

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

LAWRENCE O’CONNOR, et al.,)	Civil Action No. 97-1554 ABC (RCx)
)	
Plaintiffs,)	<u>CLASS ACTION</u>
)	
v.)	
)	
BOEING NORTH AMERICAN, INC., et al.,)	NOTICE OF CLASS
)	DECERTIFICATION
Defendants.)	
)	

THIS NOTICE MAY AFFECT YOUR RIGHTS. PLEASE READ IT CAREFULLY.

I. PURPOSE OF THIS NOTICE

The purpose of this Notice is to inform you of an order of the United States District Court for the Central District of California (“the District Court”) which may affect your individual rights to pursue claims against Boeing North American, Inc. and Rockwell International Corporation for activities which the plaintiffs allege have taken place at any time since 1946 at four facilities located in the greater Simi Valley and San Fernando Valley area.

Those four facilities, referred to as “the Rocketdyne Facilities”, are located at the following sites: (1) the Santa Susana Field Laboratory, or **Santa Susana** facility, located at the top of Woolsey Canyon Road and near the crest of the Simi Hills at the western border of the San Fernando Valley; (2) the **Canoga** facility located at or about 6633 Canoga Avenue and near the corner(s) of Canoga Avenue and Victory Boulevard in Canoga Park; (3) the **DeSoto** facility located at or about 8900 DeSoto Avenue and near the corner(s) of DeSoto Avenue and Nordoff Street in the San Fernando Valley; and (4) the **Hughes** facility located at or about 8433 Fallbrook Avenue and near the northwest corner of Fallbrook Avenue and Roscoe Boulevard in the San Fernando Valley.

II. CLASS DECERTIFICATION

YOU ARE HEREBY NOTIFIED, pursuant to Rule 23 of the *Federal Rules of Civil Procedure* and an order of the District Court dated October 5, 2000, that the District Court has determined that this action should no longer proceed as a class action. The District Court’s order affects the following seven categories of claims:

- (1) claims for declaratory relief under the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq. on behalf of the members of Class I;
- (2) claims for medical monitoring of exposure to radioactive contaminants under the Price Anderson Act, 42 U.S.C. § 2210 et seq. on behalf of the members of Class I;
- (3) claims for medical monitoring of exposure to hazardous, non-radioactive substances based upon negligence, negligence per se and/or strict liability for ultrahazardous activities on behalf of the members of Class I;
- (4) claims for property damage caused by radioactive contaminants, and other relief, under the Price Anderson Act, 42 U.S.C. § 2210 et seq. on behalf of the members of Class II;
- (5) claims for property damage caused by hazardous, non-radioactive substances, and other relief, based upon negligence, negligence per se, strict liability for ultrahazardous activities, continuing trespass, permanent trespass, continuing private nuisance, continuing public nuisance, continuing public nuisance per se and/or permanent private nuisance on behalf of the members of Class II;
- (6) claims for response costs and other relief under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9607 et seq. on behalf of the members of Class III; and
- (7) claims for injunctive relief under California Business and Professions Code §17200 on behalf of the members of Class III.

THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION BY THE DISTRICT COURT AS TO THE MERITS OF THESE CLAIMS. RATHER, THIS NOTICE IS MERELY INTENDED TO INFORM YOU OF THE CLASS DECERTIFICATION WHICH HAS BEEN ORDERED BY THE DISTRICT COURT AND THE EFFECT OF THE DECERTIFICATION OF THE CLASSES ON YOUR INDIVIDUAL CLAIMS.

III. PERSONS TO WHOM THIS NOTICE APPLIES

This Notice applies to the members of Class I, Class II and Class III, which classes were previously conditionally certified by the District Court and defined as follows:

Class I: All persons: (a) who presently reside or work within the boundaries of the Class Area depicted in the map attached to the Class Notice dated February 5, 1999 or who, at any time since 1946, have resided or worked in the Class Area; and (b) who have not been diagnosed with:

- (i) a cancer which is advanced to a degree that it cannot be surgically cured;
- (ii) an autoimmune disease which is diagnosed based upon the criteria used by the American Rheumatology Association;
- (iii) a clinically significant neurologic disease which interferes with the affairs of daily living;
- (iv) a clinically significant and poorly controlled endocrine disorder; or
- (v) a birth defect.

Class II: All persons who own real property located within the Class Area.

Class III: All persons who presently reside or work in the Class Area and/or who own real property located within the Class Area.

IV. DESCRIPTION OF THE ACTION

The original complaint in this action was filed on March 10, 1997. The operative Fourth Amended Complaint in this action was filed on March 28, 1998. In the Fourth Amended Complaint, plaintiffs allege that, beginning in approximately 1946, the defendants researched, developed, manufactured and tested various missile and rocket engines, as well as propellants, lasers and nuclear reactors, at the Rocketdyne Facilities.

