

## Exhibit 8 – Summary of Environmental Regulatory History at SSFL

## **Summary of Environmental Regulatory History at SSFL**

A general chronological overview of milestones in the cleanup, remediation, and environmental review of the Santa Susana Field Laboratory (SSFL) is provided below. Additionally, provided below is an overview of the environmental regulatory documents prepared or under development for each of the entities which own or have regulatory control over portions of the subject site which evaluate environmental effects associated with soil and groundwater remediation activities and termination of operations at SSFL.

The SSFL is comprised of four areas totaling approximately 2,850 acres controlled by NASA, the United States Department of Energy (DOE), and the Boeing Company (Boeing). These entities are referred to as Responsible Parties in the consent order discussed below. Numerous environmental documents have been prepared for the subject site. Soil contamination remediation activities are assumed to begin in 2020, per the NASA draft Supplemental Environmental Impact Statement and the Department of Toxic Substances Control draft Programmatic Environmental Impact Report. The discussion below is a chronology which provides background necessary to understand the environmental review context and provide informed feedback.

- A. 2007 Consent Order – On August 16, 2007, the Responsible Parties (RP's) entered into a consent order (Attachment A – 2007 Consent Order) with the California Department of Toxic Substances Control (DTSC) in which they agreed to clean up groundwater and soil at the Santa Susana Field Laboratory (SSFL) to residential exposure levels. The 2007 Consent Order, which defined the requirements for investigating the contaminated soil and groundwater and cleanup of the site, was the initial agreement between DTSC and the RP's.
- B. SSFL Senate Bill 990 (SB 990) and California Superfund – On January 1, 2008, SB 990 (Attachment B – SB 990) became effective. The law gave DTSC authority to clean up the site utilizing the California Superfund Law and the Resource Conservation and Recovery Act (RCRA). The law required the site to be cleaned to the highest and most protective cleanup standards provided under the “rural residential (agricultural)” land use designation.<sup>1</sup>
- C. Regional Water Quality Control Board 13304 Order – On December 3, 2008, Los Angeles Regional Water Quality Control Board (RWQCB) issued a 13304 Order to Boeing to perform interim/source removal actions to remove wastes that are causing or contributing to violations of limitations contained in the National Pollution Discharge Elimination System (NPDES) permit (Attachment C – NPDES Order No. R4-2004-0111) in the Outfalls

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<sup>1</sup> Information obtained from the DTSC website, June 16, 2020, Available at: [https://dtsc.ca.gov/sitecleanup/santa\\_susana\\_field\\_lab/ssfl\\_regulatory\\_oversight\\_sb990\\_ca\\_superfund/](https://dtsc.ca.gov/sitecleanup/santa_susana_field_lab/ssfl_regulatory_oversight_sb990_ca_superfund/)

008 and 009 Drainage areas. Site-wide cleanup of soil, soil vapor, and groundwater was not part of the scope of NPDES Order No. R4-2004-01111; the oversight of these areas rest with the DTSC.

- D. Administrative Orders of Consent for Remedial Action (AOC) – In December 6, 2010, NASA (Attachment D – NASA 2010 AOC) and the DOE (Attachment E – DOE 2010 AOC) entered into subsequent separate AOC’s with DTSC. Under the terms of the AOC’s, NASA and the DOE agreed that the 2007 Consent Order would continue to govern their cleanup obligations related to groundwater and soil vapor at the SSFL, but the agencies would be required to return the soil to its original state before any of the Field Laboratory testing activity occurred; referred to in the AOC as background levels. The agencies further agreed that they would complete soil cleanup to this standard in 2017. The 2010 AOC’s established the process to investigate and cleanup soil within NASA’s and the DOE’s administrative areas. The 2007 Consent Order continued to define the groundwater investigation and cleanup requirements within Boeing’s administrative areas. As a result of the separate AOC’s, the soil cleanup requirements for Boeing’s administrative areas are different from the soil cleanup requirements for the DOE’s and NASA’s administrative areas.<sup>2</sup>

The 2010 AOC’s provide for certain exceptions to cleaning up chemical contaminants in soils to local background concentrations, subject to oversight and approval of DTSC. In particular, one exception is provided for formally recognized Native American artifacts. As stated in the 2010 AOC’s, “the acceptance and exercise of any of the exceptions is subject to DTSC’s oversight and approval, and the resulting cleanup is to be as close to local background as practicable” (Attachment D).

