

INSIDE JOB

HOW BOEING FIXERS CAPTURED REGULATORS
AND DERAILED A NUCLEAR AND CHEMICAL
CLEANUP IN LA's BACKYARD

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**HAZARDOUS TEST
-NO ENTRY-**

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Preface

Debbie Raphael, Director of the Department of Toxic Substances Control (DTSC), abruptly resigned not long before the publication of this report. Her resignation was an acknowledgment of the deep problems Consumer Watchdog previously raised.

Under her leadership, Raphael at best failed to address the core problems at the department and, in some cases, worsened them. These problems include weakening oversight of polluters under pressure from industry and its hired guns, and failing to force serial polluters to operate without poisoning communities or cleaning up their messes.

Raphael's resignation is insufficient, however, to fix this agency's deeply rooted problems because its senior leadership remains. This leadership is closely enmeshed with the industry it regulates, creating a dysfunctional culture. It is time for a thorough housecleaning of such managers.

We hope that Governor Brown will take note of this report and acknowledge the department's deeply rooted problems. We ask that he swiftly choose a new Director from outside the California EPA or DTSC who is deeply committed to shielding the public from toxic harm. This Director must be unafraid to replace managers who are more interested in protecting the wallets of polluters than they are in protecting the public health.

Now is a moment to rethink how the state regulates the environment in order to be an example for the rest of the nation. It is not the time for reform to go into free fall. Without a strong new Director at the helm, the DTSC will go through a period of great instability. At such moments, the department will be even more vulnerable to industry domination via highly paid fixers to the detriment of the public health.

It is precisely how these private interests operate that is the subject of our new report, *Inside Job*.

Executive Summary

The California Department of Toxic Substances Control (DTSC) has been a historically troubled agency, far too often failing to effectively fulfill its mission of protecting the public from toxic harm.

Our prior report, *Golden Wasteland*, documented case after case of DTSC simply failing to do its job.¹ Numerous news pieces, triggered in part by the report as well as legislative hearings, have painted a picture of a dysfunctional regulator that allows polluters to carry on, sometimes for decades, activities that risk the health of people who live nearby.²

This report is based on documents obtained via the Public Records Act, information provided by current and former insiders, community members, environmentalists and legislative staffers (some of whom asked to remain anonymous to protect their current positions), media reports and other research. Our evidence documents how Boeing used three different sets of “fixers” and other operatives to pressure government officials into helping them save money, rather than protecting the public health.³

Just *how* polluters come to dominate their regulators at the expense of the public has never been addressed in the extensive examination of DTSC’s failures. Now, following the abrupt resignation of DTSC Director Debbie Raphael who intensified this problem, the moment is ripe to examine the system of corporate domination of regulators that are supposed to safeguard the public health.

The degree of industry capture of this agency has waxed and waned, but it is pervasive. This report examines in detail one emblematic case—Boeing’s Santa Susana Field Laboratory—to illuminate how polluters work the system and capture their regulators to save their clients potentially hundreds of millions of dollars away from public view. Consumer Watchdog has won a preliminary injunction against the DTSC over some of the issues raised in this report and is in ongoing litigation over them.⁴

Los Angeles-area residents might be surprised to learn that they live near the site of a partial nuclear meltdown, and one that—more than half a century later—has still not been cleaned up.

Starting in the 1940s, the federal government and private contractors used the Santa Susana site nestled in the Simi Hills to test nuclear reactors, rocket and missile engines, and munitions, as well as to make plutonium fuel. But sloppy operations at the Santa Susana Field Laboratory led to a partial nuclear meltdown in 1959, as well as other reactor accidents, radioactive fires, and the open burning of radioactive waste. The site was further contaminated with half a million gallons of the spilled solvent TCE, as well as with dioxins, PCBs, perchlorate, and other toxic materials.

At least half a million people now live within ten miles of one of the most contaminated sites in the state. These radioactive and toxic materials in soil, water, and building structures can cause cancer and other illnesses.⁵ Their danger is not limited to the original Santa Susana site since contaminants have been discovered outside its boundaries, dispersed by wind, rain, and groundwater movement.⁶ Exposure can occur through inhalation or ingestion from direct contact with soils, sediments, weathered bedrock, surface water, air, and groundwater, as well as indirectly through chemicals in plants following uptake from soil.⁷

In 2007, the state of California passed a law mandating that the three parties responsible for the site—Boeing, the National Aeronautics and Space Administration (NASA), and the Department of Energy (DOE)—clean the site back up to the most protective standard for human health.⁸ As is common practice, this meant to the standard associated with the land's zoning and general plan, which allows agricultural use. In 2010, during the Schwarzenegger Administration, DTSC signed agreements called Administrative Orders on Consent that bound DOE and NASA to full cleanup under the direction of then-California EPA Secretary Linda Adams.⁹ Thousands of community members had written in support of those agreements.

However, when Governor Jerry Brown took office in 2011 and appointed Debbie Raphael to lead DTSC, a thorough cleanup of the Santa Susana Field Laboratory was abandoned to the detriment of public health. Boeing accomplished this reversal by employing fixers to ensure that government officials would change course and allow most of the contamination to be left behind. These individuals included former environmental regulators and former aides to Governor Brown in his first administration.

Under Governor Brown and DTSC Director Raphael:

- Boeing captured DTSC, including its Director Debbie Raphael, with help from former government officials—including some that worked for Jerry Brown in his prior administration—to pressure their own former subordinates and others to reverse cleanup.
- Boeing benefited from the removal of four regulators who had championed full cleanup of the site.
- The Brown Administration cut a deal with Boeing that stipulated away the right to contest virtually any Boeing assertions of material fact in the lawsuit that Boeing filed against the state cleanup law.
- Boeing lobbyists killed off legislation to codify the Administrative Orders on Consent with NASA and DOE, allowing Boeing to continue pressuring regulators to loosen cleanup standards.
- DTSC regulators ultimately approved Boeing's plan to stop far short of a full cleanup at the site out of public view, in violation of the Administrative Orders on Consent that DTSC itself had signed, and

in violation of prior DTSC commitments.

- DTSC dissolved a long-standing Inter-Agency Work Group that had held regulators accountable for their cleanup commitments, and replaced it with a group conceived of and supported by Boeing that pushes for leaving most contamination behind.
- DTSC abdicated state authority over the cleanup of Santa Susana to Boeing—the very party responsible for the contamination—in violation of the public trust.



California Governor Brown Speaks At Boeing Facility During Debut Of New 787 Dreamliner

All The Governors' Men



Inside Job

BOEING'S FIXERS

This Consumer Watchdog report focuses on some of the individuals who have worked on Boeing's behalf to influence DTSC Director Debbie Raphael and other government officials, directly or indirectly, to make decisions in Boeing's favor.

Some of these individuals—including former aides to Governor Brown and/or former senior officials at DTSC and the California Environmental Protection Agency (CalEPA)—worked in Sacramento to relax cleanup requirements at the site and to derail legislative efforts to codify the Administrative Orders on Consent. Others worked to create a so-called “community advisory group” that supports Boeing’s argument that most of the contamination should be left where it is, and where it can continue to migrate off site.¹⁰ Yet others were hired to “greenwash” public perceptions of the dangers at the site, pushing for it to be used as a “park” with little cleanup.¹¹

Regulatory capture works behind closed doors, carried out by well-connected, well-paid agents of the polluters. In the case of Santa Susana Field Laboratory, these activities could be carried on without the public’s knowledge because they did not meet the requirements for disclosure under California’s narrow lobbying law.¹² In California, consultants must register as lobbyists only if they are discussing agency rules that will affect an industry sector, and not an individual corporation, as in the case of Boeing and Santa Susana. Thus the public had no knowledge of their activities until now.

Consumer Watchdog believes that the public has a right to know what goes on behind closed doors between polluters seeking to obtain a specific, desired outcome, and regulators tasked with protecting Californians from the toxic harm that might result.¹³ It is crucial to ensure that polluters are not calling the shots at an agency whose decisions have such significant impact on public health. In that regard, we investigated the work engaged in by the following individuals in Boeing’s employ to influence DTSC, CalEPA, and the public on Boeing’s behalf:

- **Winston Hickox** is a Principal in the public affairs firm California Strategies LLC. According to its website, California Strategies “helps clients navigate through the complexity and subtleties of California’s political, regulatory, legislative, and media environment to help achieve winning results.”¹⁴ Its sister company, California Strategies & Advocacy, is a registered lobbying firm whose services California Strategies also offers to its clients.¹⁵ Hickox’s influence on behalf of his clients is based in large measure on the seven years he served as former Special Assistant for Environmental Affairs to Governor Jerry Brown during his first administration, and his later stint as Secretary of the California EPA.¹⁶



Winston Hickox

Hickox and his public affairs firm, California Strategies, was hired to advocate for Boeing on the Santa Susana cleanup, according to documents obtained under the Public Records Act and Consumer Watchdog interviews. Hickox tried to derail strict cleanup requirements that his CalEPA successor Linda Adams, was trying to impose, summoned former DTSC subordinates on the Santa Susana matter, and pressured another of his successors, current CalEPA Secretary Matt Rodriguez, to relax cleanup standards.¹⁷ Hickox also tried to influence environmental justice groups to oppose strict cleanup at Santa Susana. That would help derail pending legislation to turn the Administrative Orders on Consent into law.

Hickox has long operated under the public radar. In 2013, he admitted to the Fair Political Practices Commission that regulates financial disclosure and lobbying practices that he broke political ethics laws when he lobbied on behalf of a client without registering. He registered as a lobbyist and paid a fine, as did his employer California Strategies.¹⁸ The commission's Chair at the time, Ann Ravel, said this was the first time the FPPC had dealt with "shadow lobbying."¹⁹ When asked by the *Sacramento Bee* if California Strategies had ever lobbied for Boeing, the firm declined comment.²⁰

•**Robert Hoffman** was Chief Counsel at DTSC and then served as Chief of Staff for Hickox when he was Secretary of CalEPA before joining the lobbying and law firm of Paul Hastings.²¹ According to Hoffman's online Paul Hastings bio: "His practice focuses on legislative advocacy and regulatory work on behalf of regional and national clients on energy and environmental issues."²² He also lists "Government Affairs" as one of his practice areas: "able to navigate the intersection between politics and policy to develop and execute legal and governmental solutions to the complex issues facing our clients." Hoffman pushed DTSC regulators with whom he previously worked or who were his subordinates to limit cleanup requirements on his client, Boeing.



Robert Hoffman

•**Peter Weiner** is Hoffman's colleague at the firm of Paul Hastings. He was Special Assistant to Jerry Brown for Toxic Substances Control in Brown's first administration. His LinkedIn profile says that his forte is: "Legislative and executive branch lobbying at State, regional, and local levels; negotiating solutions to intractable problems."²³ Weiner also advertises his "Government Affairs" role as working on behalf of clients in influencing legislation and regulatory matters in his bio posted on the Paul Hastings website: "Mr. Weiner represents renewable energy companies and trade associations, real estate developers, manufacturers, and consumer product companies in federal, state and local environmental, energy and OSHA regulatory matters, litigation, and legislation."²⁴

interviews, Weiner cultivated a friendship with DTSC Director Debbie Raphael, casting himself as a mentor, while arranging, with his colleague Robert Hoffman, meetings with Raphael and top DTSC staff on Santa Susana, including to discuss the “vision” for the site, a personal tour of the site for Raphael, and how to manage “public participation” in the cleanup of the site.

Hickox and Weiner are financial supporters of Governor Brown. Hickox and his wife, Rebecca, contributed more than \$28,000 to Governor Jerry Brown’s 2010 campaigns for Attorney General and Governor.²⁵ Weiner contributed a total of \$20,000 to Governor Brown’s 2010 campaigns for Attorney General and Governor.²⁶ Boeing contributed \$5,000 to Brown in 2012, and kicked in another \$5,000 in 2013.²⁷ In 2013, Boeing also donated \$5,000 to the Oakland School for the Arts, a charter school that the Governor helped found.²⁸



Robert Weiner

•**Charles Stringer** is Principal and General Counsel at the Los Angeles consulting firm Renewable Resources Group. **Tom Eisenhauer** is Stringer’s associate at Renewable Resources. Their firm was hired by Boeing to do advocacy work on the Santa Susana matter. In December 2012, Renewable Resources confirmed to the *LA Daily News* that Boeing hired it for work on the Santa Susana site to “see its land protected as open space parkland after it’s been safely remediated.”²⁹ In 2010, Governor Arnold Schwarzenegger appointed Stringer to the Los Angeles Regional Water Quality Control Board. In 2013, Governor Jerry Brown re-appointed Stringer.³⁰ He is now Chair of the LA Regional Water Quality Control Board that oversees Boeing’s water pollution discharges at Santa Susana and is supposed to enforce violations.³¹

Stringer did not reveal that either he or the firm in which he is a principal have done work for Boeing or any other clients that might come before the Water Board on any of his state government Form 700 statements of economic interests for 2011, 2012, or 2013, nor income from any other clients.³² Nor did he consistently list Renewable Resources as his employer. He used the address of Renewable Resources, but listed the name of his employer as Western Development & Storage in 2011, for example. According to the Conflict-of-Interest Code for the State Water Resources Control Board, Stringer’s job classification mandates that he disclose all investments and business positions in business entities, and sources of income.³³ His omissions may constitute a failure to disclose potential conflicts of interest.



Tom Eisenhauer

Stringer and his Renewable Resources colleague, Tom Eisenhauer, a self-described former Capitol Hill staffer and political campaigner who is also president of the Los Angeles League of Conservation Voters, helped push for the establishment of a Boeing-friendly “community advisory group” that advocates leaving most of the contamination at the site behind. Many in the community view this work as an effort to set up a fake “grassroots” group.³⁴

•**Gary Polakovic** is a former *Los Angeles Times* reporter who heads Make Over Earth, a Los Angeles public relations firm. The firm advised Boeing on its media strategy to help erase public perceptions of Santa Susana's past as extensively contaminated and to push the view that the site is perfectly safe as a park without extensive cleanup. In August 2012, Polakovic provided a carefully crafted media strategy to "incorporate" the Make Over Earth team into outreach and remediation efforts.³⁵ The team advised Boeing to use third parties to push these ideas so they would not appear to be coming from Boeing.



