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10 Attorneys for Plaintiffs

11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 COMMITTEE TO BRIDGE THE)
14 GAP; PHYSICIANS FOR SOCIAL)
15 RESPONSIBILITY, LOS)
16 ANGELES CHAPTER; SOUTHERN)
17 CALIFORNIA FEDERATION OF)
18 SCIENTISTS)

19 Plaintiffs,)

20 v.)

21 THE BOEING COMPANY)

22 Defendant)
23 _____)

Case No.

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF AND
CIVIL PENALTIES

(Federal Water Pollution Control
Act, 33 U.S.C. §§ 1251 *et seq.*)

24 COMMITTEE TO BRIDGE THE GAP; PHYSICIANS FOR SOCIAL
25 RESPONSIBILITY, LOS ANGELES CHAPTER, AND SOUTHERN CALIFORNIA
26 FEDERATION OF SCIENTISTS (collectively “Plaintiffs”) by and through its counsel,
27 hereby alleges:
28

COMPLAINT

1 **I. JURISDICTION AND VENUE**

2 1. This is a civil suit brought under the citizen suit enforcement provisions of
3 the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 *et seq.* (the “Clean
4 Water Act” or the “Act”). This Court has jurisdiction over the parties and subject matter
5 of this action pursuant to Section 505(a)(1) of the Act, 33 U.S.C. § 1365(a)(1) (citizen
6 suit) and 28 U.S.C. § 1331 (federal question).

7 2. An actual controversy exists between the parties within the meaning of 28
8 U.S.C. § 2201 (declaratory judgments).

9 3. On December 14, 2005, Plaintiffs provided notice of the Defendant’s
10 violations of the Act, and of their intention to file suit against the Defendant, to the
11 Administrator of the United States Environmental Protection Agency (“EPA”); the
12 Administrator of EPA Region IX; the Executive Director of the State Water Resources
13 Control Board (“State Board”); the Executive Officer of the Regional Water Quality
14 Control Board, Los Angeles Region (“Regional Board”); and to Defendant, as required
15 by the Act, 33 U.S.C. § 1365(b)(1)(A). A true and correct copy of Plaintiffs’ notice letter
16 is attached as Exhibit A, and is incorporated by reference.

17 4. More than sixty days have passed since notice was served on Defendant and
18 the state and federal agencies. Plaintiffs are informed and believe, and thereupon allege,
19 that neither the EPA nor the State of California has commenced or is diligently
20 prosecuting a court action to redress the violations alleged in this complaint. This action
21 is not barred by any prior administrative penalty under Section 309(g) of the Act, 33
22 U.S.C. § 1319(g).

23 5. Venue is proper in the Central District of California under Section 505(c)(1)
24 of the Act, 33 U.S.C. § 1365(c)(1), because the source of the violations is located within
25 this judicial district.

26 **II. INTRODUCTION**

27 6. Plaintiffs bring this suit under the citizen suit enforcement provisions of the
28 Act, 33 U.S.C. § 1365, against the Boeing Company (“Boeing” or “Defendant”) for past

1 and continuing violations of Section 301(a) of the Clean Water Act and the terms and
2 provisions of Boeing's National Pollution Discharge Elimination System Permit No.
3 CA0001309 issued to Boeing on July 1, 2004 in Order No. R4-2004-0111 (the "NPDES
4 Permit"). These violations result from Boeing's discharges of various pollutants in
5 excess of the conditions set forth in the NPDES Permit and from Boeing's failure to
6 comply with other terms of the NPDES Permit. The NPDES Permit regulates Boeing's
7 discharge of pollutants from its Santa Susana Field Laboratory (the "Facility") to Bell
8 Creek, Arroyo Simi, Dayton Canyon Creek and via various drainages toward Arroyo
9 Simi, Runkel, Dayton, and Woolsey Canyons, which drain to the Los Angeles River and
10 Calleguas Creek.

