

Date of Hearing: June 26, 2007

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS

Jared Huffman, Chair

SB 990 (Kuehl) – As Amended: April 9, 2007

SENATE VOTE: 21-16

SUBJECT: Santa Susana Field Laboratory

SUMMARY: Authorizes the Department of Toxic Substances Control (DTSC) to compel a responsible party or parties to take or pay for appropriate removal or remediation action, as prescribed, necessary to protect public health and safety and the environment at the Santa Susana Field Laboratory site in Ventura County. Specifically, this bill:

- 1) Consolidates the oversight of the chemical and radioactive contamination remediation of the Santa Susana Field Laboratory (SSFL) site under the lead agency authority of DTSC.
- 2) Requires that calculating the risk from radiological and chemical contaminants at the site shall be summed and the land use assumption shall be either suburban residential or rural residential.
- 3) Requires the Director of DTSC to certify that the land has undergone complete remediation pursuant to this measure.
- 4) The sale, lease, sublease, or other transfer of any land presently or formerly occupied by the SSFL shall be prohibited unless the Director of DTSC certifies that the land has undergone complete remediation.

EXISTING LAW

- 1) Under the federal Atomic Energy Act of 1954 and the Low-level Radioactive Waste Policy Act, generally vests the Nuclear Regulatory Commission (NRC) with the authority to regulate radioactive materials and wastes, and provides that the NRC may delegate authority over low-level radioactive materials and wastes (essentially all radioactive wastes other than spent nuclear fuel rods and the like) to "agreement states" including California.
- 2) Under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), commonly known as the federal Superfund law, provides the United States Environmental Protection Agency (US EPA) with authority over the remediation of uncontrolled or abandoned hazardous-waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment.
- 3) Under Chapter 6.5 of the Health and Safety Code (commencing with Section 25100), requires the Department of Toxic Substance Control (DTSC) to establish standards and regulations for the management of hazardous wastes to protect against the hazards to public health and safety and the environment.

- 4) Under Chapter 6.8 of the Health and Safety Code (commencing with Section 25300), the Carpenter-Presley-Tanner Hazardous Substance Account Act (commonly referred to as the State Superfund program) authorizes DTSC and the State Water Resources Control Board to require, oversee and recover costs for the remediation of sites where contamination of soil and water presents a hazard to human health or the environment.
- 5) Under Chapter 8 (commencing with Section 114960) of the Health and Safety Code, requires the Department of Health Services (DHS) to regulate the handling and use of ionizing radiation (most radioactive wastes other than high-level wastes which are regulated by the NRC) for the protection of public health and safety.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible costs.

COMMENTS:

Need for the bill: The author's office states that over the years, various piecemeal cleanups around the SSFL site were undertaken with varying degrees of protective quality but the site was not fully evaluated and "characterized" as to its degree of contamination. According to the author's office, US EPA has criticized this piecemeal approach and the inadequate characterization and cleanup, declaring that the site is not safe for unrestricted residential use and, (e.g. might be able to be used for day-hikes with stringent limits on picnicking.) Despite these concerns, the federal Department of Energy (DOE) continues to move forward with plans to release the site for unrestricted residential use. If this is allowed, families could purchase homes built on soil contaminated with strontium-90, cesium-137 and other radionuclides from the past meltdown and other past accidents.

The author cites recent scientific studies showing that the closer a person lived to the SSFL site, the greater his or her exposure to certain toxic materials and an elevated risk for certain types of cancers. Earlier studies had already concluded that the workers at the site having the highest exposures to radiation and chemicals had elevated risks of dying from various cancers. In order to protect the surrounding community, this bill will require the SSFL site to be thoroughly remediated for both chemical and radioactive contamination, as determined by DTSC, prior to any sale, lease or transfer of all or any part of the property.

Santa Susana Field Laboratory. The SSFL consists of 2850 acres of land in eastern Ventura County, bordering Los Angeles County, about 30 miles northwest of downtown Los Angeles between Simi and San Fernando Valleys. It was intended as a remote field laboratory to conduct work too dangerous for populated areas.

The SSFL was established after World War II by the United States government to develop and test nuclear reactors and engines for missiles, spacecraft and rockets. The first commercial nuclear-power producing reactor inside the United States was built at SSFL. The reactor powered over 1,100 homes in the Moorpark area of California for a short period of time. SSFL, however, also became home to the first meltdown of a power-producing reactor in the United States on July 26, 1959. Today, all nuclear research and most rocket testing have stopped. The site is now owned by The Boeing Company and is used as a research facility.

Over the decades of operation the SSFL experienced numerous accidents, spills and releases that have resulted in widespread radioactive and chemical contamination of the groundwater, surface water and soil on the site and the surrounding area.

Exposure Studies: There has been numerous exposure studies conducted since 1990. In 2005, the U.S. Agency for Toxic Substance Disease Registry released two multi-year studies on the potential health impacts on residents living near SSFL. The first found that very high levels of toxic chemicals were released into the areas surrounding SSFL, at concentrations far in excess of USEPA acceptable levels, with the highest risk being within two miles of the site. The second study found cancer rates in the surrounding community increased the closer one got to SSFL, again with the highest risk being within two miles of the site and found significant increases in those cancers presumed to be radiosensitive and those associated with chemical exposures.