Gary Polakovic

Make Over Earth also advised Boeing to "overcome negative perceptions using a countervailing narrative of environmental values, safety and corporate responsibility." An award from the Wildlife Habitat Council would be one thing Boeing could promote in that effort. In November 2012, Boeing boasted about the award for its educational programs on habitat "preservation" at the lab.³⁶ "Most people are aware of the site's significant role in the historical research of rocket engine propulsion development and energy research," Tom Gallacher, Boeing's Director for Environment, Health & Safety for the Santa Susana site, bubbled in the release. "What surprises most people is that this site is a key habitat for a variety of native plants, flowers and wildlife." Not mentioned was that the Wildlife Habitat Council's board is overwhelmingly dominated by corporations with long records of pollution, including international giants DuPont, ExxonMobil, and Monsanto.³⁷

Boeing's strategy thus involved using three different teams for different purposes. One team of former government insiders used their connections to pressure government officials to let Boeing off the hook for cleaning up most of the contamination at Santa Susana. The second team of politically well-connected operatives in Southern California was tasked with setting up an "AstroTurf" group to do grassroots lobbying on Boeing's behalf, pushing for letting most of the contamination remain. And a third team of public relations strategists had as its self-described purpose getting attention for "third party" surrogates behind which Boeing could hide to get out its message pushing for using the weakest cleanup standards, which would also save Boeing a great deal of money. This team also came up with a media strategy to cast Boeing as a protector of the environment at Santa Susana--a tactic commonly known as "greenwashing."

SWEET (BUT SHORT-LIVED) VICTORY

When the California Legislature passed SB 990, the state's cleanup law on Santa Susana, in 2007, many residents—including those who had developed cancer and had also fought for years against Boeing's dogged resistance to full cleanup—were overjoyed. Even though whole communities had grown up around the once sparsely populated area, decades had passed without full pollution remediation. Boeing, which acquired the Rocketdyne site in 1996, had dragged its feet on corrective measures that DTSC regulators said were necessary to protect the public health (See **POWER PLAY** below.)

A UCLA study had found significant increases in death rates for key cancers associated with workers' exposures at Santa Susana.³⁸ A University of Michigan study for the federal Agency for Toxic Substances and Disease Registry had found that, between 1988 and 1995, the incidence of specific cancers such as thyroid, upper aero-digestive tract, bladder, blood and lymph, was more than 60 percent greater among residents living within two miles of the site than living more than five miles from Santa Susana.³⁹ Because members of the general public do not wear radiation badges for monitoring purposes, as workers do, these studies are suggestive of a link between Santa Susana's contamination and area residents, but do not conclusively prove it. Similarly, invasive breast cancer rates among women in eastern Ventura and western Los Angeles counties are up to 20 percent higher than the rest of California, according to a 2013 study by the California Breast Cancer Mapping Project.⁴⁰

In 2005, Boeing settled lawsuits with more than 100 area residents who claimed that the nuclear reactor and rocket-testing site gave them cancer.⁴¹ Area residents report that Boeing settled suits a few years later over an unusual cluster of cases of retinoblastoma that cost children their eyes.⁴²

In December 2010, after several years of intense effort and as the Schwarzenegger Administration was leaving office, DTSC signed Administrative Orders on Consent with NASA and DOE to fully clean up all the chemical and radioactive contamination they could detect on their portions of the site.⁴³ The environment is subject to naturally occurring "background" levels of radiation, as well as some naturally occurring chemical elements such as heavy metals. DOE and NASA promised to return the site to background, or to the concentrations present at the site prior to the pollution the agencies had caused from their decades of operations. Again, residents applauded.⁴⁴



Community Members Celebrate 2010 Cleanup Victory

TURNING THE TABLES

But the passage of SB 990, and the signing of the consent orders, turned out to be the beginning of the unraveling of the cleanup, according to area residents. “I think we got screwed,” said Marie Mason, one resident and long-time member of the Rocketdyne Cleanup Coalition⁴⁵ who lives directly below the site in the Santa Susana Knolls. “We just got sold out...We’re back to where we were 20 years ago where they were going to leave 99 percent of the contamination behind.”

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Things took a wrong turn, Mason believes, when Governor Jerry Brown took office in 2011 and appointed Debbie Raphael as the new DTSC Director.⁴⁶ Within weeks of Brown assuming office as Governor, the new administration agreed to not dispute virtually any factual assertions that Boeing might make in its lawsuit to overturn the cleanup law (SB 990), sight unseen.⁴⁷ (See **CLEAN SWEEP** below). The regulators who had fought for full cleanup of the site were then removed. At the same time, former regulators began to help Boeing pressure the new state regulators at DTSC and CalEPA to reverse course on cleanup of Santa Susana—reducing the cost to Boeing while potentially significantly increasing the public health and environmental cost to the public.

From the beginning, according to one DTSC regulator who had overseen the site’s cleanup, Boeing had never really been willing to put the necessary money into fully cleaning up the site so it would no longer threaten the public.

POWER PLAY

When Boeing acquired Santa Susana, it acquired the responsibility for cleaning it up. Boeing has resisted big investments in that cleanup for nearly two decades, despite the efforts early on of diligent regulators such as DTSC Senior Geologist Philip Chandler. Chandler supervised the DTSC’s staff working on Santa Susana out of one of DTSC’s Southern California offices in the late 1990s.

Chandler remembers his own removal from Santa Susana oversight when he tried to force Boeing to put an impermeable, synthetic cap on two pits that had been used to burn sodium coatings off of nuclear reactor components and dispose of other hazardous materials. Radioactive and chemical contamination had already migrated into the soil and groundwater. Chandler didn’t want rain to continuously carry contamination through fractured bedrock beneath.⁴⁸ The US EPA recommends that interim measures be as close to a final remedy as possible.⁴⁹ In this case, Chandler said that



Santa Susana Burn Pits

meant a synthetic cap compliant with the Resource Conservation and Recovery Act (RCRA).

Chandler was on the verge of taking enforcement action against Boeing for refusing to install the RCRA-compliant synthetic cap. But then Boeing demanded to meet with Chandler and his boss at the Santa Susana site. There, Boeing complained about Chandler. Boeing had already offered to fund extra positions at DTSC to oversee a “fast-tracked cleanup,” Chandler said. “That was the carrot, and then there was the stick.” Boeing brought a

lawyer from Washington along to deliver an ultimatum. “They said, ‘Either you do what we want or we will go to the governor.’”

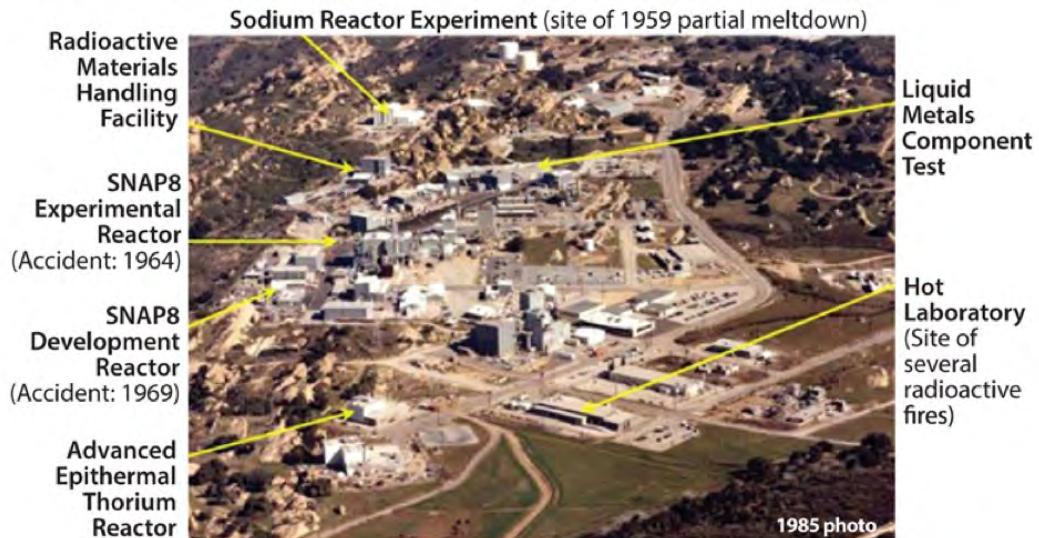
Chandler was removed from making any decision on interim measures, and also from the overall management of the site, together with his boss, and was replaced with another manager whose first action was to give Boeing permission to not install an impermeable cap, he said. “Instead of us driving the bus, Boeing began to drive the bus,” said Chandler.

“Instead of us driving the bus, Boeing began to drive the bus.”

Once Chandler was removed, Boeing wound up funding six additional DTSC positions for Santa Susana oversight through DTSC’s Sacramento headquarters. State law requires polluters to cover the regulatory cost of their oversight, and Chandler himself had suggested Boeing fund additional positions if they wanted a faster cleanup.⁵⁰ “But they didn’t want me to be the one managing those people,” he said.

“We have so twisted our minds that we think them paying us is doing us a favor when they are ones that caused the problem,” Chandler said about the state’s practice of having polluters cover its cost of oversight. “All of a sudden we begin to treat them as if they were a client, and we talk about ‘customer service.’ They are not my customer; they have been ordered by law to fix the problems they caused.”

Lawyer-lobbyists who will fight for their clients in order to help save them money are also essential to that process. “It works out to have a Peter Weiner,” said Chandler. “You bring in a sharpie, a buddy of the administration, and get your breaks that way.”⁵¹



BAD BLOOD

Peter Weiner and his colleague, former DTSC Chief Counsel Robert Hoffman, had largely been banished from DTSC under the Schwarzenegger Administration, according to two former high-ranking DTSC officials. When Governor Brown took office, they vigorously reasserted themselves. When Maziar Movassaghi became Acting DTSC Director in March of 2009, Peter Weiner, a one-time aide on toxics to Governor Brown in his first administration, aggressively pressed for a meeting while turning on the charm, emails show.⁵²

Weiner called Movassaghi's assistant three times in a row to schedule a meeting, alerted another DTSC official to see to it that Movassaghi responded, and also wrote to congratulate Movassaghi on the new job. Weiner wrote that Boeing was "eager and anxious" to meet him. "There are no 'asks,' just a chance to introduce the folks who work directly (and cooperatively) with Norm and your other staff," Weiner wrote in an email.

Weiner was praising Norman Riley, DTSC Project Director in charge of Santa Susana cleanup since 2007.⁵³ Riley had signed a separate Consent Order for Corrective Action in 2007 with Boeing, DOE and NASA on the site cleanup. That agreement was vague and established no cleanup standards, just as Boeing had wanted.⁵⁴

But the campaign to win over Movassaghi ultimately failed. In May 2009, Weiner touched off a scandal over allegedly false statements he made before water regulators. Weiner testified before the Los Angeles Regional Water Quality Control Board that it wasn't Boeing's fault that it exceeded water pollution limits at the site, but rather DTSC's, because he claimed DTSC would not let Boeing undertake "interim removal actions" to remove contaminated soil near discharge outlets affecting surface water releases.⁵⁵

Weiner's behavior so angered regulators that Movassaghi took the extraordinary step of writing to the Board in June 2009 saying that Weiner had made "inaccurate" and "offensive" statements about DTSC's role in the cleanup. "In fact, Boeing has never asked for DTSC's approval to undertake the removals contemplated by the RWQCB (Los Angeles Regional Water Quality Control Board), and DTSC has *never* prevented Boeing or its partners at the SSFL (Santa Susana Field Lab) from undertaking removal actions at the SSFL," Movassaghi wrote. Further, his letter said that DTSC had approved and overseen six different interim removal actions at Santa Susana and had no problem implementing more removals contemplated in the Board's cleanup orders to Boeing. "Lying like that in an official setting, and on the record, is something nobody does," said one environmental regulator familiar with what happened. "They can yank your bar (license to practice law) away."



Maziar Movassaghi

Weiner had tried to head off any action by DTSC about his statements under oath, trying to excuse his behavior in an email to Movassaghi some three weeks after the incident, claiming it was due to a high fever. "Since May I have had a fever of 100 to 102 degrees every day, accompanied by significant fatigue," he wrote. "I was trying my best under trying personal circumstances and I know what I meant to say, but it appears that I did not speak with the precision with which I would usually like to speak. I apologize for any issues that this has caused..."⁵⁶ Nonetheless, Movassaghi brought Weiner's "inaccurate" statements to the Water Board's attention.

IN THE SHADOWS

While some hired guns were falsely blaming DTSC for Boeing's violation of pollution limits, other operatives with different skill sets were already thinking about how to help Boeing from the bottom up. For Boeing, the SB 990 cleanup law put hundreds of millions of dollars in cleanup costs on the line. The public had long been troubled by the site's contamination. So, it was in Boeing's interest to launch a disinformation campaign that would argue for leaving most of the contamination right where it was, and to see if they could find a few newcomers to the issue who Boeing might use to push for its agenda.

Long-standing activists fighting to clean up the site had been on the scene for 25 years pushing for that full cleanup. Some of them belonged to the Inter-Agency Work Group.⁵⁷ The group was composed of representatives from all the relevant environmental agencies, five community representatives including area homeowners, former site workers, technical experts, doctors, and scientists. The group had held regulators' feet to the fire to live up to their cleanup commitments.⁵⁸

Boeing and its contractors at Renewable Resources Group decided to target some other residents. Their targets included William Preston Bowling and Christina Walsh. By the beginning of 2009, the pair had conducted extensive public outreach on the site. Bowling was frustrated with state government's poor communication with the public. "My goal was to set up public meetings because the DTSC's public participation was a joke," he said. "I wanted to engage the community and to inform them about what was going on up on that hill."⁵⁹

By then, DTSC regulators friendly to Boeing, including Norman Riley and another DTSC public participation specialist named Susan Callery, were already promoting to Bowling and Walsh the idea of creating a "community advisory group"⁶⁰ to replace the long standing Inter-Agency Work Group. According to DTSC and CalEPA, community advisory groups, known as CAGs, are meant to provide a public forum to fill a vacuum where no such forum already exists.⁶¹ In California such groups have been controversial when they are funded by polluters and then take the polluter's side in the handling and extent of cleanup.⁶²

Bowling said that in early 2009, Stringer and Eisenhauer from Renewable Resources approached Bowling and Walsh on Boeing's behalf, asking to meet with them. They were supportive of starting a CAG, he said. Stringer and Eisenhauer wanted to know if community members liked the idea of using the area as "open space" for a park, Bowling said. "They were definitely pushing for open space," he said. "They were almost pushing the words into our mouth." Turning the site into a park to be used occasionally by the public would mean meeting far lower cleanup standards, said Bowling. Leaving contamination behind would help save Boeing money, but it would not eliminate the potential threat to the health of residents who live next to the site day in and day out.

Bowling said Stringer and Eisenhauer asked for a list of names of area residents that Bowling and Walsh had developed. Stringer's colleague Eisenhauer wrote a thank you note to the pair, copying in Stringer, and reminding Bowling and Walsh: "Please do send the list when you get a chance."⁶³ After that, Bowling said, Eisenhauer spent a lot of time researching the "players" in the community. "Tom would hang out like at every event," he said. "He was trying to find out who was aligned with us and then urge them to support his agenda...for open space so it would be a lesser cleanup based on end use."

