

Santa Susana Field Lab MOU
Heal the Bay Comments
August 11, 2022

Good afternoon Regional Board members and staff. For the record, my name is Annelisa Moe, Water Quality Scientist with Heal the Bay. I want to thank staff for the time they have given to this item, and for answering my questions throughout this process.

However, Heal the Bay cannot support the MOU as it is before you today. We urge you to consider a delay so that it can be strengthened and clarified based on what you hear today and your own review. We are asking for this delay for a myriad of reasons – a key concern is that there has been no public comment opportunity to weigh in before today. This MOU relates directly to a cleanup agreement between Boeing and DTSC, which had no public process, and it prescribes guidance for an NPDES Permit, and updates to an NPDES permit do require public comment. I ask you to take whatever time you need to fully consider the concerns and recommendations you hear today, since we were not given the opportunity to provide you with comments ahead of this hearing.

I am also frustrated that stakeholders have been put in an unfair position where the responsible party can threaten to do nothing if we do not support an MOU that we have remaining concerns about, which would imply support for a cleanup agreement that we had no say in. It is important to remember that our concerns and objections are not what is slowing down the process -- Boeing has yet to even start a cleanup that was supposed to be completed 5 years ago.

At this time, Heal the Bay cannot support the MOU without significant changes. It is difficult for any of us to feel secure in all of this because there is so much uncertainty surrounding the cleanup agreement itself. There were a number of limits altered in the latest cleanup agreement, and at least some of these changes do not seem to be based on the best available science.

The bottom line is that cleanup to a level that is fully protective of human and ecological health needs to happen as soon as possible. Right now, members of the community, many of whom are here before you today, are the ones suffering the public health impacts of the pollution from Boeing's past industrial activities.

If this MOU moves forward, the Regional Board must, at a minimum, ensure that the long-term quality of the surface and groundwater at this site are sufficiently protective of human and ecological health. That is your mission. And that is what we are all here to protect. There are specific areas within the MOU that require additional clarity (detailed below), not out of a lack of trust for your staff, but simply to ensure that all parties interpret the MOU as the Regional Board intends, and to provide a backstop for parts of the MOU where assumptions are made.

I have one final reminder that if this MOU is adjusted to provide a sufficient backstop, that only applies if you approve a strong NPDES permit later this year. But that is not the topic of discussion today, so I will say no more on that matter. Thank you very much for your time and consideration of my comments.

RECOMMENDATIONS TO IMPROVE THE MOU

- This MOU is an opportunity to provide a backstop to protect surface water quality even if there are flaws in the cleanup agreement. However, the MOU can only offer this type of reinforcement if some changes are made.
 - Regarding the processes outlined in the MOU that the Board will use to evaluate the water quality, it is imperative that the Board choose the monitoring sites, instead of Boeing, to ensure that the sites are truly representative.
 - The Board must also choose a sufficient number of sites in order to get an adequate representation of the entire area.
 - The duration of monitoring currently requires at least 12 rain events, with at least 2 samples from storms at the 2-year recurrence interval rain event. This will likely take roughly 5 years. However, with the climate crisis, it is possible that the required rain events could all happen within a single year. Under this hypothetical, one year would not provide adequate representative data. We therefore request that the monitoring requirements be 5 years, or 12 rain events, whichever comes later.
 - Further, confirmation monitoring must be based on NPDES permit requirements and not anything determined by the Boeing cleanup team.
 - To ensure that these, and other areas of concern, are addressed, we request that the Regional Board commit now, within the language of the MOU, to providing a period for written public comments on the monitoring program, prior to executive officer approval.
- While the MOU has the potential to provide a backstop when it comes to surface water runoff, the potential is not there for groundwater.
 - We understand that groundwater can either be regulated by the Regional Board or by DTSC. In this case, it is regulated by DTSC. We urge the Board to reclaim regulatory authority of groundwater and create its own Waste Discharge Requirements for groundwater discharge; or, at a minimum, require groundwater monitoring as part of the Boeing NPDES Permit to ensure some level of oversight for groundwater contamination.
 - As stated on your website, the Board recognizes that groundwater is often taken for granted and puts important drinking water at continued risk of contamination.
 - We must not forget about groundwater contamination, or the impacts it has on the communities dependent on groundwater for water supply
- The MOU must include a statement to address future daylighting or re-mobilization of any remaining contaminated soil.
 - A mere cleanup of the topsoil is insufficient given that a large earthquake, fire, or flooding event may lead to a re-mobilization of contaminated soil, or daylighting buried contaminated soils.

- We suggest an amendment ensuring that the responsible parties will have to address resurfaced or remaining contaminated soil so long as they pose a risk to human or ecological health.
- The MOU must ensure National Pollutant Discharge Elimination System (NPDES) permit coverage specifically for past industrial activity.
 - Section D.4.1. on page 7 of the MOU states that DOE and NASA have to “obtain NPDES permit coverage for stormwater discharges associated with past Industrial Activity and/or stormwater discharges associated with construction activity.”
 - We recognize that, either way, the permit coverage would utilize an individual permit, rather than enrolment under a general permit.
 - However, we still request that the “or” in this statement be removed to require permit coverage for stormwater discharges associated with past Industrial Activity and, as needed for remediation activities, stormwater discharges associated with construction activity as a separate matter.
 - Coverage must be specifically related to past industrial activity. One word makes a world of a difference.