- E. On April 26, 2011, the Ninth Circuit Court of Appeals ruled in favor of Boeing and overturned SB 990 (Attachment F – Ninth Circuit Court of Appeals Decision).
- F. DTSC Programmatic Environmental Impact Report (PEIR)<sup>3</sup> – The DTSC circulated draft PEIR’s for the SSFL Project which covers cleanup for all four Administrative Areas that comprise the 2,850 acre-subject site in accordance with the California Environmental Quality Act (CEQA). The PEIR was circulated on September 7, 2017 and October 23, 2017. The County of Ventura (County) provided comments each time the document was circulated. The PEIR analyzed the implementation of the 2007 Consent Order, the 2010 AOC’s, and implementation off other activities associated with the SSFL cleanup.

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<sup>2</sup> Information obtained from DTSC website, June 16, 2020, Available at: [https://dtsc.ca.gov/sitecleanup/santa\\_susana\\_field\\_lab/ssfl\\_regulatory\\_oversight/](https://dtsc.ca.gov/sitecleanup/santa_susana_field_lab/ssfl_regulatory_oversight/)

<sup>3</sup> A copy of the DTSC’s Draft PEIR cultural resources mitigation measures can be found at the following link: [https://dtsc.ca.gov/sitecleanup/Santa\\_Susana\\_Field\\_Lab/ssfl\\_document\\_library/](https://dtsc.ca.gov/sitecleanup/Santa_Susana_Field_Lab/ssfl_document_library/)

The draft PEIR indicates the cleanup efforts will cause significant unavoidable impacts to cultural and archaeological resources. There are 18 mitigation measures related to cultural resources contained in the draft PEIR (Attachment G – DTSC Draft Program EIR Cultural Resources Mitigation Measures). While still in draft form, these measures are included for review and consideration in context. Below you will find some of the key measures germane to the Burro Flats NRHP nomination. The intent of the mitigation measures are to reduce impacts to tribal cultural resources and archaeological resources qualifying as historical resources or unique archaeological resources as defined in Section 15064.5 of the CEQA Guidelines to the greatest extent feasible.

1. Mitigation Measure CUL-4, states, “If due to cleanup requirements a cultural resource cannot be avoided, then the resource shall be evaluated for its individual integrity for listing in the CRHR [California Register of Historical Resources] or as a unique archaeological resource, and for each resource’s eligibility as a contributor to the Simi Hills Archaeological District and/or the SSFL TCP [Traditional Cultural Property], following the evaluation procedures detailed in the CRMP [California Residential Mitigation Program] and consistent with the Simi Hills Archaeological District Study (Bray et al., 2016). If the resource is determined to be significant (i.e., eligible for individual listing in the CRHR or as a unique archaeological resource, and/or contributor to the Simi Hills Archaeological District and/or the SSFL TCP), DTSC, in coordination with Interested Tribes, would have an option to exercise the AOC exception for “Native American artifacts that are formally recognized as Cultural Resources” or, in the case of resources located within Boeing-owned property (where the Exception is not applicable), may avoid impacts to the resource through coordinated project redesign. If DTSC elects not to exercise the AOC exception, or if avoidance of the significant cultural resource is determined by DTSC to be infeasible, then the resource would be subject to appropriate data recovery or treatment, following the treatment and reporting procedures detailed in the CRMP, that addresses the resource’s relevant eligibility criteria and its eligibility as an individual resource, and/or a contributor to the District and/or TCP, as determined by DTSC and the SOI-qualified (Secretary of the Interior-qualified) archaeologist, and in coordination with Interested Tribes.”
2. Mitigation Measure CUL-10, states, “Burro Flats Site Complex Documentation and National Register Nomination. Prior to project implementation, NASA and Boeing shall retain, and DTSC shall have discretionary approval of, an SOI-qualified archaeologist to confirm the boundary of the Burro Flats Site Complex on both NASA and

Boeing land. Based on this boundary confirmation, the SOI-qualified archaeologist shall prepare an updated DPR 523 form and National Register Nomination form for the Burro Flats Site Complex. The Nomination shall be prepared within one year of the boundary confirmation. The updated Nomination shall utilize and synthesize all available existing information on the Burro Flats Site Complex and shall be coordinated by the SOI-qualified archaeologist with SHPO and National Park Service.”

- G. NASA’s Final Environmental Impact Statement (FEIS)<sup>4</sup> – The National Aeronautics and Space Administration (NASA) is a Federal Agency and is subject to the National Environmental Protection Act (NEPA). In accordance with NEPA, NASA issues a final EIS in March 2014, evaluating the demolition of all structures and remediation of soil and groundwater contamination, as stipulated in the 2007 Consent Order and 2010 AOC. The complete FEIS may be found at the link contained in footnote 6 below.