Plaintiffs allege that the activities of the defendants at the Rocketdyne Facilities involved the use and release of certain chemicals, including, among others, trichloroethene (TCE) and hexavalent chromium, as well as the use, storage, generation and disposal of certain radioactive materials. Plaintiffs allege that they were personally exposed to and/or that their properties were contaminated by certain radioactive and/or chemical substances which were released from one or more of the Rocketdyne Facilities and which were dispersed by means of air currents, surface water runoff and/or subsurface groundwater.

Plaintiffs allege that their exposure to these substances has placed them at an increased risk of developing cancer or some other serious illness or disease. As a result, plaintiffs seek the implementation of a court-supervised program of medical monitoring designed to detect early signs of such illness or disease.

Plaintiffs also allege that the defendants' releases of these substances has resulted in the contamination of their property and has diminished the value of their property. Plaintiffs further allege that they have incurred certain necessary expenses in response to the alleged contamination of their property (including, for example, cleaning up their property) for which they seek reimbursement under federal law.

The defendants maintain that they have not released any hazardous non-radioactive substances or radioactive substances above regulatory limits or in any manner that could have harmed class members; that class members have not been exposed to any substances released from the Rocketdyne Facilities that place them at an increased risk of illness or disease; that plaintiffs' properties are not contaminated by any releases from the Rocketdyne Facilities; and that, consequently, plaintiffs are not entitled to recover damages for any harm caused to their properties. The defendants deny all allegations of liability and damage to class members and contest the merits of plaintiffs' claims.

V. EFFECT OF CLASS DECERTIFICATION

Because the District Court has determined that none of the claims identified in Section II of this Notice shall continue to proceed on a class action basis, this action will be prosecuted for the benefit of the named plaintiffs only as to the seven categories of claims identified in Section II of this Notice and not for the general benefit of the individual members of Class I, Class II and/or Class III as defined in Section III of this Notice. As a result, the effect of the District

Court's class decertification on your individual claims is as follows:

(1) if you wish to preserve your right to pursue claims in any of the seven categories identified in Section II of this Notice, you may do so only by filing an individual lawsuit on your own behalf;

(2) in any such lawsuit, you likely will be bound under the doctrines of *res judicata* and/or *collateral estoppel* by any previous decisions of the District Court which predated the District Court's October 5, 2000 Decertification Order; and

(3) in order to determine whether your interests would be served by proceeding with an individual lawsuit, you should consult an attorney as soon as possible.

VI. APPLICATION OF STATUTES OF LIMITATIONS

Your right to pursue claims in any of the seven categories of claims identified in Section II of this Notice will be affected by the application of statutes of limitations. Statutes of limitations require that a lawsuit must be brought within a specified time after an injury or damage is discovered or should have been discovered. Statutes of limitations are set by law and vary in length according to the type of claim. The statutes of limitations applicable to the seven categories of claims identified in Section II of this Notice may have been suspended or tolled during the pendency of this case as a class action.

Defendants contend that the statutes of limitations were not tolled. However, if any tolling occurred, the applicable statutes of limitations will start to run again and your right to file an individual lawsuit may be affected. **Therefore, if you intend to file an individual lawsuit, it is imperative that you act promptly to do so in order to avoid the possibility of your individual claims being barred by the applicable statutes of limitations.**

VII. COMMUNICATIONS WITH CLASS COUNSEL

The District Court previously appointed A. Barry Cappello, Esq. and J. Paul Gignac, Esq. of Cappello & McCann LLP, as Lead Class Counsel, and Tina B. Nieves, Esq. and Hector G. Gancedo, Esq. of Gancedo & Nieves LLP, as Class Counsel in this action.

Communications with Class Counsel should be in writing and directed to:

J. Paul Gignac, Esq.
CAPPELLO & MCCANN LLP
831 State Street
Santa Barbara, California 93101

or

Tina B. Nieves, Esq.
GANCEDO & NIEVES LLP
119 E. Union Street, Suite G
Pasadena, California 91103

(English only)

(Si se habla español)

VIII. POSTING A COPY OF THIS NOTICE

If you are a business entity, you are required to post a copy of this Notice in a conspicuous location (e.g. bulletin board) where it may be easily viewed by your employees.

IX. ADDITIONAL COPIES OF THIS NOTICE

You may obtain additional copies of this Notice and/or the Class Notice issued on February 5, 1999 (including a map of the Class Area) by calling the following toll-free number:

1-800-700-1195

X. ADDITIONAL INFORMATION

The matters identified and described in this Notice do not purport to be comprehensive and should not be considered as such. Therefore, if you desire further information, you may wish to review the pleadings and other records on file with the District Court. The documents publicly filed in this action are available for inspection and copying during regular business hours at the office of the Clerk of the District Court located at 312 N. Spring Street, Los Angeles, California 90012.

Please do not telephone the District Court or the Office of the Clerk for information regarding this action.

Dated: October 6, 2000

Clerk of the United States District Court