Charles Stringer also met in February 2009 with Dan Hirsch, head of Committee to Bridge the Gap, a nuclear policy nonprofit. Hirsch served on the 25-year old Inter-Agency Work Group. At the meeting, Stringer was most interested in information about certain people in neighboring areas, especially



Melted Fuel Rod at Santa Susana 1959

Christina Walsh and another area resident, John Luker, vice president of the Santa Susana Mountain Park Association. Stringer was interested in recruiting them to support Boeing's efforts to get out of having to clean up most of the contamination, and was also probing for information that might help Boeing push for a CAG sympathetic to it, said Hirsch.⁶⁴

Stringer told Hirsch that Boeing had hired his firm, Renewable Resources Group, to canvas the community about its views regarding the end use for the site, in particular its views about turning the site into a park. That raised Hirsch's suspicions that a politically well-connected consulting firm was trying to create an 'AstroTurf' group to push for park cleanup standards that would be far less protective of public health than the standards normally required. "I told Stringer that I thought it shameful that someone would, for a fee from a polluter, work to try to block cleanup of radioactive and toxic contamination, and try to find people in the community they could manipulate to help toward that end." That is when their meeting ended.

VOX POPULI

Community members and environmental groups were not the only ones troubled by the effort to supplant the long-standing Inter-Agency Work Group. A letter written by a group of state lawmakers and local officials to CalEPA Secretary Linda Adams in spring 2009 complained that Norman Riley, DTSC Project Director on Santa Susana, had been talking of replacing this group with an alternative "community" group.⁶⁵ The Inter-Agency Work Group already represented the community and nothing in state law required that another group be approved once one had already been formed.

Then-Assemblywoman Julia Brownley, former State Senator Sheila Kuehl, former Los Angeles City Councilman Greig Smith, State Senator Fran Pavley and Ventura County Supervisor Linda Parks, wrote Adams that the effort was nothing more than a cover for weakening cleanup standards on Santa Susana on Boeing's behalf. There was "simply no justification" for shutting the long-standing Inter-Agency Work Group if regulators "acknowledge that their obligation is to protect the public and not accede to the wishes of the Responsible Parties who want to avoid public scrutiny," the officials' letter said. Moreover, a CAG wouldn't be up to the task. "We cannot see how an issue this technically, legally, and politically complex and with such a long and tangled history...could possibly lend itself to a CAG," the letter said.



Norman Riley

By the summer, the Boeing Santa Susana site managers asked Bowling and Walsh to meet with them. At the meeting, according to Bowling, Boeing pushed Bowling and Walsh to press for a CAG, and offered to pay for forming one.⁶⁶ After the meeting, Walsh wrote to Boeing's Thomas Gallacher, "We

have been doing a lot of thinking and have requested a CAG. We will need support on this, and I hope you still mean it when you said you would fund a cag." Boeing advised that Walsh call Norman Riley, the DTSC Project Director so friendly to its interests, to advise on "the hurdles to be overcome" in forming a CAG.

By November, Boeing's spokeswoman Kamara Sams was thanking Walsh and Bowling for organizing a "summit" on creating a CAG to talk "openly, yet privately, and most importantly, positively." Walsh wrote back to thank her "for coming and generously providing the sandwiches." She continued to keep Boeing informed on her progress on establishing the group, as they had urged, and in November Walsh notified them she had applied to DTSC to approve the new CAG.

TINKER, TAILOR, SOLDIER, SPY

In 2009, CalEPA Secretary Linda Adams was doing everything she could to compel full cleanup, according to a former CalEPA official close to the negotiations. She had worked closely with DTSC Acting Director Movassaghi to oversee the process. She thought that Santa Susana Project Director Norman Riley was too closely allied with Robert Hoffman. Adams was aware that "Riley was strategizing with Hoffman" on how to derail full cleanup, and she considered Riley "too cozy with Boeing," said one former regulator on the scene at the time. Eventually, Adams replaced Riley with Rick Brausch, DTSC Policy and Legislative Director.

Emails between Movassaghi and Adams in August 2009 show that just hours after Riley told two other DTSC staffers about his removal as Project Director, Robert Hoffman was already calling DTSC to complain.⁶⁷ Adams was trying to eliminate any roadblocks to a deal on the Administrative Orders on Consent between the state and Boeing, NASA, and the DOE, according to one former top environmental regulator, and was intent on bringing all three to the table to sign them. She viewed Riley as an impediment.

Ever since the cleanup law SB 990 had passed, Boeing and the former environmental regulators it had hired had been running interference against the law's implementation, according to the former top regulator. "The money they spent trying to get out of cleanup they could probably have spent just to get the cleanup done," the former regulator said. "Boeing always said it was the money and physically you would have to flatten the mountain and they kept throwing that out, saying it's going to cost some outrageous amount of money, so they just had their heels dug in every step of the way."

The state's interest was to protect the public health, the former regulator said. "Between the topography and the fact that the bad stuff runs off, you really need a higher standard to protect the public health. That stuff is not going to stay on the mountain."

A key negotiator for Adams was CalEPA Undersecretary Cindy Tuck. Tuck, formerly with an industry

coalition group that lobbied on Boeing's behalf against cleanup legislation, the California Council for Environmental and Economic Balance (CCEEB),⁶⁸ was now Adams' chief Boeing go-between. But meetings among the parties during negotiations were tense—and their loyalties questionable—when state regulators such as Tuck, who had come from private industry, faced former colleagues like CCEEB lobbyist Bob Lucas, who sat at the table on Boeing's behalf, or when regulators such as DTSC attorney Nancy Long (now Bothwell) faced her former boss, DTSC's former Chief Counsel Robert Hoffman, also representing Boeing, according to one participant in the negotiations. "It became like Tinker, Tailor, Soldier, Spy for Adams," said the participant. "Linda Adams couldn't trust anybody."

In November 2009, Boeing sued to overturn SB 990.⁶⁹



Cindy Tuck

PLOWING AHEAD

At the start of 2010, Walsh emailed Senator Fran Pavley's then-District Director Rebekah Rodriguez-Lynn asking for Pavley's support in forming a CAG, writing, "Boeing has committed to funding a CAG..."⁷⁰ But Rick Brausch, DTSC Project Director for Santa Susana, rejected Walsh's petition under DTSC Acting Director Maziar Movassaghi in March 2010. The grounds for the decision were that the Inter-Agency Work Group already existed, and that many in the community considered the CAG proposal "potentially detrimental to the public participation process."⁷¹ A petition from the public opposed to the CAG and supporting the Inter-Agency Work Group had far more signatures than Walsh's petition. Nevertheless, by September 2010, Boeing and its Renewable Resources contractors appear to have forged close ties with a small handful of people who began to push for Boeing's agenda.

One of them was John Luker of the Santa Susana Mountain Park Association.⁷² Luker began to push Boeing's line that cleanup would somehow "moonscape" the property. He put together a slide show on Flickr.com of scenic spots that are not part of the cleanup.⁷³ "Today many people don't want you to know what's there for political reasons," Luker wrote in dropdown text accompanying the photos. "Too much of this facility will be stripped for short-term political advantage instead of a reasoned approach towards cleaning up the site with a mind to resource management," the written copy says. Before posting, he ran the photos and accompanying text by Boeing and NASA officials for vetting and approval, and copied in Renewable Resources' Tom Eisenhauer. "Thank you all for your help and encouragement," he wrote them in an email.⁷⁴

Boeing and its operatives were grooming third-party Boeing spokespeople who would later be put forward as independent voices in Boeing's efforts to try to portray the community as evenly divided.⁷⁵ In fact, the vast majority—some 98 or 99 percent—of those who submitted comments during multiple comment periods on the proposed cleanup agreements strongly supported those agreements.⁷⁶

Boeing needed a few third-party voices to hide behind, and it worked hard to assemble them.

CALIFORNIA STRATEGIES

In the latter part of 2010, Boeing hired Winston Hickox, of California Strategies, the former Secretary of the California EPA and Brown aide, to advocate on Boeing's behalf about Santa Susana, according to DTSC documents obtained under a Public Records Act request.⁷⁷ In September 2010, as Adams pushed to get federal agencies and Boeing to sign the Administrative Orders on Consent, Winston Hickox sent DTSC's new Santa Susana Project Director Rick Brausch an email saying, "...There might be some value in finding the time to catch up on the Santa Susana 'project,' given that our firm (California Strategies; Bob White and I) has recently been hired by Boeing."⁷⁸ B.B. Blevins, a former DTSC director and undersecretary at the California EPA, would be there in addition to Bob White, a long time political hand.⁷⁹ It would be easy for Robert Hoffman from the Paul Hastings firm, Hickox wrote, to also drop by for purposes of "perspective" on Santa Susana.

Brausch—who had worked under former CalEPA Secretary Winston Hickox, with Robert Hoffman, former DTSC Chief Counsel, and also for B.B. Blevins, who was a former DTSC Director—went to their offices for the get together, and not the other way around. Brausch couldn't be sure that one day one of them wouldn't, perhaps again, become his boss under a new Democratic or Republican governor. "I must be a target—I'm getting double-teamed,"⁸⁰ Brausch wrote Patty Zwarts, Adams' deputy over at CalEPA with whom he was working on Santa Susana.

Part of Hickox's assignment for Boeing would be working CalEPA officials to make sure that the Administrative Orders on Consent that they were negotiating with federal agencies were as lax as possible, according to two sources close to the negotiations. "He didn't want the AOCs (Administrative Orders on Consent) to be too strict because it was going to cost Boeing too much money" if Boeing had to perform a thorough cleanup, said one environmental regulator. Boeing owned most of the site, including Area IV, the nuclear portion of the site operated by Boeing for DOE. Adams ultimately convinced NASA and DOE to sign the Administrative Orders on Consent at the end of 2010, just weeks before Brown took office and after overwhelming public support for them in the public comment period.⁸¹ Boeing refused to sign.

CLEAN SWEEP

Within three weeks of Governor Brown taking office, Movassaghi was dismissed. Movassaghi had been a former assistant to Brown when he was Mayor of Oakland and was seen as a Brown ally, so his abrupt removal was puzzling to many observers. But removal of Movassaghi, who had pointed out Weiner's false statements under oath at the LA Regional Water Quality Control Board, was a boon to Weiner. And it was a boon to Boeing, as it meant that a supporter of a full cleanup of the site was out of the way.

A few weeks later, the Brown Administration quietly entered into a written agreement with Boeing not to challenge virtually any material facts that Boeing might put forward in its lawsuit to overturn the SB 990 cleanup law. To this day, DTSC has never informed the public about the stipulation or even posted it with the other documents pertaining to the suit.

The signed stipulation states: “DTSC will not assert or contend that there exists any issue of material fact in dispute...”⁸² The state waived its right to dispute the facts asserted by Boeing, and did so before Boeing had filed its factual claims, giving Boeing the right to assert anything it wished.

At a court hearing on April 11, 2011, community members were horrified when the state seemed to be mouthing Boeing’s arguments, rather than aggressively defending the law.⁸³ “I already knew DTSC had agreed with Boeing they would not question anything that came up,” Holly Huff of the Rocketdyne Cleanup Coalition told EnviroReporter.com. “Court was just the proof. As far as I’m concerned they threw us under the bus. Why would a department with the state agree with a polluting company not to question anything they do or say?”

The Attorney General’s office had signed the stipulation ostensibly on behalf of DTSC. However high officials there and at CalEPA, including Linda Adams, knew nothing of it, according to Dan Hirsch of Committee to Bridge the Gap who discovered the stipulation and shared it with them. “They turned white and asked, ‘Can we get it pulled back?’” said Hirsch, adding that other environmental attorneys with whom he shared the stipulation were also shocked. “They had never even heard of an attorney giving away the right to dispute facts that they had never seen.” Noting that the facts in the case were “largely undisputed,” the District Court ruled in Boeing’s favor and struck down the law later that month.⁸⁴

INVISIBLE INK

Not long after the stipulation signed between Boeing and the state, in early 2011, Boeing lobbyists

Case 2:10-cv-04839-JFW-MAN Document 106 Filed 02/10/11 Page 2 of 4 Page ID #:3096

1 To address the parties’ dispute regarding the pending motion of Plaintiff The
 2 Boeing Company (“Boeing”) to compel discovery from Defendant Leonard
 3 Robinson, in his official capacity as the Acting Director of the California
 4 Department of Toxic Substances Control (“DTSC”), Boeing and DTSC, through
 5 and by their respective counsel of record, hereby stipulate and agree as follows:
 6 DTSC agrees that, for purposes of opposing Boeing’s forthcoming motion
 7 for summary judgment, DTSC will not assert or contend that there exists any issue
 8 of material fact in dispute, except as follows:
 9 1. With respect to Boeing’s preemption and intergovernmental immunity
 10 claims, DTSC may contend that Boeing or its predecessors engaged in certain
 11 commercial activity at the Santa Susana Field Laboratory (“SSFL”) site, although
 12 DTSC agrees that it is not possible at this time to identify any particular
 13 radiological or chemical contamination at the SSFL site that resulted from non-
 14 federal activity (*i.e.*, from any activity undertaken by a private company for
 15 commercial purposes).
 16 2. With respect to Boeing’s equal protection and due process claims, DTSC
 17 may rely on the expert testimony of Laura Rainey disclosed in her expert report
 18 (dated January 21, 2011), but will not otherwise raise any asserted disputed issue
 19 of material fact.

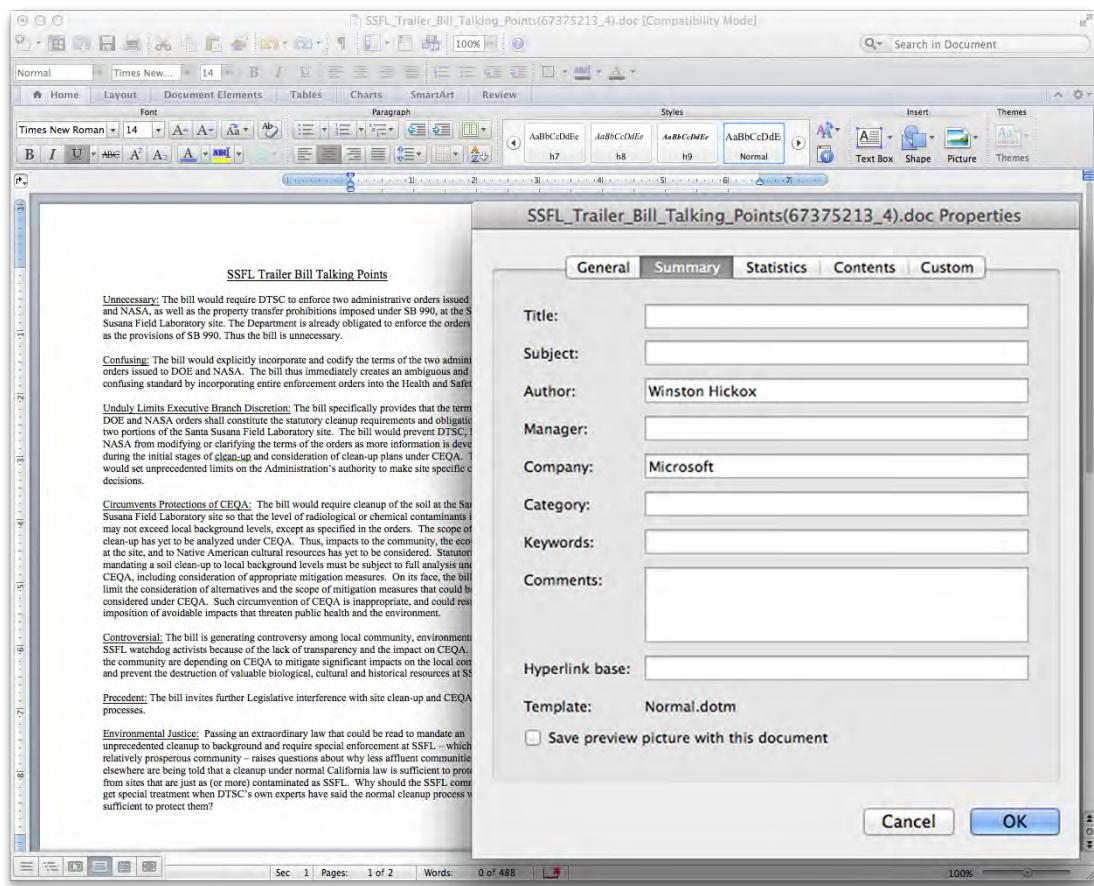
Wilmer Cutler Pickering Hale and Dorr LLP
 350 South Grand Avenue
 Los Angeles, California 90071

Signed DTSC Stipulation

successfully killed off a legislative effort to codify the Administrative Orders on Consent.⁸⁵ Putting these orders into statute would have meant that regulators could not alter them without the legislature's approval. This would have made Boeing's pressure on CalEPA or DTSC to abandon the agreements pointless, so blocking the proposed legislation became vital to Boeing.

