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Attorneys for Defendant Leonard Robinson

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

THE BOEING COMPANY,

Plaintiff,

v.

LEONARD ROBINSON, in his official
capacity as the Acting Director of the
California Department of Toxic
Substances Control,

Defendant.

Case No. CV 10-04839-JFW (MANx)

Civil Action

**STIPULATION REGARDING
MOTION TO COMPEL AND
MOTION FOR SUMMARY
JUDGMENT**

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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.

20 The parties further agree that, if Boeing’s motion for summary judgment is
21 not granted in full, they will return to Magistrate Judge Nagle for further guidance
22 regarding Boeing’s motion to compel, which shall be held in abeyance until such
23 time. With leave of the Court, the parties agree to expedite further consideration of
24 that motion, if necessary, and any discovery the Court may order in light of the
25 pending motion.

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Respectfully submitted,

/s/ Randolph D. Moss
Randolph D. Moss

Dated: February 10, 2011

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Donald Robinson (as authorized on 2-10-2011)

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