January 27, 2019

Mr. John Jones
Federal Project Director
Ms. Stephanie Jennings
NEPA Document Manager SSFL Area IV EIS
DOE ETEC Closure Project
4100 Guardian Street, Suite 160
Simi Valley, CA 93063

Re: Comments on U.S. Dept. of Energy’s Final Environmental Impact Statement for Remediation of Area IV and the Northern Buffer Zone of the Santa Susana Field Laboratory

Dear Mr. Jones and Ms. Jennings:

Physicians for Social Responsibility-Los Angeles (PSR-LA) has participated in efforts to clean up the Santa Susana Field Laboratory (SSFL) for over three decades. As an organization dedicated to protecting public health from nuclear and environmental threats, we strenuously oppose the Final Environmental Impact Statement (FEIS) for the remediation of Area IV and the Northern Buffer Zone of SSFL issued by the U.S. Department of Energy (DOE.)

In 2010, DOE executed an agreement, the Administrative Order on Consent (AOC), with the California Department of Toxic Substances Control (DTSC) that requires SSFL to be cleaned up to background. DOE’s FEIS for SSFL blatantly violates the AOC, as well as the National Environmental Policy Act (NEPA) and the Resource Conservation and Recovery Act (RCRA). Furthermore, the FEIS breaks DOE’s promises to the community that it would repair the longstanding environmental damage and risk to public health that it created by decades of grossly negligent operations. The Trump Administration’s flouting of a legally binding environmental agreement with California is also an affront to public trust.

**FEIS Drastically Altered from DEIS — Violating NEPA**

NEPA requires that the public be given a meaningful opportunity to formally review and comment on a draft EIS, followed by detailed responses to those comments by the publishing agency. No actions should be taken that were not part of this process. However, DOE has now taken away this right from members of the public who are invested in and concerned about the SSFL cleanup.
Instead, DOE has issued a virtually new EIS, in the guise of a FEIS, with no formal opportunity for review, comment, and agency response, in violation of the NEPA requirements.

The FEIS that was published following the DEIS has undergone drastic changes to many of its most integral parts. More than three quarters of the pages of the FEIS have been altered and nearly half of the pages have been completely changed. The preferred alternative for the remediation of soil chosen in the FEIS was not even considered in the draft. This new alternative, the “Conservation of Natural Resources, Open Space Scenario,” will leave in place 98% of the contamination. This scenario assumes that the only possible exposure scenario is on the occasion that individuals visit the site for walking or hiking. The people living nearby, however, are in their homes and yards every day. The FEIS grossly underestimates the risk to people living nearby from this extraordinarily weak new cleanup standard, all of which has been excluded from public review or comment.

Further, the entire “Appendix G: Evaluation of Remediation Activity Impacts on Human Health” was altered. This appendix provides the supposed basis and analysis for DOE’s claims that the Open Space Scenario poses little risk to offsite residents, and human health more generally. However, in violation of NEPA, the public was neither able to view or comment on this analysis or Open Space Scenario.

If the FEIS is approved, the public would have not been given the opportunity to comment on the majority of the document. This is a blatant violation of NEPA, which as stated prior, requires that the public be given the opportunity to comment and receive responses to such comments.

There is no justification for such drastic changes.

It is stated that the “Final EIS was revised to reflect the Grant Deeds of Conservation Easement and Agreement executed by Boeing and North American Land Trust, which restrict future land use of Boeing’s property to open space, including the property DOE is cleaning up.” However, the DEIS already noted that Boeing had declared that intention, so there is no basis for drastic revision of the FEIS cleanup proposal. Any such change must be recirculated for public review and comment.

DOE Preferred Alternative Leaves Behind 98% of Contamination — Violating AOC & Placing Public Health at Risk

The proposed action for cleanup of soil in the FEIS plans to leave in place 98% of the contamination—over 1.5 million cubic yards—untouched. Decades of nuclear and aerospace activities, accidents, spills and releases have left SSFL highly contaminated with dangerous radionuclides including cesium-137, strontium-90, plutonium- 239/240 and tritium and numerous hazardous chemicals. These toxic materials can cause cancers and leukemias, developmental disorders, genetic disorders, neurological disorders, immune system disorders, and more. Leaving virtually all of this material behind is not only unlawful, but a blatant disregard for the health wellbeing of the surrounding community.
Violation of RCRA

DOE has no authority/discretion to decide how much of the pollution it caused at SSFL will be cleaned up. Under RCRA, that authority rests with the regulator, DTSC. The Trump Administration is in essence thumbing its nose at the law, its agreement with California, and California’s regulatory authority over it.