11 7. During the past half-century, operations at the Boeing Santa Susanna Field
12 Laboratory have extensively contaminated the mountain-top site with both nuclear and
13 toxic wastes. Boeing has repeatedly and chronically discharged wastewater containing
14 these wastes into the canyons, creeks, and rivers that flow from the site – in violation of
15 the terms and conditions of its NPDES permits and to the detriment of these already
16 impaired waters. Boeing has done so with impunity, because, despite repeated Notices of
17 Violation, the Regional Board has not imposed any meaningful civil penalties or actually
18 compelled Boeing to abate this pollution. Plaintiffs take this action to obtain injunctive
19 relief and to provide Boeing with proper economic incentives to clean up the Facility by
20 ensuring that the cost of polluting its neighbors will exceed the cost of clean up and
21 abatement.

22 8. Accordingly, Plaintiffs seek declaratory and injunctive relief, the imposition
23 of civil penalties, and costs and attorney fees.

24 **III. PARTIES**

25 9. Plaintiff COMMITTEE TO BRIDGE THE GAP ("CBG") is a non-profit
26 corporation organized under the laws of the State of California with its principal office in
27 Los Angeles, California. CBG is engaged in research, education, and advocacy regarding
28 environmental and security issues and provides technical assistance to communities near

1 nuclear facilities. CBG has long been involved in issues related to oversight and clean up
2 of the Facility.

3 10. CBG has members who live and work in the Central District of California
4 and in the vicinity of the waters of the United States to which the Facility discharges.
5 CBG members use and enjoy these waters for recreational, scientific, aesthetic,
6 commercial, spiritual, or other purposes. Boeing's discharge of pollutants and its failure
7 to comply with the terms and conditions of the NPDES Permit impairs and threatens each
8 of those uses. Thus, the interests of CBG's members have been, are being, and will
9 continue to be adversely affected by Boeing's failure to comply with the Clean Water Act
10 and the NPDES Permit. The relief sought herein will redress the harms to CBG's
11 members caused by Boeing's activities.

12 11. Plaintiff PHYSICIANS FOR SOCIAL RESPONSIBILITY, LOS
13 ANGELES CHAPTER ("PSR-LA") is a non-profit corporation organized under the laws
14 of the State of California with its principal office in Los Angeles, California. PSR-LA is
15 committed to protecting the public from harmful effects of water pollution and has long
16 been has been involved in issues related to oversight and clean up of the Facility.

17 12. PSR-LA has members who live and work in the Central District of
18 California and in the vicinity of the waters of the United States to which the Facility
19 discharges. PSR-LA members use and enjoy these waters for recreational, scientific,
20 aesthetic, commercial, spiritual, or other purposes. Boeing's discharge of pollutants and
21 its failure to comply with the terms and conditions of the NPDES Permit impairs and
22 threatens each of those uses. Thus, the interests of PSR-LA's members have been, are
23 being, and will continue to be adversely affected by Boeing's failure to comply with the
24 Clean Water Act and the NPDES Permit. The relief sought herein will redress the harms
25 to PSR-LA's members caused by Boeing's activities.

26 13. Plaintiff SOUTHERN CALIFORNIA FEDERATION OF SCIENTISTS
27 ("SCFS") is a non-profit corporation organized under the laws of the State of California
28 with its principal office in Los Angeles, California. SCFS is committed to protecting the

1 public from harmful effects of water pollution and has been has long been involved in
2 issues related to oversight and clean up of the Facility.

3 14. SCFS has members who live and work in the Central District of California
4 and in the vicinity of the waters of the United States to which the Facility discharges.
5 SCFS members use and enjoy these waters for recreational, scientific, aesthetic,
6 commercial, spiritual, or other purposes. Boeing's discharge of pollutants and its failure
7 to comply with the terms and conditions of the NPDES Permit impairs and threatens each
8 of those uses. Thus, the interests of SCFS' members have been, are being, and will
9 continue to be adversely affected by Boeing's failure to comply with the Clean Water Act
10 and the NPDES Permit. The relief sought herein will redress the harms to SCFS'
11 members caused by Boeing's activities.