One Boeing tactic to avoid its passage was an attempt to manipulate members of the California environmental justice community into opposing the legislation. One day, a member of that community received an email from an unknown address attacking the bill. The email had two attachments: a copy of the language that had been tacked onto a budget bill, and an unsigned "Trailer Bill Talking Points" memorandum that painted a full cleanup of Santa Susana as somehow bad for other cleanups in environmental justice communities. The gist was that most environmental justice communities don't get a cleanup to the highest standards—so why should a more prosperous area? The memo claimed other sites are "just as" or "more" contaminated than Santa Susana (though no other site in the state was identified). The memo is unsigned, but if a computer user hits the "properties" button in Microsoft Word, Winston Hickox's name pops up as the author.⁸⁶

Boeing lobbyists also came out of the woodwork to press the California Legislature to kill the bill. "Boeing has a lot of hired help up here, some of them registered, and some of them not," said one legislative staffer awed by the number. "The registered ones are formidable; the others are extra ammo. They operate like lobbyists, they tell you who their client is and they try to kill your bill, and they are pretty successful."



Winston Hickox Talking Points Memo

CONSOLIDATING POWER

Linda Adams stayed on, running CalEPA on an interim basis until Governor Brown selected a replacement. Within six months, in July 2011, Brown replaced Adams with Matt Rodriquez, a man viewed by environmentalists as a status quo figure. Rodriquez had previously worked for Brown as Chief Assistant Attorney General when Brown was California Attorney General. Adams's deputy, Patty Zwarts, was also replaced with Miriam Ingenito. Each replacement was far more amenable to Boeing's interests than his or her predecessor.

When Brown took office in 2011, his team started looking for a new DTSC director. When Robert Hoffman, the former DTSC Chief Counsel who now represented Boeing, learned that Debbie Raphael was under consideration, he asked to meet her. At first, industry did not know what to make of her, said one environmentalist. "Raphael was dangling for several months, while industry told the governor she was acceptable," said another environmentalist who met with her at the time. "I asked if Bob Hoffman had been in touch with her and she confirmed it."



Linda Adams

Brown appointed Raphael in May 2011. In August, after Adams had barely vacated the CalEPA building, Hoffman, Weiner, and top Boeing officials met with Raphael about the Santa Susana site.⁸⁷ The agenda included an overview of the weak 2007 consent order that the former Santa Susana Project Director Norman Riley had delivered, a schedule for demolition of radioactively contaminated debris from the site that would become a major controversy, and plans for a personal tour of the site for Raphael two days later.

Weiner began cultivating Raphael just as soon as Governor Brown appointed her DTSC Acting Director, a year before her Senate confirmation. He began to tutor her on the value of "community advisory groups," inviting her to a session of one in Richmond, California in August of 2011,⁸⁸ emails show. She attended in October. Boeing had been pushing for such a CAG, as seen in emails between Boeing and Santa Susana area residents, to supplant the existing Inter-Agency Work Group backing full cleanup.

That same month of October 2011, Boeing officials met with CalEPA Secretary Matt Rodriquez and then-Deputy Secretary Miriam Ingenito to brief them on Boeing's positions regarding site cleanup, agendas obtained in response to Public Records Act requests show. Weiner and Hoffman were also invited. The bullets on the agenda listed: Vision, Accomplishments, Oversight and Community Participation.⁸⁹

By the end of October, DTSC Director Raphael had postponed the Inter- Agency Work Group's next quarterly meeting, pushing it off until mid-February.⁹⁰ On January 30, 2012, Raphael cancelled the

February quarterly meeting too.⁹¹ The Inter-Agency Work Group had consistently held regulators accountable for their cleanup commitments, and Raphael's actions raised questions in the community about how committed DTSC was to making sure that Boeing fully cleaned up the site.

At the start of 2012, Boeing was still dragging its feet on cleanup. That month, Robert Hoffman sent an email to DTSC Senior Staff Counsel Nancy Bothwell, a former subordinate, attaching Boeing's cleanup proposal for the site. "This document outlines the clean-up that Boeing is willing to support," he said, leaving the clear impression that Boeing viewed itself as directing DTSC on the extent of cleanup, and not the other way around.⁹² The email indicated that Boeing still hadn't delivered a memorandum of understanding about how an environmental review of the site would be handled, something that Bothwell had expected to receive by close of business on a Friday, but evidently didn't. "What is this?" she wrote in her email back to Hoffman. "Are you really trying to put me in the nuthouse?" DTSC ultimately approved Boeing's choice for the contractor to oversee the first phase of environmental review for the state.

GOOD FRIENDS

In March 2012, Raphael met with Peter Weiner at the Hotel Shattuck in Berkeley,⁹³ according to her daily agenda. By then, the pair appeared to be good friends. The next month, Weiner, whose firm had helped vet the director, was instrumental in her Senate confirmation. With Raphael sitting by his side, Weiner lobbied for her confirmation, telling the Senate Rules Committee that he represents many companies and they have found Debbie Raphael "to be balanced, to be thorough, and to be just as open as she claims to be."⁹⁴

Records obtained in response to a Public Records Act request show that barely a week after his firm had aided Raphael's confirmation, Robert Hoffman was requesting a "catch-up" with her on Santa Susana issues on behalf of Boeing officials, himself and Peter Weiner.⁹⁵ Raphael held open a slot for a late afternoon meeting on April 30 to "discuss various Santa Susana issues."⁹⁶

In June 2012, Weiner offered in an email to brief Raphael on the "history" of the siting of hazardous waste landfills in California and the Tanner Act, a 1980s law that allows environmental justice communities that are home to these facilities a say in the process.⁹⁷



Weiner and Raphael at her confirmation

Weiner's email to Raphael did not mention that he had represented the operators of the Buttonwillow hazardous waste dump in a Tanner Act case brought against them by environmental justice advocates for the Center on Race, Poverty & the Environment. The lawsuit alleged that Buttonwillow had accepted Boeing's radioactive waste from Santa Susana for disposal at a Buttonwillow facility not licensed to receive it.

The 2003 settlement of that case that Weiner signed on behalf of the Buttonwillow facility's owner at the time promised not to accept radioactive waste in the future.⁹⁸ Nevertheless, Weiner was about to press for the delivery of radioactively contaminated debris from Santa Susana back to Buttonwillow, despite the Tanner Act settlement agreement that he himself had brokered.⁹⁹

In email communications between the two obtained from DTSC, Weiner projected himself as Raphael's cheerleader and rainmaker. In an email exchange that began around 10 p.m. on May 10, 2012 Raphael shared with Weiner her memo to staff about a \$17 million budget shortfall the month after her confirmation. Weiner praised her memo. "I can only tell you, having seen missives so many times in the past from DTSC directors, that this is one of the most thoughtful and well-crafted messages I've seen in the last twenty years," he wrote. "You give real information, you don't sugar-coat it, you make it 'us' rather than them, and you convey the openness and sincerity that you do in person."

Weiner also suggests in the email to Raphael that he can help press for additional funds for DTSC. "I'd like to find a way to help on the budget, if you want help," he writes. Within an hour, Raphael replies, "There may be important ways we can benefit from your advice and help. I will keep the offer in mind." Weiner responds "anytime" and in a P.S., "I still carry your note with me. One of the nicest I've ever received." She responds, "You make me smile."¹⁰⁰

While Weiner was forging a friendship with Raphael, Winston Hickox was softening up CalEPA Secretary Matt Rodriguez. Emails obtained in response to a Public Records Act request from CalEPA show Hickox thanking Rodriguez for a July 2012 lunch over which they discussed the Santa Susana Field Lab. Hickox was pushing Rodriguez to break the Administrative Orders on Consent that Adams, the former CalEPA Secretary, had labored so hard for, and instead to adopt less-than-full cleanup standards in any environmental review.

Raphael, Debbie@DTSC

From: Raphael, Debbie <D.Raphael@dtsc.ca.gov>
Sent: Thursday, May 10, 2012 10:55 PM
To: peterweiner@paulhastings.com
Subject: Re: Budget Message from DTSC Director

You make me smile.

Sent from my BlackBerry.
 ----Original Message-----
 From: "Weiner, Peter H." <peterweiner@paulhastings.com>
 To: Raphael, Debbie <D.Raphael@dtsc.ca.gov>

Sent: 5/10/2012 10:51:56 PM
 Subject: RE: Budget Message from DTSC Director

Any time.

PS: I still carry your note with me. One of the nicest I've ever received.

Paul Hastings LLP | Peter Weiner | Partner, Environment and Energy
 | Paul Hastings LLP | 55 Second Street, Twenty-Fourth Floor, San Francisco, CA 94105 | Direct: +1.415.856.7010 | Main: +1.415.856.7000 | Fax: +1.415.856.7110 | Cell: 415.518.5000 peterweiner@paulhastings.com | www.paulhastings.com

The White House's Council on Environmental Quality had determined that an environmental review involving NASA's operations at the site did not need to include options of less protective cleanup standards that would violate the Administrative Orders on Consent.¹⁰¹ That had implications for Boeing, which wanted no precedent for its part of the property, according to one former CalEPA official. Before his successor Linda Adams left office, former CalEPA Secretary Hickox pushed to avert the strict cleanup requirements in the Administrative Orders on Consent. After failing, he then tried to push another successor, current CalEPA Secretary Matt Rodriquez, not to enforce those signed legal agreements, but to consider lesser standards, a thank you note from Hickox to Rodriquez shows.¹⁰²

FACELIFT

By then, an extensive public relations facelift for the Santa Susana site was already underway courtesy of Los Angeles public relations firm Makeover Earth and its director, former *Los Angeles Times* reporter Gary Polakovic.¹⁰³ The media campaign strategy developed by the firm in 2012 for Boeing's Santa Susana site was designed to "shift discussions from a site with a sordid past to one with potential," according to a draft memo.¹⁰⁴ According to the draft strategy that was inadvertently posted on the Internet, The PR plan involved: trying to convince the media that the site "poses no significant risk to human health today;" that "cleanup far exceeds what's needed, to restore to beneficial use;" and, to try and divert attention from the contamination and past accidents to its possible use as parkland.



Boeing sign at entrance to Santa Susana

The campaign memo advised using "personal relationships with journalists" to target media outlets. Central to the effort would be to "showcase third parties who share Boeing's open-space vision" to change public opinion. "Third parties add credibility and authenticity and blunt allegations of green-washing," the strategy memo went. "Journalists will look to third parties to truth-check the company's message. The media outreach campaign will benefit by prominently including third-party allies as much as possible." The idea was to "multiply allies and grow their stature."

Meantime, in the months ahead, Boeing would cast the site as a historical monument to the space program through supervised public tours and events like an Audubon Society Bird-a-thon and a Honey Bee Badge Day where Girl Scouts would plant oak trees to earn merit badges.¹⁰⁵ Fortunately,

the Girl Scouts did not participate. Children are far more susceptible to cancer from radioactivity than adults are, and growing girls more than growing boys, according to the National Academy of Sciences and the US EPA.¹⁰⁶ The company's finishing touch was a new sign at Santa Susana's entrance that put a benign face on a poisoned place. It says: "SANTA SUSANA FIELD LAB, Corporate Lands for Learning."

DEMOLITION DERBY

At roughly the same time, Peter Weiner was also working DTSC's Deputy Director for Brownfields, Stewart Black, DTSC documents obtained under the Public Records Act show.¹⁰⁷ Raphael had replaced Rick Brausch with Stewart Black as DTSC Director in charge of the cleanup, a change that community members such as Cindi Gortner and Holly Huff would later lament. In a letter to Debbie Raphael, they would say that Black's industry ties made him "far more cozy with polluters" as compared to Brausch who they called the "last person left" at DTSC really trying to implement cleanup agreements that Boeing wanted to see "unravel."¹⁰⁸

Boeing had a problem on its hands—what to do with the structural debris in the nuclear portion of the Santa Susana site. The Administrative Orders on Consent required that contaminated debris be disposed of in licensed low-level radioactive waste sites. That included buildings, foundations, piping and other structures embedded in the soil itself. It is expensive to remove radioactive waste and dispose of it in a licensed radioactive waste facility. It is also illegal to dump it at unlicensed landfills or recycling shops.¹⁰⁹ DTSC Director Debbie Raphael and CalEPA Secretary Matt Rodriquez had decided they would not permit such unlicensed disposal or recycling. Somehow, Boeing managed it anyway.