In April 2014, NASA released a Record of Decision (ROD)<sup>5</sup> to proceed with activities delineated in the FEIS. A Programmatic Agreement (Attachment H – 2014 NASA Programmatic Agreement) between NASA, the California SHPO, and the Advisory Council on Historic Preservation regarding the demolition and soil and groundwater cleanup resulted in the SSFL that was included in the ROD. The FEIS included the following, “The National Historic Preservation Act (NHPA) required NASA to consult with federal, state, and local agencies, Native American Tribes, other organizations, and members of the public having a potential interest in the proposed action. More than 35 individuals were involved in the consultation process that was conducted as part of the NEPA process for the FEIS. Consulting parties have varying interests in the site included representatives from federally recognized tribes and members of state and local tribes. Consultation culminated with measures to address the adverse effects to historic properties stipulated in the Programmatic Agreement.”

A report highlighting cleanup technology feasibility studies, soil and groundwater fieldwork, and additional archaeology surveys that would be performed in preparation for the demolition of structures was issued by NASA in 2014. Subsequently, NASA determined that substantially more soil needed to be removed from its part of the site than was estimated in the 2014 report. As a result, in October 2019, NASA circulated a Supplemental

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<sup>4</sup> A complete copy of the NASA’s 2014 Final EIS can be found at the following link:  
[https://www.nasa.gov/sites/default/files/files/SSFL\\_Final\\_EIS.pdf](https://www.nasa.gov/sites/default/files/files/SSFL_Final_EIS.pdf)

<sup>5</sup> The complete ROD can be found at the following link:  
[https://www.nasa.gov/sites/default/files/files/SSFL\\_EIS\\_ROD.pdf](https://www.nasa.gov/sites/default/files/files/SSFL_EIS_ROD.pdf)

EIS (SEIS) <sup>6</sup>for public review. A complete copy of the SEIS can be found at the link provided in footnote 8.

1. NASA and the Burro Flats Boundary Delineation Requirement. NASA used the process and documentation to fulfill NEPA § 36 CFR 800.8(c) (Attachment I – NEPA 36 CFR 800.8(c)) in lieu of the NHPA Section 106 consultation process. To that end, NASA consulted with the SOHP, the Advisory Council on Historic Preservation (ACHP), the Santa Ynez Band of Chumash Indians, non-federally recognized Native American tribes (e.g.: Chumash, Tataviam, and Gabrieleño Tongva), and over 30 other consulting parties. The conclusion of the NASA consultation process was the preparation of the aforementioned Programmatic Agreement, which was executed on April 2, 2014. NASA concluded that cleanup within NASA-owned portions of the project site would adversely impact the Alfa, Bravo, and Coca Test Area Historic Districts; the nine individually eligible historic properties located within the historic districts; archaeological sites CA-VEN-1072 (Burro Flats Site Complex) and CA-VEN-1803; the Indian Sacred Site designated under Executive Order 13007; and the TCP.

The 2014 Programmatic Agreement stipulates the specific mitigation measures to be carried out by NASA to address the adverse impacts of demolition and soil and groundwater cleanup at NASA-administered areas of SSFL. To reduce impacts to the TCP, NASA was required to prepare a formal NRHP nomination for the TCP, create an Environmentally Sensitive Area Action Plan, thoroughly define the boundaries of CA-VEN-1072, and request that DTSC exercise its AOC exception in order to avoid disturbance of CA-VEN-1072, among other measures stipulated in the 2014 Programmatic Agreement.

The NRHP nomination for the Burro Flats Cultural District was completed by NASA in accordance with the 2014 Programmatic Agreement based on the *Ethnographic Overview of the Native American Communities in the Simi Hills and Vicinity* (Lawson et. al., 2017). Burro Flats Cultural District is eligible for listing on the NRHP as a TCP. The nomination was sent to the SOHP in 2018 for review and comment. While the boundaries of the TCP's are confidential, for the purposes of analysis in NASA's draft SEIS the TCP is defined as the entire SSFL. The Burro Flats Cultural District delineation and nomination stipulation appears as a mitigation in NASA's draft SEIS and DTSC's draft PEIR.

Additionally, pursuant to the NHPA, Section 106, the DOE is consulting with the SHPO, the Santa Ynez Band of Chumash Indians, non-federally

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<sup>6</sup> A complete copy of the SEIS may be viewed at this link:  
[https://www.nasa.gov/sites/default/files/atoms/files/draft\\_supplemental\\_eis\\_soil\\_cleanup\\_activities\\_santasusanafielddlaboratory.pdf](https://www.nasa.gov/sites/default/files/atoms/files/draft_supplemental_eis_soil_cleanup_activities_santasusanafielddlaboratory.pdf)

recognized tribes, and other consulting parties to develop a Section 106 Programmatic Agreement that will establish procedures for addressing adverse impacts on historic properties, including appropriate actions to avoid, minimize, or mitigate any impacts. The Programmatic Agreement currently under development will include procedures for the development of a monitoring plan, as well as a discovery plan that addresses unanticipated archaeological finds during cleanup activities. Remediation activities will be performed in a manner that respects the significance of the SSFL property to Native American stakeholders. The DOE will continue to coordinate with Native American stakeholders on a regular basis to resolve adverse impacts on traditional cultural resources, including development of a Section 106 Programmatic Agreement that will establish procedures for addressing adverse impacts on traditional cultural properties eligible for the NRHP.