12 15. Continuing commission of the acts and omissions alleged herein will
13 irreparably harm Plaintiffs and the citizens of the State of California, for which harm they
14 have no plain, speedy or adequate remedy at law.

15 16. Plaintiffs are informed and believe, and thereupon allege, that Defendant
16 THE BOEING COMPANY is a corporation organized under the laws of the State of
17 Delaware.

18 17. Boeing operates the Santa Susana Field Laboratory, located at the top of
19 Woolsey Canyon Road in the Simi Hills, Ventura County.

20 **IV. STATUTORY FRAMEWORK**

21 18. Section 301(a) of the Act, 33 U.S.C. §1311(a), prohibits the discharge of any
22 pollutant into waters of the United States, unless such discharge is in compliance with
23 various enumerated sections of the Act. Among other things, Section 301(a) prohibits
24 discharges not authorized by, or in violation of, the terms of an NPDES permit issued
25 pursuant to Section 402 of the Act, 33 U.S.C. §1342.

26 19. Section 402 of the Act establishes a framework for regulating discharges
27 under the NPDES program. 33 U.S.C. §1342. States with approved NPDES permit
28

1 programs are authorized by Section 402(b) to regulate discharges through permits issued
2 to dischargers. 33 U.S.C. § 1342.

3 20. Pursuant to Section 402 of the Act, 33 U.S.C. § 1342, the Administrator of
4 the U.S. EPA has authorized the State Board and its nine Regional Boards to issue
5 NPDES permits.

6 21. In order to discharge pollutants to water lawfully in California, dischargers
7 must comply with the terms of an applicable individual NPDES permit. 33 U.S.C.
8 §1311(a).

9 22. The Clean Water Act provides for citizen enforcement actions against any
10 “person,” including individuals, corporations, and partnerships, for violations of NPDES
11 permit requirements and for unpermitted discharges of pollutants, 33 U.S.C. §§
12 1365(a)(1) and (f), and § 1362(5). An action for injunctive relief under the Act is
13 authorized by 33 U.S.C. § 1365(a). Violators of the Act are also subject to an assessment
14 of civil penalties of \$27,500 per day (violations from January 30, 1997 through March 15,
15 2004, and \$32,500 per day (violations after March 15, 2004) pursuant to Sections 309(d)
16 and 505 of the Act, 33 U.S.C. §§ 1319(d) and 1365, and 40 C.F.R. §§ 19.1 - 19.4.
17 Declaratory relief is authorized pursuant to 28 U.S.C. § 2201-02 (power to issue
18 declaratory relief in case of actual controversy and further necessary relief based on such
19 a declaration).

20 **V. STATEMENT OF FACTS**

21 **The Facility**

22 23. The Facility is located on a 2,850-acre site in Ventura County and discharges
23 up to 272 million gallons per day of storm water and 1.5 million gallons per day of
24 industrial wastewater into various waters of the United States, including Bell Creek,
25 Arroyo Simi, Dayton Canyon Creek, and various other tributaries of the Los Angeles
26 River.

1 24. The Facility has been or is being used for research, development, assembly,
2 disassembly, and testing of rocket engines, missile components, and chemical lasers and
3 for operations involving nuclear fuels and reactors.

4 25. The site housed a number of nuclear reactors, a plutonium fuel fabrication
5 facility, and one of the largest “hot labs” in the country, for cutting up irradiated nuclear
6 fuel, a lab that suffered repeated fires and radioactive leaks. The reactors suffered a
7 partial meltdown and two severe accidents. Contaminated reactor components and toxic
8 materials were burned in the open air in open water-filled pits, which then drained down
9 the ravine.

10 26. Soil and groundwater at the site are heavily contaminated by past operations.

11 27. The Department of Energy (“DOE”) has found widespread chemical and
12 radioactive contamination throughout the site, including dioxins and PCBS, heavy
13 metals, a host of volatile and semi-volatile organic compounds, cesium-137, strontium-
14 90, plutonium-238 and –239, and tritium. Studies have found that contaminants have
15 migrated off the property.

16 28. Storm water discharges are contaminated as they scour and leach toxics from
17 the soil.