Stewart Black

According to an email exchange between DTSC and Boeing, in August 2012 Raphael and Rodriquez had made a "decision" that "materials from Area IV [the nuclear portion of the site] with radiation levels above background cannot be routed for recycle or for non-rad disposal in California." (Emphasis in original.) Weiner then intervened. He forwarded this email to Stewart Black, and in his note to Black took umbrage at that decision. He wrote Black, "Stewart, this does not seem consistent with your and my discussion...Nor do I see ANY basis for the decision referenced below."¹¹⁰

It is not clear from the available record whether the DTSC Director and CalEPA Secretary reversed their decision, or whether DTSC staff simply ignored their directive and nonetheless permitted the unlicensed disposal. Either way, after meetings with Boeing, DTSC staff allowed disposal of contaminated debris above background radiation using a Boeing-recommended table of "acceptable surface contamination."¹¹¹

Boeing's Gallacher offered to smooth the way for DTSC regulators to issue "approval" of demolition of Boeing's non radiological and radiological buildings at Santa Susana, so the company could begin demolition in the first quarter of 2013 and be able to hit its "critical milestones" in cleanup to "preserve our schedule and the dollars allocated to demolition this year and next."¹¹²

Gallacher told DTSC what a "good relationship" the company had with most of the technical people at the radiological control branch of the California Department of Public Health, and said that "engaging" US EPA on demolition plans would also be "beneficial." He wrote: "We have contacts within US EPA that may be able to help with this," suggesting that the cozy relationship with Boeing and DTSC regulators extended to certain staff within US EPA. The radioactive debris would ultimately end up at recycling shops and landfills not licensed to take it—sparking a lawsuit against the DTSC and California Department of Public Health filed by Consumer Watchdog and three other groups in August 2013 and a preliminary injunction issued by the Sacramento Superior Court in December 2013.¹¹³

EXTRACTING A THORN

On July 30, 2012, Christina Walsh resubmitted a petition to form a CAG to the new leadership at DTSC.¹¹⁴ The DTSC approved the petition the day it received it. Cleanup advocates contested the decision on the grounds that the petition wasn't valid because many online signatures came from people who lived out of the area or who didn't even provide last names.

According to California law, residents who request a community advisory group must be affected by a response action at the site.¹¹⁵ DTSC had apparently not checked the signatures to determine the petition was valid before approving it, according to the California Environmental Law Project. The group said even a "cursory review" revealed that at least 19 signers resided outside of California or in California but far from the site itself. "They are clearly not members of the community affected by the response action at SSFL (Santa Susana Field Lab), as required by statute," wrote the group's lawyer, Laurens Silver.¹¹⁶ DTSC then asked Walsh for "additional validation" of the signatures.¹¹⁷

Community members and cleanup advocates immediately petitioned DTSC to retain the Inter-Agency Work Group and to reject a CAG.¹¹⁸ Almost four times more people signed this petition than the petition to form a community advisory group.¹¹⁹

Four community members, William Preston Bowling, Cindi Gortner, Dawn Kowalski and Holly Huff, turned to CalEPA Undersecretary Miriam Ingenito (now DTSC's Interim Director) to plead that the agency not shut down the Inter-Agency Work Group and of their opposition to the formation of a community advisory group when the Work Group already existed. They travelled to Sacramento to meet with her, telling her that DTSC Santa Susana Project Director Rick Brausch's removal was part of Boeing's "wish list," and that the DTSC official selected to take his place, Stewart Black, was a

“questionable” choice because of his industry affiliations, according to Holly Huff.¹²⁰ The meeting left everyone cold. “Miriam gave us flimsy answers,” said Cindi Gortner.¹²¹ “It was clear someone...had told them to dump the Work Group and form a community advisory group.”

The community members wrote Ingenito a letter in mid-August thanking her for the meeting. “But you need to know that there is a widespread perception here that since the change in Administration, DTSC’s regulation of [the Santa Susana Field Lab] has returned to the old days where Boeing’s lobbyists such as Winston Hickox, Bob Hoffman, and Peter Weiner are calling the shots, at the expense of the public whose health is at risk,” their letter said.¹²² Despite repeated pleas from the community and elected officials not to do so, Raphael approved the CAG and cancelled the Santa Susana Inter-Agency Work Group.¹²³

The Inter-Agency Work Group’s members and other long-time community members, who had labored for decades to get the site cleaned up, wrote Raphael a scathing letter in September 2012 about how, under her leadership, DTSC had become “a wholly-owned subsidiary of the polluter it is supposed to be regulating.” The letter said that approval of a “sham” advisory group gave Boeing cover to assert that the community doesn’t want most of the contamination cleaned up.

The letter continued: “Boeing has purchased very powerful lobbyists and public relations consultants, including Winston Hickox, Peter Weiner, Bob Hoffman, Charlie Stringer, and Gary Polakovic, several of whom are close to the governor. We recognize that we represent merely the ‘little people’ everyday folks who live near this polluted facility, whose families face the risk of cancer and other ailments from the decades during which Boeing and its predecessors have succeeded in avoiding cleanup obligations. Your actions indicate to us that in your eyes we don’t count, that it is only the powerful like Boeing that matter, and you will do what they want you to, no matter who among the unpowerful gets hurt by it.”¹²⁴

WHO'S WHO

The CAG endorsed by Raphael includes people with long-standing affiliations with the Santa Susana responsible parties (Boeing, NASA, and DOE) and/or their predecessors. It includes individuals with possible vested economic interests in the site. The group’s treasurer, Sam Cohen, represents the Santa Ynez Band of Chumash Indians and their casino interests.¹²⁵ His CAG bio says that the tribe is interested in being “potential owner” of the site—which has raised fears among some local officials that the end goal is to build a casino in the greater Los Angeles area.

Abraham Weitzberg, a retired nuclear engineer who worked at the site decades ago, is also a member of the group. Weitzberg spent 34 years working on DOE nuclear programs, according to his resume.¹²⁶ Thus, he worked for at least two of the three responsible parties at the site or their predecessors. His resume currently lists him as an “independent consultant,” but does not list client names.

Brian Sujata, another member, worked for 17 years at the Santa Susana site as a Boeing environmental project manager based on his bio and other documents. In the past, DTSC dealt with Sujata as a Boeing official representing Boeing's position on the cleanup. Sujata has, on occasion, helped write the CAG's press releases attacking the Administrative Orders on Consent, a position in conformance with that of his former employer, Boeing.¹²⁷

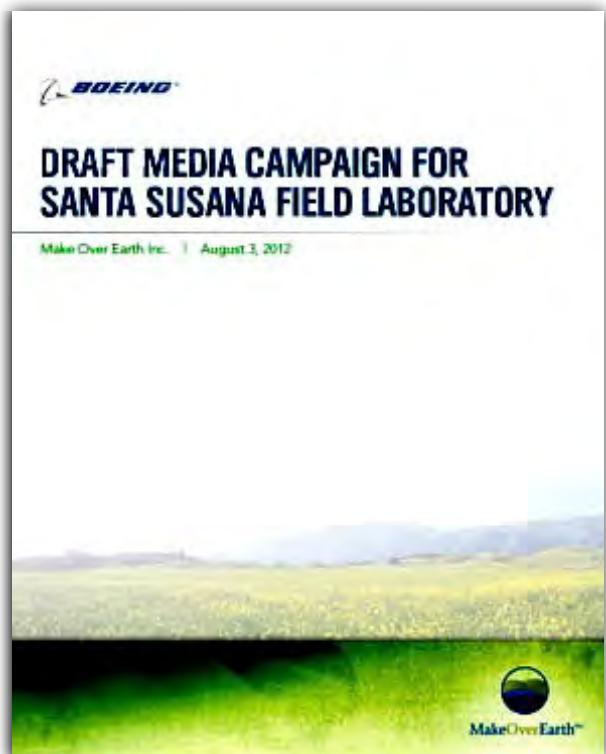
Ross Berman lists himself as a Senior Manager at Invitation Homes in his official CAG bio. His Linked In profile says he is a senior consultant at environmental services firm Redhorse Corporation, and that he previously worked for contractors Tetra Tech EM, and for CH2M HILL.¹²⁸ These contractors have performed work at the Santa Susana site.

Alec Uzemeck, chair of the CAG, describes himself as a retired engineer in his official CAG bio. He worked for seven years for Boeing's predecessor, North American Aviation, at its then-headquarters in Downey for which the Santa Susana site was the field lab.¹²⁹

Boeing, the new owner, shuttered the Downey site in the late 1990s. The site was transferred to the city of Downey without full cleanup, and is heavily contaminated, according to media reports.¹³⁰ Downey city officials capitalized on a loophole in the federal Superfund law that lets some government properties be sold during or before cleanups. According to the *Los Angeles Times*, Winston Hickox, then CalEPA Secretary, approved of and praised the transfer prior to full cleanup as "great for the environment and for the Southland's economy." The former site was subdivided into a retail center, a film studio, and a Kaiser Downey medical center. Dozens of film production workers who later filed worker compensation claims argued that the site was the source of strange health maladies. Kaiser workers have also complained of the same symptoms, known as "Downey flu."

COUNT ME OUT

Christina Walsh, the moving force behind the CAG, would quit in January 2014. She wrote a staffer to Senator Fran Pavley, who had opposed the group, stating: "You were right about the cag."¹³¹ In an email she wrote to Alec Uzemeck, chair of the group, and posted on the group's website after she quit, she stated, "While it can be said that I was the petitioner (to form a CAG), any further reference for the purpose of presenting the CAG as an open and inclusive forum is not accurate or appropriate



Make Over Earth Media Strategy

given recent efforts to preclude primary concerns of toxic contamination related to the nuclear and chemical cleanup.”¹³²

Walsh’s former colleague, William Preston Bowling, says that he long ago concluded that the CAG was designed by Boeing and its operatives to advocate for leaving most of its radioactive and chemical pollution behind at Santa Susana and that DTSC was compromised. “DTSC is very much in line with the polluter,” he said. Bowling broke with efforts to create the CAG and worked hard to restore the Inter-Agency Work Group. Bowling attends CAG meetings as an observer and, as recently as a March 2014 meeting, said he saw Polakovic and Eisenhauer there keeping tabs on the group.

CAG members push the idea that the legal agreements must be “modified” to leave much of the contamination behind, otherwise, full cleanup will irrevocably damage habitat and leave the site a “moonscape.”¹³³ The California Federation of Scientists disputes that vigorously. Only two percent of the entire site, mostly chaparral, is native habitat that would be disturbed, temporarily, by cleanup.¹³⁴ The great majority of the contaminated land was stripped decades ago due to rocket tests and nuclear work.

In 2010, under the leadership of Linda Adams, DTSC itself nipped the moonscape argument in the bud, stating in response to public comments that the cleanup was necessary because of the damage caused by the responsible parties, that habitat would be fully restored, and that the Administrative Orders on Consent were “consistent” with the regulatory practice of deferring to local governments’ land use plans and zoning decisions. In this case, Ventura County had designated the land for agricultural use, which is the most protective standard for public health.¹³⁵ DTSC made clear that Boeing and the other parties responsible for the contamination would be required to clean up to that protective standard even if the legislature had never passed a cleanup law and the Administrative Orders on Consent had never been signed.



Rocket Test Stands at Santa Susana

Instead, all the responsible parties—Boeing, NASA, and DOE—are now allying with the CAG in an effort to break out of the Administrative Orders on Consent and other cleanup obligations. NASA protested in an internal audit that the cost of living up to the Administrative Order on Consent it signed could be \$200 million, but far less if it were cleaned only for “recreational use.”¹³⁶ DOE then issued revised calculations on the amount of soil that would have to be removed from the site to say that three to five times more soil would have to be removed than originally estimated.¹³⁷ But in a public comment to the DOE, the Southern California Federation of Scientists alleged Boeing’s prime contractor at the site used “fictional” analysis and numerous “fudge” factors to grossly inflate

the amount of soil that would need removal.¹³⁸

"The Boeing Company in particular, and other Responsible Parties as well, have been trying to wriggle out of their cleanup responsibilities by, to be candid, hyping, exaggerating, and otherwise propagandizing about how many trucks they claim it would take to do the cleanup," the Federation wrote. "Of course, leaving massive amounts of contamination not cleaned up would be a vastly greater problem than the inconvenience of some trucks, but it remains the PR game plan."

Area resident Bonnie Klea lives right where the trucks would pass. She's a former clerical worker in the nuclear area of the site, and a cancer survivor who successfully won federal compensation for Santa Susana workers with one of 22 different cancers stemming from exposure to contamination. For her, the choice between trucks passing by and risking the public's health is a no-brainer. "I am preaching the dangers of cancer," said Klea, "while these people preach the dangers of trucking."¹³⁹

"I am preaching the dangers of cancer, while these people preach the dangers of trucking."

HOT CHIPS

A wild card in the mix is the Santa Ynez Band of Chumash Indians. The tribe operates a large casino north of Santa Barbara. A 2012 letter from the U.S. Department of the Interior's Bureau of Indian Affairs confirmed to the General Services Administration that the tribe wants to acquire the "excess real property" located in NASA's portion of the Santa Susana Field Laboratory.¹⁴⁰

The idea doesn't thrill everybody. The acquisition of some 450 acres of the 2,850-acre property could serve as the first step for the tribe to acquire the rest of the property from Boeing. Linda Parks and Peter Foy, members of the Ventura Board of Supervisors, wrote in November 2012 of their opposition to the transfer of NASA land prior to its cleanup because of fears that it would never be remediated. "...we would be particularly concerned if the land were transferred to entities that may not be subject to state regulatory cleanup requirements, as would be the case with transfer to a sovereign nation," they said.¹⁴¹

Los Angeles City Councilman Mitchell Englander got the LA City Council to pass a motion to oppose the transfer in March 2013 because the Santa Ynez Band of Chumash Indians "may not be subject to the State's regulatory cleanup requirements."¹⁴² The tribe's sovereign nation status could exempt it from most federal and state laws, and that could include a legal path for developing the site without cleaning much of it up. "The City of Los Angeles opposes any action to transfer the NASA owned land at Santa Susana until the cleanup and remediation of the site is complete," the motion reads.

The tribe's government affairs representative, Sam Cohen, has said that the tribe would be "in the best position to protect sacred sites" such as caves filled with ancient pictographs, if it owned the land.¹⁴³ State law explicitly protects Native American archaeological, paleontological, and historical sites from "severe or irreparable damage."¹⁴⁴ The federal National Historic Preservation Act also requires that federal agencies take into account the effects of their undertakings on historic properties.¹⁴⁵ The Administrative Orders on Consent signed between the DTSC and the parties responsible for the site empower the state to exempt Native American artifacts such as cave paintings from the cleanup requirements.¹⁴⁶



The tribe also claims they would not use the site to build a casino, as some officials fear they might.

Linda Parks wants a guarantee. She told *The Los Angeles Times* in 2012, "I very much respect their desire to protect sacred sites, but I want to make sure any such action precludes the establishment of a casino."¹⁴⁷

The transfer of the land to the tribe would serve the interests of several parties. The tribe could save time and money by developing some of the land, casino or not, while skipping cleanup. Boeing and the federal government could avoid spending hundreds of millions in cleanup costs altogether if the rest of the land could be transferred to the tribe.

PERSISTENCE PAYS

In January 2013, DTSC threw out the requirement to clean up Santa Susana to background. Instead it put forward a "Lookup Table" that set acceptable limits of many contaminants at levels higher than the US EPA's determination.¹⁴⁸ The Administrative Orders on Consent had expressly barred that. In addition, DTSC would now allow Boeing to "average" the amount of contamination in highly contaminated areas with less contaminated areas—something that former CalEPA Secretary Linda Adams had expressly barred. That would mean that Boeing could leave much of its contamination behind.

