance/NASA_DTSC_Final_AOC_Dec_2010.pdf retrieved 8/20/2013
- 1d** NASA DEIS, 1.3 Scope of the Analysis, p. 1-7
- 1e.1** Audit Report: NASA's Environmental Remediation Efforts at the Santa Susana Field Laboratory, Report No. IG-13-007, Feb. 14, 2013, p. 33 <http://oig.nasa.gov/audits/reports/FY13/IG-13-007.pdf> retrieved 8/20/2013
- 1e.2** U. S. District Court Central District of California, Case CV-10-04839-JFW (MANx), Plaintiff the Boeing Company's Statement of Uncontroverted Facts and Conclusions of Law, p. 36-37 http://www.dtsc-ssfl.com/files/lib_boeinglawsuit%5Clegaldocs/64849_Boeing_statement_uncontroverted_facts.pdf retrieved 8/20/2013
- 1f** U. S. District Court Central District of California, Case CV-10-04839-JFW (MANx), Plaintiff the Boeing Company's Statement of Uncontroverted Facts and Conclusions of Law, p. 36-37
- 2a** Agreement in Principle between The National Aeronautics and Space Administration and the State of California, p. 1
- 2b** NASA DEIS, 4.3.1.2 Soil Cleanup to Background, p. 4-19
- 2d** NASA DEIS, Appendix C, Draft Cultural Resources Study... 3.2 Field Inventory Methodologies, p. C-34; 6.1.1 Archaeological Resources, p. C-51; Figure 8 Proposed Soil Remediation Area..., p. C-53
- 2f** NASA DEIS, Appendix C, Draft Cultural Resources Study..., 3.1 Archival Research, p. C-31-33
- 2g** NASA DEIS, Appendix C, Draft Cultural Resources Study, 3.3.2 Historic Architectural Resources, p. C-38-39
- 3c** Audit Report: NASA's Environmental Remediation Efforts at the Santa Susana Field Laboratory, Report No. IG-13-007, Feb. 14, 2013, p. 6
- 3e.1** Audit Report: NASA's Environmental Remediation Efforts at the Santa Susana Field Laboratory, Report No. IG-13-007, Feb. 14, 2013, Overview, p. iii-iv
- 3e.2** Known for its harshness, draconian has come to refer to similarly unforgiving rules or laws. [http://en.wikipedia.org/wiki/Draco_\(lawgiver\)#Draconian_constitution](http://en.wikipedia.org/wiki/Draco_(lawgiver)#Draconian_constitution)
- 4a** NASA DEIS, 2.2.2.3 Soil Cleanup Technologies, p. 2-19
- 4b** NASA DEIS, Table 2.2-5, Estimated Total Soil Volumes..., p. 2-19
- 4d.1** NASA DEIS, 4.2.1.2 Soil Cleanup to Background, p. 4-8
- 4d.2** Agreement in Principle between The National Aeronautics and Space Administration and the State of California, p. 2
- 5a** NASA DEIS, 4.13.2.4 Traffic and Transportation, p. 4-161
- 7** Audit Report: NASA's Environmental Remediation Efforts at the Santa Susana Field Laboratory, Report No. IG-13-007, Feb. 14, 2013, p. 10