Biological Opinion Not Available in Draft, Inadequate in Final

The Biological Opinion was not included in the draft EIS, and therefore the public was unable to comment on it, in violation of NEPA. Further, the Biological Opinion that does exist is in violation of the AOC. DOE breached the AOC by failing to request consultation with the U.S. Fish & Wildlife Service for cleaning up Area IV and the Northern Buffer Zone to the standards outlined in the AOC. Instead, DOE requested consultation for an action that would violate the AOC (leaving 98% of the contamination). Furthermore, the Biological Opinion makes no jeopardy determination, which is required for any AOC exception to be considered.

The FEIS Is Silent About the Woolsey Fire

The graphic below overlays the fire path on the areas asserted in the FEIS for possible biological exceptions to cleanup. (The red hatched area represents the burned area, taken from DTSC’s interim summary report about the fire.) Although discrete numbers are unavailable, it is seems that nearly half of the area asserted for biological exceptions in the FEIS was destroyed in the fire. Therefore, there is no biological exception to cleanup even possible, a matter ignored in the FEIS.
In early November 2018, prior to the release of the FEIS, the devastating Woolsey fire ravaged the area surrounding SSFL, including much of the toxic site. Area IV, despite early claims made by DOE, was significantly affected. Further, much of the areas in which the biological exemption process would be applied as proposed by DOE burned. Therefore, the argument that these exemptions rest on is rendered moot by the occurrence of the Woolsey Fire. There no longer exists endangered species or critical habitat to protect in such areas, and no basis whatsoever therefore for exemption from cleanup. (As indicated above, even absent the fire there is no biological basis for an AOC exception, as there is no Biological Opinion asserting that a particular cleanup of any particular area would violate specified sections of ESA.)

Despite this, the FEIS fails to mention or provide any analysis on the effects of the Woolsey Fire. The section titled “Existing Conditions and Habitat Characteristics in the Action Area” is meant to describe the current state of the biological features of Area IV. However, it fails to do so. According to DTSC’s own interim report on the fire, the portion of the fire which ravaged Area IV is within the region listed as the primary habitat for Braunton’s milkvetch. The intensity of the Woolsey Fire was significant, and is likely to have caused great damage to the vegetation in that region, including the Braunton’s milkvetch. Regardless of the extent of the damage, it should at the very least have been discussed when determining the “baseline conditions” of the site.

Furthermore, the fire demonstrates the risk to offsite populations of not cleaning up SSFL and provides a mechanism for offsite risk not analyzed in the FEIS--fire causing release of contaminants and their transmission to the population in the area around SSFL.

**Conclusion**

The FEIS is essentially a fundamentally new EIS, shielded from public scrutiny, opportunity for meaningful comment, and agency analysis of and response to those comments required by NEPA. Essentially, DOE issued one DEIS for comment and then published a fundamentally different FEIS, without following the law requiring recirculation.

The cleanup option chosen had not even been considered in the DEIS. It completely violates the AOC--instead of cleaning up almost all contamination, it would fail to clean up almost all contamination. (This is true for both the soil and the groundwater contamination in the actions--or inactions--proposed to be adopted.)

DOE signed a legally binding cleanup agreement with California, which the Trump Administration is now proposing to trash. The AOC does not allow this. NEPA does not allow this. RCRA does not allow this. And protection of public health and the environment do not allow this.

DOE should reverse course, withdraw the FEIS, issue no Record of Decision based on it, and redo the FEIS, one fully compliant with the cleanup agreement it signed.
Sincerely,

Denise Duffield
Associate Director

Stephanie Jennings, NEPA Document Manager SSFL Area IV, U.S. Dept. of Energy
California Governor Gavin Newsom
U.S. Senator Dianne Feinstein
U.S. Senator Kamala Harris
Congressmember Julia Brownley
Congressmember Katie Hill
Congressmember Brad Sherman
California Senator Henry Stern
California Assemblymember Jesse Gabriel
California Assemblymember Christy Smith
Ventura County Supervisor Linda Parks
Ventura County Supervisor Steve Bennett
Los Angeles County Supervisor Sheila Kuehl
Los Angeles County Supervisor Kathy Barger
Los Angeles City Councilmember Greig Smith
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