18 29. Nuclear facility decontamination, decommissioning, and environmental
19 remediation and restoration at the site are ongoing. Other ongoing operations include
20 development and testing of rocket engines, groundwater pumping and remediation, and
21 other contaminant remediation efforts, all of which continue to generate contaminated
22 industrial wastewater.

23 30. The Regional Board has cited and fined Boeing for numerous violations of
24 its permit limitations in the past. Plaintiffs are informed and believe, and thereupon
25 allege that Boeing pled guilty to multiple felony environmental crimes involving illegal
26 disposal of hazardous materials at the site.

1 31. The Department of Toxic Substances Control is investigating soil and water
2 contamination, including an extensive plume of contaminated groundwater, under the
3 Resource Conservation and Recovery Act.

4 32. The Regional Board concluded that previous attempts to utilize Best
5 Management Practices to control the transport of contaminants offsite have proven
6 ineffective, as is demonstrated by the effluent limitation exceedances at storm water
7 outfalls.

8 33. Elevated concentrations of various contaminants in soil and groundwater
9 have been confirmed and the Regional Board has concluded that persistent transport of
10 these contaminants offsite in storm water requires that these contaminants have effluent
11 limits.

12 34. The Regional Board issued Notices of Violation on June 27, 2001 and
13 February 6, 2004 for 24 instances in which Boeing violated effluent limits in the 1998
14 NPDES permit issued in Order 98-051. An Administrative Civil Liability complaint was
15 issued on April 29, 2002.

16 35. The Facility discharges industrial wastewater and storm water from eighteen
17 regulated outfalls.

18 36. Outfalls 001, 002, 011, and 018 drain combined storm water and industrial
19 wastewater from ongoing rocket testing and groundwater remediation operations. A
20 major source of wastewater is treated groundwater which is discharged into ponds that
21 also store water reclaimed from rocket test operations. The water from the pump and
22 treat program – designed to slow the migration of groundwater contamination plumes – is
23 treated to remove volatile organic compounds, but the treatment system cannot remove
24 other pollutants such as perchlorate or metals. A water reclamation system reuses waste
25 water generated through rocket engine test quenching, groundwater treatment, and
26 sewage treatment, but when the supply of reclaimed water exceeds requirements or storm
27 water flows exceed its capacity, this water is discharged through a system of
28 interconnected ponds, including the Perimeter Pond (Outfall 011), the Pond R-2 Spillway

1 (Outfall 018), and, eventually, Outfalls 001 and 002. Because many of these ponds and
2 interconnecting water courses are unlined, they may deposit contaminants on surface
3 soils or percolate them to groundwater, and subsequent discharges may transport the
4 contaminants offsite. The ponds collect wastewater from a number of areas that may
5 contribute constituent concentrations to the discharge.

6 37. Outfalls 003-010 drain storm water that is contaminated by a number of
7 sources, including a Radioactive Material Handling Facility; the former Sodium Reactor
8 Experiment, where the partial meltdown occurred; the former Sodium Disposal Facility;
9 the Area 1 and Area 2 Landfills; a former LOX plant; an instrumentation lab
10 contaminated by mercury and undergoing soil removal; and a former solid rocket
11 propellant testing area for which a major propellant was perchlorate.

12 38. Outfalls 012-014 drain wastewater from rocket testing operations. The
13 Regional Board found that prior and ongoing testing of rocket engines makes it likely that
14 contaminants associated with the engine test material would be present in the storm water
15 runoff from the area.

16 39. Outfalls 015-017 drain sewage treatment plant wastewater.

17 **The NPDES Permit**

18 40. The Regional Water Quality Control Board, Los Angeles Region,
19 (“Regional Board”) issued the NPDES Permit No. CA0001309 to Boeing on July 29,
20 1998 in Order No. 98-051. The Regional Board amended and reissued the NPDES
21 Permit on July 1, 2004 in Order No. R4-2004-0111.

22 41. The NPDES Permit contains Discharge Requirements, which include
23 Effluent Limitations and Receiving Water Limitations.