#### H. NASA draft SEIS

In October 2019 NASA circulated the draft SEIS which evaluated the soil cleanup alternatives for NASA's portion of the SSFL. The review period was subsequently extended to January 8, 2020. The draft SEIS evaluates four alternatives. Under Alternative A, NASA would remediate the soil on the NASA-administered property at SSFL to DTSC proposed background levels (Look-up Table (LUT) values). For purposes of brevity, only this Alternative is identified in this summary as it is consistent with the legally binding 2010 Administrative Order on Consent.

1. TCP and Indian Sacred Site – As stated in NASA's draft SEIS, the TCP and the Indian Sacred Site are assumed to encompass the entire SSFL site, so the impacts to each under Alternative A would be similar. The excavation and removal of up to 870,000 cubic yards (yd<sup>3</sup>) of soil would affect the integrity of the Indian Sacred Site and the TCP by altering the landscape through plant and soil removal. The setting and feeling of the place would be irrevocably altered. The plants, animals, rocks, views, sky, and human creations are all significant elements of the TCP. Generations of plants and animals would be removed, and this would drastically change the feeling of the site for decades to come. There would be physical changes to the significant characteristics of the sacred site and access to the sacred site could be impeded for more than 25 years as the remediation efforts progress.

There would also be temporary visual impacts to the Indian Sacred Site and the TCP during the equipment and excavation activities. The effect on the Indian Sacred Site and the TCP from the excavation and removal of up to 870,000 yd<sup>3</sup> of soil would be significant, negative, and permanent and would constitute an adverse effect under Section 106 because it would alter the sense of place and the landscape, including

plants and habitat, and reduce the integrity of the setting, feeling, and association.

2. Burro Flats Site – The location of the Burro Flats Site is confidential and is not disclosed in NASA’s draft SEIS. Roughly 5.7 acres of the Burro Flats Site would be impacted by soil excavation and offsite disposal as part of the cleanup activities under Alternative A if the AOC exemption is not issued. The disturbance from the excavation and removal of soil to another location would impact the Burro Flats Site because of the loss of the cultural materials within the volume of soil. Archeological artifacts lose their significance when removed from their location and context. The impacts to the Burro Flats Site from the excavation and removal of soil under Alternative A would be significant, negative, and permanent and would constitute an adverse effect under Section 106.

#### I. DOE Final EIS (FEIS)

As mentioned previously, the SSFL is divided into four Administrative Areas. Area IV is under the control of the DOE. In November 2018, the DOE releases the FEIS<sup>7</sup> for remediation of Area IV and the Northern Buffer Zone of the SSFL. A complete copy of the FEIS may be viewed at the link provided in Footnote 9.

Under the DOE Look-up Table (LUT) Values Alternative (background level) it was noted the DOE has identified 26 archaeological sites and 53 isolates in the area of potential effect (ACE), of which eight archaeological sites were determined to be individually eligible for listing on the NRHP and two were individually ineligible for listing on the NRHP. Consistent with the 2010 AOC, the DOE has identified locations of known archaeological sites as areas in which the exemption process would be applied. In the soil remediation plan the DOE would submit for the DTSC approval, the DOE would propose that areas subject to the exemption process be cleaned of chemical and radioactive constituents if they pose a risk to human health or the environment. Therefore, some archaeological sites may be impacted by cleanup activities, including potentially five known archaeological sites that are on or near areas that health risk assessments have shown require remediation.

Soil remediation activities could adversely impact any historic properties within the area of potential effects (APE) that cannot be exempted from cleanup requirements. In accordance with the Section 106 Programmatic Agreement currently under development, DOE will prepare one or more Historic Properties Treatment Plan(s) (HPTP). The HPTP(s) will document which historic properties will be avoided, if any; describe the scope of the

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<sup>7</sup> A complete copy of the DOE Final EIS may be viewed at the following link:  
[http://www.ssflareaiveis.com/final\\_documentation.aspx](http://www.ssflareaiveis.com/final_documentation.aspx)

adverse effects on historic properties that cannot be avoided; and, as appropriate, include measures to minimize and mitigate such adverse effect, the manner in which these measures will be carried out, and a schedule for their implementation.

- J. On May 20, 2020, the DOE and the DTSC announce a consent order to demolish 10 of the remaining DOE-owned buildings (Attachment J – DOE DTSC Consent Order Press Release, dated May 20, 2020).