Santa Susana Field Laboratory Radiation Remediation: In 1995, the US EPA and DOE announced a Joint Policy Agreement under which all DOE sites, including SSFL, were to be cleaned up to meet the EPA's CERCLA standards. However, in 2003, the DOE issued an Environmental Assessment indicating that it intended to release SSFL for residential use without meeting the CERCLA standards for remediation of the site. In December, 2003, EPA issued a letter saying that the DOE cleanup was not adequately protective of public health; the site had not been adequately characterized; and that the only safe public use for the site, given the DOE standards, would be limited day hikes with restrictions on picnicking. Earlier this year, DOE agreed to use the EPA CERCLA standard for their remediation of the last two buildings. However, DOE is not going to revisit the rest of the site to ensure the entire site cleanup meets the CERCLA standards.

Court Action: On May 2, 2007, in the matter of National Resources Defense Council, et. al. versus the Department of Energy, et.al., the US District Court of Northern California granted the plaintiff's motion for summary judgment regarding the DOE's remediation of a portion of the SSFL know as Area IV. Area IV is the northwest corner of the SSFL site and consists of approximately 290 acres where DOE is responsible for the remediation. The conclusion stated that DOE has violated, and continues to violate the National Environmental Policy Act(NEPA) and that the Court permanently enjoins the DOE from transferring ownership or possession of any portion of Area IV until the DOE has completed and Environmental Impact Statement and issued a Record of Decision pursuant to NEPA. The Court also retained jurisdiction over the matter until it is satisfied that DOE has met its legal obligations.

Arguments in Support: According to the proponents, the cleanup at the SSFL site has been marred by inconsistent standards and contradictory regulatory responsibilities. The chemical cleanup is being regulated by DTSC. The radioactive cleanup is overseen by DOE. The proponents state that in 1995, DOE and EPA entered into a joint policy to cleanup all DOE nuclear sites consistent with EPA standards. In 2003, however, DOE broke that commitment and chose to do the cleanup pursuant to far less protective standards. In the last months, DOE has said it will finally follow EPA standards for the last two buildings in the radiation area, but will not clean up the rest of the site to the same standard. The proponents argue that the cleanup of the entire site should be consistent and brought under the authority and accountability of one regulatory agency. It doesn't make sense to artificially segment the cleanup. By consolidating the cleanup under DTSC's authority, this bill will simply ensure that the SSFL cleanup is done

thoroughly and completely to an appropriately protective standard for the community and environment

Arguments in Opposition: According to the Boeing Company, SB 990 would unfairly single-out the 2,800 acres owned and occupied by the Boeing Company and NASA at a site where the company is in the final stages of a longstanding environmental remediation effort for NASA and DOE. Boeing states that for the last fifteen years, they have complied with all federal and state laws and regulations to ensure the area is remediated using safe and protective cleanup standards. Boeing states that the bill imposes a theoretical one-in-a-million risk level using an unlikely agricultural land use scenario. According to Boeing the US/EPA radioisotope cleanup levels for this combination of risk and land use are technically unachievable because these levels are less than laboratory and instrument detectability and less than the availability of background radionuclides in clean soil. Boeing states that it is doing everything it should do to protect the best interests of the community and has actually exceeded radiological cleanup standards. Other opponents state that setting standards in statute for a particular site sets a bad precedent and is poor public policy.

Related Legislation

- 1) SB 1456 (Kuehl), 2003-04 Session. Would have prohibited an owner or operator of the SSFL site in Ventura County from using, selling, transferring, or leasing any part of that site for residential use unless the EPA finds that radioactive contamination at the site has been surveyed and remediated in accordance with CERCLA. The bill failed passage on the Assembly Floor.
- 2) SB 208 (Kuehl), 2003-04 Session. Would have required the SSFL to be cleaned up to EPA's Superfund standards and monitored pursuant to EPA's proposed survey, as previously promised. The bill was held on the Senate Appropriations Committee suspense file.
- 3) SB 1444 (Kuehl), 2001-02 Session. Would have established a process at the Department of Health Services for restricting the sale, transfer, or leasing of radioactive contaminated property. The bill failed passage on the Assembly Floor.
- 4) SB 243 (Kuehl), 2001-02 Session. Would have required all former reactor sites in the state to be cleaned up to EPA CERCLA standards and all radioactive waste to be disposed of in licensed radioactive waste disposal facilities. The bill failed in the Assembly.

REGISTERED SUPPORT / OPPOSITION:

Support

United States Senator Dianne Feinstein
United States Congressman Brad Sherman
Cleanuprocketdyne.org
Committee to Bridge the Gap
County of Los Angeles
County of Ventura
Natural Resources Defense Council

Physicians for Social Responsibility-Los Angeles
Planning and Conservation League
Rocketdyne Cleanup Coalition
Rocketdyne Watch
Save Open Space
Sierra Club California
Southern California Federation of Scientists
Susana Knolls Homeowners Association
West Valley Mothers for Childhood Cancer Awareness
Individuals (2)

Opposition

Anaheim Chamber of Commerce
Antelope Valley Chamber of Commerce
Boeing Company
California Aerospace Technology Association
California Chamber of Commerce
California Council for Environmental and Economic Balance
California Manufacturers & Technology Association
California Radioactive Materials Management Forum
California Space Authority
Central City Association of Los Angeles
Huntington Beach Chamber of Commerce
Lakewood Chamber of Commerce
Orange County Business Council
Palmdale Chamber of Commerce
Regional Hispanic Chamber of Commerce
South Bay Association of Chambers of Commerce
Torrance Area Chamber of Commerce

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