24 42. Effluent Limitation B.3 in the NPDES Permit prohibits the discharge of an
25 effluent from Outfalls 001 and 002 with constituents in excess of specified limits,
26 including limits for mercury, TCDD (dioxin), sulfate, MBAS, chromium, iron, lead, and
27 manganese.
28

1 43. Effluent Limitation B.4 in the NPDES Permit prohibits the discharge of an
2 effluent from Outfalls 003 through 007 with constituents in excess of specified limits,
3 including limits for TCDD and copper.

4 44. Effluent Limitation B.5 in the NPDES Permit prohibits the discharge of an
5 effluent from Outfalls 008 through 010 with constituents in excess of specified limits,
6 including oil and grease.

7 45. Effluent Limitation B.6 in the NPDES Permit prohibits the discharge of an
8 effluent from Outfalls 015 through 017 with constituents in excess of specified limits,
9 including residual chlorine.

10 46. Effluent limitation B.1 in the NPDES Permit prohibits any discharge with a
11 pH depressed below 6.5 or raised above 8.5.

12 47. Receiving Water Limitation C.4.b in the NPDES Permit prohibits any
13 discharge that causes an exceedance of chronic toxicity limitations unless the Discharger
14 immediately implements an accelerated chronic toxicity testing and unless, if two of six
15 accelerated tests exceed certain limits, the discharger initiates a Toxicity Identification
16 Evaluation and implements the Initial Investigation TRE Workplan.

17 48. Receiving Water Limitation C.6 in the NPDES Permit prohibits any
18 discharge that causes a violation of any applicable water quality standard for receiving
19 waters. Provision III.F. in the NPDES Permit requires that Boeing comply with all
20 applicable effluent limitations, national standards of performance, toxic effluent
21 standards, and all federal regulations established pursuant to Sections 301, 302, 303(d),
22 304, 306, 307, 316, and 423 of the Clean Water Act.

23 49. Applicable water quality standards are based on Water Quality Control Plan
24 for the Coastal Watersheds of Los Angeles and Ventura County (the "Basin Plan"), other
25 State plans and policies, or United States Environmental Protection Agency ("EPA")
26 water quality criteria, which are intended to protect the beneficial uses of the waters to
27 which discharges are made.

28

1 50. In adopting the NPDES Permit on July 1, 2004, the Regional Board
2 established numeric water quality based effluent limitations (“WQBELs”) for cadmium,
3 copper, iron, lead, manganese, mercury, nickel, perchlorate, TCDD (dioxin), total
4 settleable solids, and zinc for various outfalls at the Facility. Observance of these
5 limitations is necessary to ensure that discharges do not cause or contribute to an
6 excursion above any water quality standards.

7 51. In adopting the NPDES Permit on July 1, 2004, the Regional Board did not
8 impose numeric WQBELs for some constituents at some outfalls because historical
9 effluent monitoring data for those constituents was not available. Therefore, not all of the
10 eighteen Facility outfalls contained numeric WQBELs for cadmium, copper, iron, lead,
11 manganese, mercury, nickel, perchlorate, TCDD, total settleable solids, and zinc.

12 52. However, the Regional Board further amended the NPDES Permit on
13 January 19, 2006 in Order No. R4-2006-0008. In this amendment, the Regional Board
14 did establish numeric WQBELs for cadmium, copper, lead, iron, manganese, mercury,
15 nickel, perchlorate, TCDD, total settleable solids, and zinc at various other outfalls, based
16 on then available effluent monitoring data and application of best professional judgment
17 in light of relevant information. These January 19, 2006 WQBELs imposed the same, or
18 in some instances even stricter, numeric limits on these pollutants as the WQBELs
19 adopted on July 1, 2004. The purpose of all of these WQBELs is to ensure that
20 discharges do not violate water quality standards.

21 53. Requirement II.A. in the NPDES Permit requires Boeing to develop and
22 implement a Storm Water Pollution Prevention Plan (“SWPPP”) and a Best Management
23 Practices Plan (“BMPP”). These Plans must specify site-specific Best Management
24 Practices (“BMPs”) that reduce or prevent pollutants in storm water discharges and
25 authorized non-storm water discharge.