The US EPA's own 2012 characterization of the soil on parts of the Santa Susana site, including the nuclear portion, concluded that out of 3,735 surface and subsurface soil samples, a total of 500 samples contained concentrations of radioactive materials exceeding background levels.¹⁴⁹ If Boeing's standards were applied, none of the 500 locations EPA found to have contamination would be cleaned up, according to Dan Hirsch of Committee to Bridge the Gap..

Boeing was close to getting cleanup reversed. On Valentine's Day 2013, NBC reporters caught up with DTSC Director Debbie Raphael on a Sacramento street. NBC had been unsuccessfully asking for a sit-down interview with Raphael to talk about the troubled DTSC and her plans to fix it. So they decided to try and catch her outside the California EPA building. Raphael said she didn't have time to talk with them in any detail as she was headed off to a meeting.

The story they aired a week later ended with a clip of Raphael walking off with a gray-haired man in a suit.¹⁵⁰ The man was Peter Weiner and they were having lunch that day. NBC later discovered who he was and disclosed it in a subsequent story, saying that Raphael didn't have time to meet with the news media but was off to meet with an industry lobbyist.¹⁵¹ The Boeing fixer in so many DTSC meetings on Santa Susana's cleanup thoughtfully emailed Raphael the menu from the Thirteen Restaurant in advance of their lunch meeting that day.¹⁵²



Weiner and Raphael Valentine's Day Lunch

In March 2013, Simi Valley city officials reiterated that they supported full cleanup to background in a letter to Raphael. "The City Council has long been on record that the public health and welfare is best served by remediation of the site to no less than background levels," they wrote. U.S. Senator Barbara Boxer and Congresswoman Julia Brownley would echo the same sentiments in a letter to NASA later that year.¹⁵³ But Boeing would continue to insist on its position. In April, Winston Hickox paid a visit to one lawmaker's office to urge that stringent standards for cleanup be dropped in favor of a so-called "risk-based" cleanup standard that DTSC determined would be safe for public health. According to the staffer, that was code for leaving most of the contamination behind.

A PUBLIC FACE

In Fall 2013, DTSC invited the public to two December meetings to comment on "the scope of the environmental issues and the alternatives to be considered" in its draft Program Environmental Impact Report on Santa Susana.¹⁵⁴

In its announcement, DTSC did not refer to the cleanup standard to background set by the Administrative Orders on Consent or the cleanup requirements to the land's zoning for agricultural or rural residential use. The public notice did not say that the discussion would focus only on ways to achieve those cleanup standards, though two years earlier, in 2011, Raphael had admonished NASA for including cleanup alternatives that would not meet the strict cleanup requirements of the Administrative Orders on Consent.¹⁵⁵

DTSC's refusal to restrict its own Environmental Impact Report to alternatives that met legal cleanup requirements, as it had told NASA to do, troubled many community members. The Administrative Orders on Consent mandated cleanup to background and DTSC had previously made clear that the law required strict cleanup to the agricultural standard for Boeing's property.¹⁵⁶ Inviting comment on alternatives to those requirements was a clear indication that DTSC was considering breaking out of them.

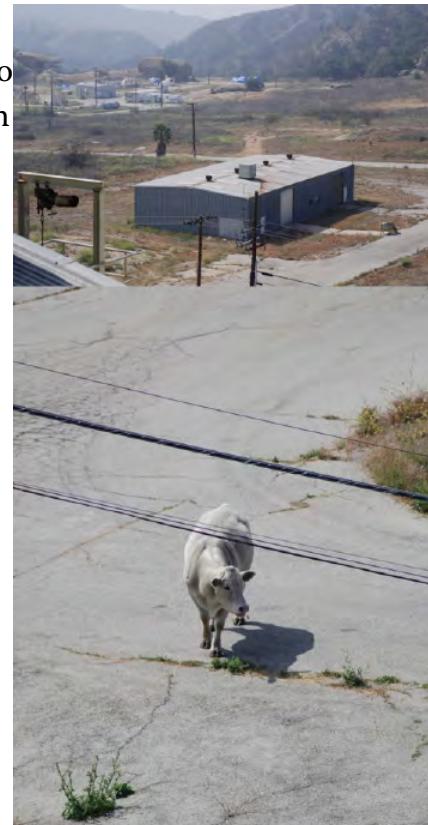
At the second of two public meetings, Santa Susana's DTSC Project Manager Mark Malinowski could not, or would not, say whether cleanup alternatives would conform to the signed intent of the orders or to the land's zoning as agricultural when Michael Collins, an environmental reporter, asked him the question. "I think that is what we're trying to evaluate," he said. "We don't know yet..."¹⁵⁷

In January 2014, Boeing sent Malinowski a letter proposing to set its own acceptable "levels" of radionuclides to evaluate soil on any of its property at the Santa Susana site not covered by the Administrative Orders on Consent.¹⁵⁸ The proposed levels were far below the agricultural standard for soil and background for most contaminants. In mid-March 2014, DTSC caved in to Boeing. The agency abrogated its official 2010 position that it would still insist on a cleanup to the most protective agricultural standard, based on current zoning and general plan requirements, no matter what.¹⁵⁹

REGULATORS FOLD

In April 2014, Malinowski's boss, current Santa Susana Project Director, Ray Leclerc, did not provide an answer to a written request from Consumer Watchdog to clarify what cleanup standard would be used for Boeing's land. At a public meeting later that month about the health risks from the site, DTSC invited Dr. Thomas Mack, a skeptic that disavows virtually any environmental connection between toxins and cancers, to speak.¹⁶⁰ DTSC invited none of the authors of studies of possible environmental connections between toxins at the site and cancers. Leclerc refused to answer a direct question from a member of the audience demanding to know whether a partial meltdown had ever even occurred. Leclerc said he was "unprepared" to discuss the "incident."¹⁶¹

At that meeting, Malinkowski pointed a laser beam at a slide of the site, showing contamination in a virtually solid, brightly colored block within the site's boundaries and clean white space around it suggesting no migration of contamination outside the site. The slide was presented as if it were the work of the DTSC, was prepared by Boeing's contractor.¹⁶² Although DTSC maintained there had



Cows in Santa Susana Nuclear Area IV

been no migration offsite, studies have shown otherwise, and in its 2007 Consent Order for Corrective Action with the parties responsible for the site's contamination, the DTSC had stated this was the case.¹⁶³

On May 1, NASA issued a Record of Decision announcing that it would indefinitely postpone cleanup of soil and groundwater and also postpone a decision as to whether it would comply with the cleanup agreement it had signed in 2010. More than 3,000 people had submitted public comments on NASA's Draft Environmental Impact Study on the cleanup, the crushing majority of whom had demanded that NASA strictly comply with the 2010 Administrative Orders on Consent.¹⁶⁴

Legislative staff had repeatedly warned DTSC that NASA would not follow through on their promises under the Administrative Orders on Consent, according to a legislative staffer. The state of play in 2010 was that a strict cleanup of Santa Susana was on track. The state of play today is that Boeing and its operatives reversed that cleanup with instrumental help from DTSC regulators such as Debbie Raphael, Miriam Ingenito, Stewart Black, and Ray Leclerc. The cleanup agreements are on life support, at best, and DTSC has broken its public commitments on the cleanup of Santa Susana.



Mark Malinowski

LET THE SUNSHINE IN

The State of California has a responsibility to protect the public health. In the case of Santa Susana, it appears to be doing the opposite. The DTSC not only reversed its commitment to thoroughly clean up the site when it granted Boeing permission—away from public view—to leave most of its contamination behind, but fully abdicated its authority over the demolition and disposal of radiologically contaminated debris from the site.

DTSC has asserted in court proceedings that it has no authority at all over the demolition and disposal of contaminated debris at Santa Susana and therefore has no obligations under the California Environmental Quality Act to make such disposal part of any environmental impact review. It claims that it has thus not been granting approvals to Boeing for these activities, despite voluminous evidence and a judge's initial preliminary injunction ruling stating: "At this preliminary stage, the record establishes DTSC approved Boeing's demolition and disposal activities, and required Boeing to seek such approval to assure the public and the environment are protected from radiologic contamination."¹⁶⁵

Boeing has taken full advantage of DTSC's position. In another March 2014 missive to Malinowski,¹⁶⁶

Boeing notified DTSC that, based on DTSC's own argument, it will proceed to tear down and dispose of any structures outside of Santa Susana's nuclear Area IV—the area covered by the court's injunction—and dispose of them as it sees fit, without DTSC's go-ahead. Numerous facility documents detail the DOE and its predecessor agency, the Atomic Energy Commission, engaged in waste disposal in other areas of the site that Boeing owns, so claims that radioactive activities over decades were confined only to Area IV ring hollow.¹⁶⁷

DOE has never been made to provide a radiological assessment of those areas. Thus, DOE-contracted site workers remain ineligible for federal benefits created to compensate such workers if their job-related exposures to toxic chemicals or radiation resulted in illness. "Historical facility documents support the need for a site-wide radiological survey, and changes to worker legislation are justified based on those documents," said D'Lanie Blaze an advocate with Core Advocacy for Nuclear and Aerospace Workers.

DTSC, the lead oversight agency in the state of California for hazardous waste cleanups, remains Missing in Action. It is hard to believe that DTSC's position, which leaves the public health at continued risk, is entirely divorced from the role that Boeing and its fixers, operatives, and surrogates played in the process. In fact, this case shows that a major corporation has captured regulators who are now working to protect the wallet of a polluter rather than the health of Californians. Most shocking is the fact that the DTSC allowed this.

Recommendations

It is time for reform. Specifically:

- The Governor must appoint a strong new DTSC Director, brought in from outside CalEPA and DTSC, who is committed to thoroughly reforming this dysfunctional agency.
- The Governor must act quickly to appoint a new Director. Leaving DTSC in the hands of an interim Director will create a vacuum, leaving companies like Boeing with plenty of time to lobby for a weak appointee. Their recommendations should be rejected.
- DTSC is in need of thorough housecleaning top to bottom, including all of the department's top managers. They must be replaced with a new team of people deeply committed to protecting the public from toxic harm who have not been through the revolving door between industry and government.
- Loopholes in lobbying and ethics laws must be closed to prevent fixers hired by polluters to press for specific agency actions benefitting an individual company without public knowledge.
- DTSC must be directed to vigorously and fully enforce the legally binding Administrative Orders on Consent signed by NASA and DOE.
- Boeing must be compelled to clean up its portion of Santa Susana to the land's agricultural zoning/general plan, as DTSC committed to in the prior Administration.
- Demolition at the Santa Susana site must be part of any public Environmental Impact Review of the site cleanup, as required by CEQA.
- Any radioactively contaminated debris must be disposed of in disposal facilities licensed for that purpose, according to the law.

Endnotes

1 See:

<http://www.consumerwatchdog.org/golden-wasteland-report>

2 The examples include Exide Technologies, the Southern California lead battery recycler that has operated without a permit for decades while contaminating East Los Angeles neighborhoods with lead, Chevron, which was never sanctioned by the DTSC for a massive fire and the subsequent fallout of hazardous waste particles, and major failings in tracking hazardous waste shipments, including 10,000 illegal shipments of dirt laced with gasoline, pesticides, and other chemicals that sickened Mecca school children.

3 The informal terms that appear in this report include “fixers” who use their influence to ensure a desired outcome, “operatives” who are hired for specific skill sets, and “surrogates” who are people used as stand-ins to represent a corporation’s interests.

4 For the legal complaint titled “Physicians for Social Responsibility-Los Angeles, Southern California Federation of Scientists, Committee to Bridge the Gap, and Consumer Watchdog versus Department of Toxic Substances Control; Department of Public Health, see:

<http://www.consumerwatchdog.org/newsrelease/consumer-watchdog-filing-suit-block-top-toxics-regulators-disposal-radioactive-waste-inc>

For the order on preliminary injunction, see:

<http://www.consumerwatchdog.org/newsrelease/consumer-groups-win-preliminary-injunction-against-toxics-regulator-over-illegal-disposa>

5 For more on contamination and health effects, see:

EPA website, Description and History, at:

<http://yosemite.epa.gov/r9/sfund/r9sfdocw.nsf/7508188dd3c99a2a8825742600743735/27aebc3de0dac08888257515005dbdef!OpenDocument>

“All these past site operations have resulted in soil and groundwater contamination. Primary chemical contaminants include a variety of radionuclides, trichloroethylene (TCE), perchloroethylene (PCE), metals, and petroleum hydrocarbons....

Radionuclides associated with ETEC nuclear operations include tritium, plutonium-238, plutonium-239, iodine-131, strontium-90, cesium-137, cobalt-60, thorium-228, and uranium-235.”

EPA Radiological Study:

http://www.dtsc-ssfl.com/files/lib_doe_area_iv/epaareaivsurvey/techdocs/65789_Final_Radiological

[Characterization of Soils 122112.pdf](#)

Potential for Offsite Exposures Associated with Santa Susana Field Laboratory:

http://www.rocketdynecleanupcoalition.org/files/Ch1_2Intro_Final.pdf

Cancer Incidence in the Community Surrounding the Rocketdyne Facility in Southern California:

<http://www.rocketdynecleanupcoalition.org/files/UofM-Rocketdyne-Epidemiologic-Study-Feb-2007-release.pdf>

6 For migration of contaminants offsite, see:

<http://www.rocketdynecleanupcoalition.org/ssfl-cleanup-frequently-asked-questions/#whycleanup>

<http://www.rocketdynecleanupcoalition.org/resources/documents/potential-for-offsite-exposures-associated-with-santa-susana-field-laboratory/>

http://www.simivalleyacorn.com/news/2005-08-26/Front_page/003.html

<http://www.enviroreporter.com/sinsofrocketdyne/all/1/>

7 See:

http://www.etc.energy.gov/Library/Cleanup_and_Characterization/Consent_Order.pdf

8 For the text of SB 990, and succinct description of site contamination, see:

ftp://www.lhc.ca.gov/pub/07-08/bill/sen/sb_0951-1000/sb_990_bill_20071014_chaptered.html

9 For text of Administrative Orders on Consent, see:

<http://www.rocketdynecleanupcoalition.org/resources/documents/#agreement>

10 For the migration of Santa Susana contamination offsite, see:

<http://www.rocketdynecleanupcoalition.org/resources/documents/potential-for-offsite-exposures-associated-with-santa-susana-field-laboratory/>

11 “Greenwash” is a political term, meaning a whitewash, except over something ecological. A greenwash is when an environmentally destructive corporation or institution gives itself a makeover to make itself look ecologically friendly, without really changing anything.

