

23350 Lake Manor Drive, Chatsworth, CA 91311

September 10, 2009	Consent Order 101	7pm ACME
Agenda:	7:00pm – 7:15pm	Welcome to Consent Order 101 - ACME
	*7:15pm – 7:30pm	Rick Braush, DTSC
	*7:30pm – 7:45pm	Allen Elliott, Merrilee Fellows, NASA
	*7:45pm – 8:00pm	Stephie Jennings, DOE
	*8:00pm – 8:15pm	Tom Gallacher, The Boeing Company
	*8:15:pm – 8:30pm	Christina Walsh, William Preston Bowling,ACME
	*8:30pm – 8:45pm	Mary Wiesbrock, Save Open Space
	*8:45pm – 9:00pm	Q&A Community
	*9:00pm – 10:00pm	Open Discussion

- subject to change

ACME Questions/Comments for DTSC regarding Consent Order recently released for public review:

1. Who made the decision to split the Order and make the personnel changes on the SSFL Project for DTSC?
2. Why was there a rush to publish a document to the public that DTSC and no one else seemed to be behind?
3. When we learned that the most recently submitted proposal from the 8 months of negotiations was not the product shown to the public, we asked to see the actual document. Instead of providing that document to us, a new version of another amended version, further demonstrating a degradation in trust between the community and DTSC.
4. The primary reason for our concerns is that the primary landowner is no longer included in the Order, another amended version that was NOT part of the many versions that had gone back and forth between the “Respondents” and DTSC – we now learn there have been 10 iterative versions of the Amended Consent Order (ACO).
5. New comment period brings us very close to the October 14th deadline for Boeing to file for litigation. This separated order concept is not beneficial to progress or implementation or enforceability.
6. Quotes in the press as well as the actual announcement from Cal EPA/DTSC about the Draft Order being published, indicated a percentage of 90% of the radioactive contamination and 50% of the chemical contamination as if they were a justifiable reason for excluding Boeing from the Order on the basis that they contribute only on a minor level to the contamination despite the fact that they are the primary landowner.
 - a. This gives the illusion that Boeing plays a minor role when they in fact control the site.
7. Problems in the “draft order” include the incorrect omissions throughout the document relating to Boeing that were presumably removed because Boeing was being removed from the equation. Thorough understanding and accurate descriptive language is necessary and we therefore request that experienced DTSC and CalEPA legal comments be provided to the public for our review (should include Nancy Long and Steve Koyasako) as well as technical comments as to the potential concerns by Jim Pappas, Laura Rainey, Gerard Abrams, Tom Seckington, and others who have worked on this project in the past such as Phil Chandler to describe the concerns for enforceability and actual clean-up action based on their prior experiences with the site and the respondents and/or their predecessors.
8. Who participated in the amendments that have taken place on these document drafts as published to the community?
9. Why is it believed that Boeing will “feel bad about itself” and decide to join in when throughout the document, it is very clear that the amendments that have been made were not carefully thought-through? Where is the motivation, except toward litigation [Boeing]? How is that beneficial to the communities below? (Based on recent letters from DOE and NASA, they are in fact changing what appears to be their commitment to SB990 in the

- version that is published as “2.0 by DTSC” released yesterday 9/9/09, it appears that negotiations have further degraded since these announcements.)
10. How do you propose to rebuild trust with the community that has been lost?
 11. What specific new programs and/or activities will you implement, that you believe will improve the project success moving forward?
 12. Will you stay as Project Director after the next election and into the next administration to see this project through?
 13. Are you a political appointee?
 14. Access to the site is carefully controlled. In this draft document it is not mentioned that Boeing is the landowner who actually controls the gates and the access permitting for all the respondents, and they are not part of this order.
 15. How can we comment on this document without seeing the companion document for Boeing? How can we possibly know that they will sign when they have refused up until now?
 16. On what basis do you believe that these decisions are in any way to the benefit of the community?
 17. Throughout the document, including 1.33 and 1.6, 4.27, reservation of rights, severability, access, background, etc., there are important omissions that allow Boeing to cease from being a party to the clean-up. They are the only respondent that does not have the federal jurisdiction issue to rely upon, and now we are being asked to accept the idea that they will just decide to comply so they “aren’t out in the cold”?
 18. For three decades there has been finger pointing where (as clearly demonstrated by the ownership issues) the landowner is also the operator for the facility owner who leases the site from the landowner. It is truly a vicious circle and the primary reason that the first consent order (11/07 Riley, et al) was that all the parties signed and did so under penalty of perjury. After decades of inaction, we started to see real progress. Now, by dividing the order into two, the same loopholes threaten our progress or even possibility of completion. By breaking that circle, the order loses all its’ teeth.
 19. One of the reasons stated by DOE that makes them able and willing to proceed forward in a manner “consistent with SB990” due to reasons “unique to the site including the fact that they are not a landowner. This tells us we should be concerned that DOE is not actually willing to comply with SB990 standards by simply backing out. Throughout the document they continue to state federal supremacy issues.
 20. Regarding the “Tolling language” that has been the ‘stopping point’ in the negotiations as stated at the last workgroup meeting by Mr. Hirsch, what are the legal ramifications and how are they different from the refusal to acknowledge SB990 as law today as we see in section 1.3.3?