26 54. BMPs must be developed in accordance with Attachment A to the NPDES
27 Permit. Attachment A consists of section C of the State Water Resources Control Board’s
28

1 General Industrial Storm Water Permit, Order 97-03-DWQ, which prescribes
2 requirements for a SWPPP.

3 55. Each pollutant and its source may require one or more BMPs. BMPs include
4 non-structural and structural measures, including disposal of waste material, erosion
5 control and site stabilization, inspections, quality assurance, overhead coverage, retention
6 ponds, control devices, secondary containment structures, and treatment. BMPs for non-
7 storm water discharges must be site-specific and cover all areas of the facility.

8 56. Dischargers must reduce or prevent pollutants in storm water and authorized
9 non-storm water discharges through implementation of Best Available Technology
10 Economically Achievable (“BAT”) and Best Conventional Pollutant Control Technology
11 (“BCT”). 33 U.S.C. § 1311(b).

12 57. The SWPPP must, among other requirements, identify and evaluate sources
13 of pollutants associated with industrial activities that may affect the quality of storm and
14 non-storm water discharges from the facility and identify and implement site-specific
15 BMPs to reduce or prevent pollutants associated with industrial activities in storm water
16 and authorized non-storm water discharges. The SWPPP must include: a description of
17 individuals and their responsibilities for developing and implementing the SWPPP; a site
18 map showing the facility boundaries, storm water drainage areas with flow pattern and
19 nearby waterbodies, the location of the storm water collection, conveyance and discharge
20 system, structural control measures, impervious areas, areas of actual and potential
21 pollutant contact, and areas of industrial activity; a list of significant materials handled
22 and stored at the site; a description of potential pollutant sources including industrial
23 processes, material handling and storage areas, dust and particulate generating activities,
24 a description of significant spills and leaks, a list of all non-storm water discharges and
25 their sources, and a description of locations where soil erosion may occur. The SWPPP
26 must include an assessment of potential pollutant sources at the Facility and a description
27 of the BMPs to be implemented at the Facility that will reduce or prevent pollutants in
28

1 storm water discharges and authorized non-storm water discharges, including structural
2 BMPs where non-structural BMPs are not effective.

3 58. The SWPPP must be evaluated to ensure effectiveness and must be revised
4 where necessary. A discharger must prepare and submit a report to the Regional Board
5 describing changes it will make to its current BMPs in order to prevent or reduce any
6 pollutant in its storm water discharges that is causing or contributing to an exceedance of
7 water quality standards. Once approved by the Regional Board, the additional BMPs
8 must be incorporated into the Facility's SWPPP. The report must be submitted to the
9 Regional Board no later than 60 days from the date the discharger first learns that its
10 discharge is causing or contributing to an exceedance of an applicable water quality
11 standard. Dischargers must report any noncompliance. Dischargers must conduct an
12 annual evaluation of storm water controls including the preparation of an evaluation
13 report and implementation of any additional measures in the SWPPP to respond to the
14 monitoring results and other inspection activities.

15 59. EPA has established the following benchmark values: oil and grease – 15
16 mg/L; iron – 1 mg/L; pH – 6.0-9.0 standard units; iron – 1.0 mg/L; zinc – 0.117 mg/L.
17 The benchmark values are the pollutant concentrations that EPA has determined
18 represent a level of concern. 65 Fed. Reg. 64766. The level of concern is a concentration
19 at which a storm water discharge could potentially impair, or contribute to impairing,
20 water quality or affect human health from ingestion of water or fish. *Id.* The benchmark
21 values provide an appropriate level to determine whether a facility's storm water
22 pollution prevention measures are successfully implemented. *Id.* at 64766-67.