12 For California’s definition of lobbying, see:

<http://www.fppc.ca.gov/index.php?id=4>

13 In recent years, corporations have become more sophisticated in the ways that they influence government, often turning to so-called “strategic advisors” who have transformed the old-fashioned definition of lobbying as influencing legislation or regulations to one in which an array of services are provided that aim to influence officials and the public to support a client’s agenda without the need for any official registration as a lobbyist. For more on new forms of lobbying see:

<http://www.nytimes.com/2014/01/01/opinion/edsall-the-unlobbyists.html>

and

[http://opinionator.blogs.nytimes.com/2013/04/25/the-shadow-lobbyist/? _php=true& _type=blogs&r=0](http://opinionator.blogs.nytimes.com/2013/04/25/the-shadow-lobbyist/?_php=true&_type=blogs&r=0)

14 For California Strategies' website, see:

<http://calstrat.com/About/tabid/89/Default.aspx>

15 For the *Sacramento Bee* article, see:

<http://blogs.sacbee.com/capitolalertlatest/2013/09/fppc-approves-40500-fine-for-california-strategies-and-partners.html>

16 For a more complete biography of Winston Hickox, see:

<http://www.calstrat.com/People/WinstonHickox/tabid/165/Default.aspx>

17 For email confirming Hickox's employment, see:

<http://www.consumerwatchdog.org/resources/hickox-boeing-hire.pdf>

18 For FPPC stipulation and order, see:

<http://www.fppc.ca.gov/agendas/09-13/3CA%20Strategies%20-%20Stip%20and%20Exh.pdf>

19 For news coverage of FPPC decision on California Strategies, see:

<http://www.sacbee.com/2013/09/19/5751523/fppc-fines-california-lobbying.html>

20 For the *Sacramento Bee* article, see:

<http://blogs.sacbee.com/capitolalertlatest/2013/09/fppc-approves-40500-fine-for-california-strategies-and-partners.html>

21 For Paul Hastings' list of current and past registered clients, see:

<http://cal-access.sos.ca.gov>

22 For Hoffman's Paul Hastings bio, see:

<http://www.paulhastings.com/professionals/details/roberthoffman>

23 For Peter Weiner's LinkedIn profile, see:

<http://www.linkedin.com/pub/peter-weiner/8/161/680>

24 For Weiner's Paul Hastings bio, see:

<http://www.paulhastings.com/professionals/details/peterweiner>

25 For financial contributions by Hickox and his wife see:

<http://www.consumerwatchdog.org/resources/HickoxDonationReport.pdf>

26 For Weiner's financial contributions, see:

<http://www.consumerwatchdog.org/resources/WeinerDonationReport.pdf>

27 For Boeing's donation to Brown, see:

<http://www.consumerwatchdog.org/resources/BoeingDonationReport.pdf>

28 For Boeing charitable donation on behalf of Brown, see:

<http://www.consumerwatchdog.org/resources/2013State.pdf>

29 For Renewable Resources' statement on Boeing work, see: <http://www.dailynews.com/20121208/santa-susana-field-lab-activists-divided-over-how-clean-rocketdyne-site-should-be>

30 For Stringer's bio, see:

<http://gov.ca.gov/news.php?id=18281>

31 For Stringer's Water Board affiliation as of January 2014, see:

http://www.swrcb.ca.gov/rwqcb4/about_us/board_members.shtml

32 For Stringer's 700 forms, see:

<http://www.consumerwatchdog.org/resources/stringer700forms.pdf>

33 See the State Water Resources Control Board's Conflict of Interest Code:

<http://www.consumerwatchdog.org/resources/CodeFinal2012.pdf>

34 For more on Tom Eisenhauer, see:

<http://www.lalcv.org/tom-eisenhauer>

35 For Make Over Earth's draft media campaign strategy, see:

<http://www.consumerwatchdog.org/resources/DRAFTMEDIACAMPAIGNFORBOEINGhighlighted.pdf>

36 For Boeing's Press Release on the honor from the Wildlife Habitat Council, see:

<http://www.consumerwatchdog.org/resources/BoeingReceives%20EnvironmentalRecognitionfromWildlifeHabitatCouncilNov162012.pdf>

37 For the Council's domination by industry, see "An Award Only a Polluter Could Love: <http://www.enviroreporter.com/2012/12/dirty-deeds/all/1/>,

Also see:

<http://www.wildlifehc.org/about-whc/board-of-directors/>

And:

<http://www.chemicalindustryarchives.org/dirtysecrets/annistonindepth/toxicity.asp>

38 For UCLA health studies, see:

www.rocketdynecleanupcoalition.org/files/UCLA-Rocketdyne-Radiation-Study-Sept-1997-release.pdf

www.rocketdynecleanupcoalition.org/files/UCLA-Rocketdyne-Chemical-Study-Jan-1999.pdf

39 For the University of Michigan health study, see:

<http://www.rocketdynecleanupcoalition.org/files/UofM-Rocketdyne-Epidemiologic-Study-Feb-2007-release.pdf>

40 For overview of breast cancer rates in the Santa Susana area, see:

<http://www.sgvtribune.com/general-news/20130616/woman-residents-believe-cancer-linked-to-santa-susana-field-laboratory>

41 For settled suits, see:

<http://www.dailynews.com/general-news/20130616/woman-residents-believe-cancer-linked-to-santa-susana-field-laboratory>

42 See the CV of Chris Busby who served as expert witness in retinoblastoma case.

http://www.consumerwatchdog.org/resources/344_cvbusby.pdf

<http://www.dailynews.com/20080412/cancer-cause-near-santa-susana-field-lab-disputed&template=printart>

<http://www.dailynews.com/general-news/20060905/rare-cancer-unites-local-mothers>

43 For the text of the Administrative Orders on Consent, see:

http://www.etec.energy.gov/Library/Cleanup_and_Characterization/SSFL_DOE_AOC_Final.pdf

http://ssfl.msfc.nasa.gov/documents/governance/NASA_DTSC_Final_AOC_Dec_2010.pdf

44 For the number of public comments in support of the Administrative Orders on Consent, see DTSC response to public comments on their signing:

<http://consumerwatchdog.org/resources/DTSC-RESPONSE-AOC-NASA.pdf>

45 Boeing acquired the lion's share of the site, and responsibility for it, in 1996 when it merged with Rockwell International Corporation's aerospace and defense units, absorbing Rockwell's Rocketdyne division. For more on its history, see:

<http://www.boeing.com/boeing/history/narrative/n079boe.page>

46 Conversation with author of *Inside Job*

47 For the State of California's stipulation, see:

<http://www.consumerwatchdog.org/resources/ssflstipulation.pdf>

The stipulation was signed in February 2011. Boeing filed its statement of genuine issues of material fact a month later.

48 Conversation with the author of *Inside Job*

49 For EPA guidance, see:

<http://www.epa.gov/osw/hazard/correctiveaction/curriculum/download/int-meas.pdf>

<http://www.epa.gov/osw/hazard/correctiveaction/pdfs/workshop/table1.pdf>

<http://www.epa.gov/osw/hazard/correctiveaction/pdfs/workshop/select.pdf>

50 State law requires the DTSC to recover the costs of the cleanups it supervises and it is not uncommon for companies to fund positions for that oversight purpose:

H&SC 25187.2. "If a removal or remedial action order issued pursuant to Section 25187 to a potentially responsible party requires a person to take corrective action with respect to hazardous waste, that person shall pay for oversight of the removal or remedial action. This section does not prohibit the department or unified program agency from assessing any other penalty or recovering any costs for oversight of a removal or remedial action, pursuant to any other provision. Nothing in this section limits the due process requirements of Section 25187."

Chandler had in fact suggested to Boeing that if they wanted to fast track the cleanup, they could fund more DTSC positions. That suggestion was incorporated into a "Summary of Critical Action Items" faxed from Boeing to the DTSC in October 1998.

See:

<http://www.consumerwatchdog.org/resources/criticalactionitems.pdf>

51 Conversation with the author of *Inside Job*

52 For Weiner emails asking to meet with Movassaghi on behalf of Boeing, see:

<http://www.consumerwatchdog.org/resources/weiner-movassaghi-emails.pdf>

53 For more on Norman Riley, his later work for KB Homes, which is developing land adjacent to Santa Susana, and his remarks on the DTSC, see:

<http://www.enviroreporter.com/2009/09/rileys-revenge/>

http://www.acmela.org/images/ACME_to_DTSC_Runkle_Canyon_June_26_of_2012.pdf

54 For the 2007 Consent Order, see:

http://www.etec.energy.gov/Library/Cleanup_and_Characterization/Consent_Order.pdf

55 For the Water Board documents, see: <http://www.consumerwatchdog.org/resources/weineratwaterboard.pdf>

56 For Weiner apology, see:

<http://www.consumerwatchdog.org/resources/weinerapology.pdf>

57 For history of the Inter-Agency Work Group see:

<http://www.rocketdynecleanupcoalition.org>

<http://www.ssfworkgroup.org/the-work-group/>

58 Independent experts associated with the Inter-Agency Work Group have helped translate into understandable language the complicated, and at times obscure, information put forward by agency representatives, and challenge, when needed, agency assertions that were questionable. For example, an agency representative argued for radiation hormesis, the assertion that low dose radiation was good for people, stimulating the immune system. The independent experts were able to make clear that the official position of all agencies and the National Academy of Sciences dismisses this. These independent experts could explain the significance of contamination measurements. The Work Group has been critical to bringing into public view a host of obstacles in the site cleanup process and overcoming them to help move the cleanup forward. For example, elected officials who attended Work Group meetings helped elevate the issue of cleanup standards in Washington, D.C. to direct communication between Congress and the US Energy Secretary, which prompted a dramatic breakthrough in DOE agreeing to protective cleanup standards.

59 Conversation with the author of *Inside Job*

60 A community advisory group, according to the DTSC, is “a group of volunteers who represent the composition and diversity of the local or communities interested in DTSC investigation and cleanup activities at a specific site.” For the DTSC’s Community Advisory Group (CAG) Handbook, see:

http://www.acmela.org/images/DTSC_Booklet_Guidance_CAG.pdf

For US EPA information on such groups, see:

<http://www.epa.gov/superfund/community/cag/pdfs/cagtlktc.pdf>

61 Section 25358.7.1 (a), Chapter 6.8 of the California Health and Safety Code states that, “At each site, a community advisory group may be established by the affected community to review any response action and comment on the response action to be conducted in the community.” Nothing in statute directs the DTSC to supplant a pre-existing community advisory body with another community advisory group.

Also see:

http://www.acmela.org/images/DTSC_Booklet_Guidance_CAG.pdf

62 PG&E funded a community advisory group for the town of Hickley, which is polluted with hexavalent chromium. Some residents see it as a ploy to shut down criticism of the way the cleanup is being handled.

See:

<http://www.scpr.org/news/2011/04/15/25882/pge-form-citizen-advisory-committee-hinkley-water-/>

63 For Eisenhauer email to Bowling, see:

<http://www.consumerwatchdog.org/resources/bowling-eisenhauer-email.pdf>

64 Interview with the author of *Inside Job*.

65 For the letter to Linda Adams, see: http://www.acmela.org/images/Julia_Brownley_Linda_Adams_March_9_of_2009_ACME_Aerospace_Cancer_Museum_of_Education.pdf

66 For Walsh emails on Boeing CAG funding, see:

<http://www.consumerwatchdog.org/resources/boeingcag.pdf>

67 For the email exchange between Linda Adams and Maziar Movassaghi about Norman Riley and Robert Hoffman, see:

<http://www.consumerwatchdog.org/resources/hoffmancomplaining.pdf>

68 See CCEEB opposition to SB 990:

http://www.consumerwatchdog.org/resources/200720080SB990_AssemblyEnvironmentalSafetyAndToxicMaterials-3.pdf

And CCEEB opposition to a Senate bill that would ensure that the Santa Susana Field Lab was properly monitored for residual radioactive materials, that it not be sold or redeveloped without being properly cleaned up, and that any materials containing low-level radioactive wastes be properly disposed of at a facility licensed for that purpose:

<http://www.consumerwatchdog.org/resources/SB208SenateBillAnalysis.pdf>

69 For the legal documents and timeline of the Boeing lawsuit against SB 990, see:

http://www.dtsc-ssfl.com/default.asp?V_DOC_ID=947&subID=118&subID2

For more background on the case, see:

<http://www.committeetobridgethegap.org/SSFLDemolitionAndDisposalStudy.pdf>

70 For Walsh's email to Pavley's staffer, see:

<http://www.consumerwatchdog.org/resources/walsh-pavleyemail.pdf>

71 For DTSC letter rejecting CAG petition, see:

<http://www.consumerwatchdog.org/resources/cag-rejection.pdf>

72 See Luker speaking to officials at a 2008 Simi Valley City Council meeting here:

https://www.youtube.com/watch?v=Ssk47_Pk_m4&feature=youtu.be&t=5m19s

73 To see Luker's Flickr site, and his copy under the more-about-Santa-Susana drop down tab, go to:

<http://www.flickr.com/photos/johnclukerii/sets/72157624856775550/with/4948847712>

74 To see Luker email to Boeing and Renewable Resources representatives, see: <http://www.enviroreporter.com/wp-content/uploads/2012/10/LukerBoeing.pdf>

75 For media characterization of area residents evenly divided on extent of cleanup, see:

<http://www.dailynews.com/20121208/santa-susana-field-lab-activists-divided-over-how-clean-rocketdyne-site-should-be>

76 All but 14 of more than 1,700 interested community members and stakeholders who submitted comments and questions to the DTSC expressed "excitement and support" for the DTSC's Agreements in Principle with DOE and NASA for full cleanup of the site prior to the formal signing of the Administrative Agreements on Consent. See:

<http://www.consumerwatchdog.org/resources/aoc-dtsc-comments2010.pdf>

77 For Hickox emails on Boeing's hiring of his firm and arrangements to meet with DTSC officials, see:

<http://www.consumerwatchdog.org/resources/hickox-boeing-hire.pdf>

78 Bob White was former chief of staff for Governor Pete Wilson. According to *Sacramento Magazine*'s September 2008 issue, "As the founder of California Strategies, LLC, he's been dinged for currying favor on his clients' behalf without having to play by lobbyists' rules." For the magazine, see: <http://www.sacmag.com/Sacramento-Magazine/September-2008/The-Power-Influence-100/>

79 For more on Blevins, see: <http://www.calstrat.com/People/BBBlevins/tabid/151/Default.aspx>

80 For Brausch "double-team" email, see:

<http://www.consumerwatchdog.org/resources/brausch-doubleteam-lobbying.pdf>

81 For 2010 DTSC Comments on the AOCs, see:

<http://www.consumerwatchdog.org/resources/aoc-dtsc-comments2010.pdf>

82 For the State of California's stipulation, see: <http://www.consumerwatchdog.org/resources/ssflstipulation.pdf>

83 For coverage of the court hearing, see:
<http://www.enviroreporter.com/2012/12/toxic-department/all/1/>

84 For news coverage on the District Court's ruling see:
<http://www.vcstar.com/news/2011/apr/27/federal-judge-slaps-down-state-santa-susana-lab/>

85 For trailer bill language, see: <http://www.consumerwatchdog.org/resources/trailerbill.pdf>

86 For Hickox's Talking Points memo, see: http://www.consumerwatchdog.org/resources/ssfl_trailer_bill_talking_points.pdf

87 For the 2011 DTSC-Boeing briefing, see:
<http://www.consumerwatchdog.org/resources/boeingbriefing.pdf>

88 For Richmond CAG invitation, see:
<http://www.consumerwatchdog.org/resources/weinerrichmondcag.pdf>

89 For Hoffman-Weiner-Boeing meeting with Rodriquez, see:
<http://www.consumerwatchdog.org/resources/calepaboeinglobbying.pdf>

90 For DTSC postponement of work group meeting, see:
http://www.acmela.org/images/SSFL_Workgroup_MEETING_POSTPONED_November_of_2011.pdf

91 For February cancellation of the work group meeting, see:
<http://www.consumerwatchdog.org/resources/SantaSusanaFieldLaboratoryScheduleUpdate.pdf>

92 For Hoffman-Bothwell email exchange, see:
<http://www.consumerwatchdog.org/resources/hoffman-bothwell-email.pdf>

93 For Raphael's March meeting with Weiner, see:
<http://www.consumerwatchdog.org/resources/3-30-12dailyagenda.pdf>

94 Weiner's remarks are on page 44 of the Senate Rules Committee hearing transcript confirming Debbie Raphael as DTSC Director on April 11, 2012. This transcript is available only in print and by request.

95 For the Catch-up request, see:

<http://www.consumerwatchdog.org/resources/hoffman-catchup.pdf>

96 For April 2012 DTSC-Boeing agenda, see:

<http://www.consumerwatchdog.org/resources/4-30-12dailyagenda.pdf>

97 For Weiner's invitation to brief Raphael and other DTSC officials on the Tanner Act, see:

<http://www.consumerwatchdog.org/resources/weinertannerbriefing.pdf>

98 For the Buttonwillow settlement, see:

<http://www.consumerwatchdog.org/resources/settlement.pdf>

99 For Weiner correspondence with DTSC Deputy Director Stewart Black regarding disposal of radioactive waste from Santa Susana, see:

<http://www.consumerwatchdog.org/resources/dtsc-radwasteddecision.pdf>

100 For emails between Raphael and Weiner, see: <http://www.consumerwatchdog.org/resources/sweetnothings.pdf>

101 For the White House CEQ letter, see:

http://www.nasa.gov/sites/default/files/files/SSFL_DEIS_Appendices_ABCD.pdf

102 For Hickox email to Rodriguez, see:

<http://www.consumerwatchdog.org/resources/calepaboeinghickox.pdf>

103 For more information on Gary Polakovic and his clients, see:

<http://www.makeoverearth.com/biography.html>

<http://www.makeoverearth.com/clients.html>

104 For draft media campaign strategy memo, see:

<http://www.enviroreporter.com/draft-media-campaign-for-the-santa-susana-field-laboratory-by-make-over-earth-inc>

105 For Boeing's May 2013 Tip Sheet promoting events at Santa Susana, see:

<http://www.consumerwatchdog.org/resources/boeingtipsheet.pdf>

106 For the National Research Council study see:

<http://www.nap.edu/openbook.php?isbn=030909156X>

107 For Stewart Black's DTSC bio, see:

<https://dtsc.ca.gov/StewartBlack.cfm>

108 For Work Group and others' letter to Raphael, see:

<http://www.rocketdynecleanupcoalition.org/wp-content/uploads/2012/12/SSFL-Community-to-Raphael.pdf>

109 California has adopted most of the federal regulations governing the disposal of low-level radioactive waste. (See Cal. Code Regulations, tit. 17, § 30470.) These federal regulations provide that "no person may receive, possess, and dispose of radioactive waste containing source, special nuclear or byproduct material at a land disposal facility unless authorized by a license." (10 CFR § 61.3.)

110 For Weiner-Black email, including forwarded message about the decision of Debbie Raphael and Matt Rodriguez not to allow disposal of radioactive waste in municipal landfills, see:

<http://www.consumerwatchdog.org/resources/dtsc-radwastedecision.pdf>

111 For table of "acceptable surface contamination," see:

<http://www.consumerwatchdog.org/resources/ML003676463.pdf>

112 For Gallacher's email to DTSC Project Manager Mark Malinowski offering to help smooth the way for approval of demolition, see:

<http://www.consumerwatchdog.org/resources/Gallacher-Contacts.pdf>

113 In August 2013, after discovering that radioactive debris went from Santa Susana to facilities not licensed to take it, Consumer Watchdog sued the Department of Toxic Substances Control and the Department of Health:

<http://www.consumerwatchdog.org/newsrelease/consumer-watchdog-filing-suit-block-top-toxics-regulators-disposal-radioactive-waste-inc>

Recycling companies Gillibrand of Simi Valley, Kimco of Sun Valley, and Standard Industries of Ventura received material from the SSFL nuclear site. Debris was also been shipped for disposal to the Buttonwillow hazardous waste landfill operated by Clean Harbors Inc. in Kern County, and to municipal or industrial waste landfills Azusa Land Reclamation, Lancaster Landfill and Hauling, and McKittrick Waste Landfill, according to Boeing's data. None of these facilities are licensed to accept radioactive waste.

See radioactive waste disposal map here: <http://www.consumerwatchdog.org/resources/nuclearwastemap.pdf>

114 For preliminary injunction ruling, see:

<http://www.consumerwatchdog.org/newsrelease/consumer-groups-win-preliminary-injunction-against-toxics-regulator-over-illegal-disposa>

For the petition, see:

<http://petitions.moveon.org/sign/santa-susana-field-lab>

115 Cal. Health & Safety Code §25358.7.1.(a), states that the petition must be “signed by at least 50 members of a community affected by the response action at a site.” Also see:

http://www.rocketdynecleanupcoalition.org/files/RaphaelLTR_8_06_12.pdf

116 For California Environmental Law Project letter to Raphael concerning establishment of the community advisory group, see:

http://www.rocketdynecleanupcoalition.org/files/RaphaelLTR_8_06_12.pdf

117 See email from DTSC Deputy Director Jim Marxen to Christina Walsh:

<http://www.consumerwatchdog.org/resources/PetitionValidationRequest.pdf>

118 For petition to reinstate the Work Group, see:

<http://petitions.moveon.org/sign/bring-back-the-santa>

119 For the 58 people who signed the CAG petition, see:

<http://petitions.moveon.org/sign/santa-susana-field-lab>

For the 218 people who signed the Work Group petition, see:

<http://petitions.moveon.org/sign/bring-back-the-santa>

120 Conversation with the author of *Inside Job*

121 Conversation with the author of *Inside Job*

122 For Ingenito’s correspondence with the Inter-Agency Work Group, see:

<http://www.consumerwatchdog.org/resources/ingenito-correspondence.pdf>

123 For the DTSC letter to the Inter-Agency Work Group, see:

<http://www.consumerwatchdog.org/resources/lettertoworkgroup.pdf>

124 For the Inter-Agency Work Group letter to Raphael, see:

<http://www.rocketdynecleanupcoalition.org/wp-content/uploads/2012/12/SSFL-Community-to-Raphael.pdf>

125 For Sam Cohen’s bio, see:

http://www.dtsc-ssfl.com/files/lib_pub_involve/other_docs/66092_CAG_Biographies-_FINAL.pdf

126 For Weitzberg's resume, see:

<http://consumerwatchdog.org/resources/WeitzbergResume.pdf>

127 For all CAG bios, see:

http://www.dtsc-ssfl.com/files/lib_pub_involve/other_docs/66092_CAG_Biographies_FINAL.pdf

For more on Brian Sujata and his role as a project manager at Boeing, see:

<http://www.consumerwatchdog.org/resources/sujata-boeing-remediation.pdf>

For a blog by a member of the group thanking Sujata for his crafting of a press release, see:

<https://groups.yahoo.com/neo/groups/cleanupssfl/conversations/messages/2529>

128 For Berman's Linked In profile, see:

<https://www.linkedin.com/in/rossberman>

129 See: The Rocketdyne Information Society Digest Number 1010

130 For more on the Downey site, see:

http://www.alternet.org/story/145508/how_an_l.a._suburb_became_one_of_the_most_toxic_towns

<http://www.consumerwatchdog.org/resources/latimes-downey.pdf>

131 For Walsh email to Pavley staffer, see:

<http://www.consumerwatchdog.org/resources/WalshEmail.pdf>

132 For the text of the Walsh email, see:

<https://groups.yahoo.com/neo/groups/cleanupssfl/conversations/messages/2638>

133 For comment on cleanup by Michael Kuhn, a member of the community advisory group, see:

http://ssflcag.net/resources/NASA_DEIS_Comments/Kuhn%20Comments%20EIS.pdf

For coverage of arguments against cleanup, see:

<http://www.enviroreporter.com/2014/03/truth-or-scare/all/1/>

134 For the Southern California Federation of Scientists public statement to the DTSC on the cleanup of Santa Susana, see:

http://www.consumerwatchdog.org/resources/SCFS_DOE_Scoping_Statement.pdf

135 See:

<http://www.consumerwatchdog.org/resources/DTSC-RESPONSE-AOC-NASA.pdf>

136 For NASA's report on Santa Susana remediation, see:

<http://oig.nasa.gov/audits/reports/FY13/IG-13-007.pdf>

137 For revised DOE soil estimate, see:

<http://www.consumerwatchdog.org/resources/DOESoilEstimates.pdf>

138 For Southern California Federation of Scientists statement, see:

http://www.consumerwatchdog.org/resources/SCFS_DOE_Scoping_Statement.pdf

139 Conversation with author of *Inside Job*

140 For the Bureau of Indian Affairs letter, see:

<http://www.consumerwatchdog.org/resources/bureauindianaffairsletter.pdf>

141 For the Ventura Board of Supervisors letter, and other letters by local officials, see:

<http://rocketdynecleanupcoalition.org/files/BOS%20SFFL%20Letter%20to%20GSA.pdf>

<http://rocketdynecleanupcoalition.org/files/VC%20Board%20Letter%20-%20USGSA%20Disposition%2011.13.12.pdf>

http://rocketdynecleanupcoalition.org/files/13-0002-S6_ca_03-20-13.pdf

<http://rocketdynecleanupcoalition.org/files/DOC040913-002.pdf>

142 For Englander motion, see:

<http://www.consumerwatchdog.org/resources/englandermotion.pdf>

143 For Sam Cohen statement on protection of cultural artifacts, see:

http://www.vcreporter.com/cms/story/detail/hot_cave_paintings/10960/

144 See Section 5097-5097.33 of the Native American Historic Resources Protection Act:

<http://online.sfsu.edu/mgriffin/California%20Public%20Resources%20Code%205097.pdf>

145 For frequently asked questions on the National Historic Preservation Act, see:

<http://www.neh.gov/grants/manage/frequently-asked-questions-about-section-106-the-national-historic-preservation-act>

146 The Administrative Orders on Consent state that the DTSC can exempt Native American artifacts that recognized as Cultural Resources from cleanup. See:

http://www.etec.energy.gov/char_cleanup/AOC.html

http://ssfl.msfc.nasa.gov/documents/governance/NASA_DTSC_Final_AOC_Dec_2010.pdf

147 For more on tribe and Linda Parks, see:

<http://articles.latimes.com/2012/oct/30/local/la-me-chumash-rocketdyne-20121030>

148 For “Look-Up” Table, see:

<http://www.consumerwatchdog.org/resources/lookuptables.pdf>

and <http://www.consumerwatchdog.org/resources/Blumenfeld-12-5-12withattachements.pdf>

149 For US EPA Radiological Characterization Study Results, see:

http://www.dtsc-ssfl.com/files/lib_doe_area_iv/epaareaivsurvey/techdocs/65789_Final_Radiological_Characterization_of_Soils_122112.pdf

and

<http://www.consumerwatchdog.org/resources/eparadiationsurvey.pdf>

150 For NBC story, see:

<http://www.consumerwatchdog.org/video/kntv-nbc-tv-bay-area-insiders-say-ca-toxic-regulation-weak>

151 For subsequent NBC story, see:

<http://www.nbcbayarea.com/investigations/DTSC-Leaders-Have-Owned-Major-Stock-in-Companies-the-Department-Oversees--195432001.html>

152 For lunch menu, see:

<http://www.consumerwatchdog.org/resources/thirteenemail.pdf>

153 For city council and congressional letters, see:

<http://www.consumerwatchdog.org/resources/resolutions.pdf>

154 For public notice, see:

http://www.dtsc-ssfl.com/files/lib_ceqa/sitewideceqadocs/66278_SSFL_EIR_Scoping_Flier_11_19_2013_FINAL.pdf

155 For Raphael’s letter to NASA, see:

<http://www.consumerwatchdog.org/resources/raphaelnasaltr.pdf>

156 For DTSC’s position on cleanup to agricultural zoning, see:

<http://consumerwatchdog.org/resources/DTSC-RESPONSE-AOC-NASA.pdf>

157 The author of *Inside Job* attended these public meetings.

158 For the Boeing letter to DTSC, see:

http://www.dtsc-ssfl.com/files/lib_rcra_soils/dataqualityobjective/66364_Soil_Characterization_Levels_for_Radionuclides_for_the_Boeing_RFI_Subareas.pdf

159 See:

[http://consumerwatchdog.org/resources/66365 Soil Characterization Levels for Radionuclides for Boeing RFI Subareas Approval Letter.pdf](http://consumerwatchdog.org/resources/66365_Soil_Characterization_Levels_for_Radionuclides_for_Boeing_RFI_Subareas_Approval_Letter.pdf)

In January 2014, Boeing requested that cleanup standards be relaxed, and the DTSC approved, using for site characterization the greater EPA residential Preliminary Remediation Goal (PRG) for most constituents, which is not background. See table attached to Boeing letter. The EPA agricultural PRG is far more protective than the residential. The site will now be characterized for cleanup based not on background for most contaminants, and not for the agricultural standard for any of them.

160 For blog on April public meeting, see:

<http://www.consumerwatchdog.org/blog/toxics-denial-department>

161 See video hyperlinked in Toxics Denial Department blog:

<http://www.consumerwatchdog.org/blog/toxics-denial-department>

162 MWH Global prepared the slide of contamination at the Santa Susana Field Lab, at the request of DOE.

163 For studies of off site migration of contaminants, see:

<http://www.rocketdynecleanupcoalition.org/resources/documents/potential-for-offsite-exposures-associated-with-santa-susana-field-laboratory/>

164 See:

<http://www.consumerwatchdog.org/newsrelease/concern-mounts-nasa-verge-breaking-out-santa-susana-field-lab-cleanup-agreement>

165 For preliminary injunction ruling, see:

<http://www.consumerwatchdog.org/resources/dts.cboeings.preliminjunction.pdf>

166 For Boeing demolition letter to DTSC, see:

<http://consumerwatchdog.org/resources/DTSCAbdicationOfAuthority.pdf>

167 For evidence of DOE's nuclear and energy research activities outside of Area IV, see:

<http://www.consumerwatchdog.org/resources/DOE-SSFL.pdf>

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*Consumer Watchdog would like to thank William Preston Bowling
for the cover photo and other photos used throughout this report*