23 60. Provisions III.A and B of the NPDES Permit require Boeing to submit
24 quarterly Discharge Monitoring Reports ("DMRs"), including certified laboratory data.
25 Each monitoring report must contain a separate section identifying all non-compliance
26 with waste discharge requirements and excursions above effluent limitations.
27
28

1 61. Provision III.A. of the NPDES Permit requires Boeing to report to the
2 Regional Board within 24 hours any monitoring data that exceeds the detection limit for
3 monitored constituents for which the Permit does not impose numeric WQBELs.

4 **Monitoring Reports, Notices of Violation, and Cleanup and Abatement Order**

5 62. Boeing submitted DMR's for the fourth quarter of 2004 and for the first and
6 second quarter of 2005. These reports documented 49 excursions above effluent
7 limitations contained in the NPDES Permit for mercury ("Hg"), TCDD, copper ("Cu"),
8 pH, residual chlorine, oil and grease, sulfate, MBAS, chromium, iron, lead, manganese,
9 and TDS at Outfalls 001, 002, 003, 004, 005, 006, 007, 010, 012, 015, 017, and 018.
10 These violations are listed in Plaintiffs' 60-day Notice.

11 63. On March 14, 2005, the Regional Board issued a Notice of Violation to
12 Boeing based on the DMR for the fourth quarter of 2004.

13 64. On October 7, 2005, the Regional Board issued a Notice of Violation to
14 Boeing based on the DMRs for the first and second quarters of 2005.

15 65. On November 30, 2005, the Regional Board issued Cleanup and Abatement
16 Order No. R4-2005-0077 ordering Boeing to immediately initiate a cleanup and
17 abatement program and to immediately implement corrective and preventive actions to
18 bring discharges into full compliance with Effluent Limitations and Receiving Water
19 Requirements contained in the NPDES Permit. The basis for this order was the finding
20 that unauthorized discharge of wastes by Boeing was not permitted and is in violation of
21 the Basin Plan and applicable State and Federal water Quality Standards; that Boeing's
22 past activities have contaminated the underlying soil and groundwater; and that Boeing
23 has chronically exceeded effluent limits contained in Regional Board Orders No. 98-051
24 and R4-2004-0111, including at least 96 violations of the waste discharge requirements
25 between August 14, 1998 and April 28, 2005.

26 66. Intermittently throughout 2004 and 2005, Boeing reported monitoring data
27 that exceeds the detection limit for monitored constituents at outfalls for which the Permit
28 does not impose numeric WQBELs for these constituents. On at least 88 occasions, this

1 data indicates that cadmium, copper, iron, lead, manganese, mercury, nickel, perchlorate,
2 TCDD, total settleable solids, or zinc were detected in concentrations that exceed the
3 WQBELs imposed at other outfalls for these same constituents. The detected
4 concentrations also exceed the WQBELs that were imposed at these very outfalls for
5 these constituents by the Regional Board on January 18, 2006 in amending the NPDES
6 Permit. These exceedances are listed in Plaintiffs' 60-day Notice.

7 **BMPs**

8 67. Plaintiffs are informed and believe, and thereupon allege that BMPs at the
9 Facility have exposed and continue to expose significant quantities of industrial material
10 and contaminated soil to storm water flow.

11 68. Plaintiffs are informed and believe, and thereupon allege that BMPs at the
12 Facility have failed and continue to fail to either treat storm water adequately prior to
13 discharge or to implement effective containment practices.

14 69. Plaintiffs are informed and believe, and thereupon allege that BMPs at the
15 Facility have failed and continue to fail to implement adequate source control measures,
16 including excavation and removal of contaminated soils.

17 70. Plaintiffs are informed and believe, and thereupon allege that Boeing has
18 failed to meaningfully evaluate Facility BMPs in light of monitoring results and failed to
19 adjust the Facility's SWPPP and BMPPP to prevent violations of effluent limitations and
20 receiving water standards.

21
22 **VI. CLAIMS FOR RELIEF**

23 **FIRST CAUSE OF ACTION**

24 **Discharges in Violation of Specified Effluent and Receiving Water Limitations**
25 **(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311(a), 1342)**

26 71. Plaintiffs reallege and incorporate the preceding paragraphs as if fully set
27 forth herein.

1 78. That these discharges violate applicable water quality standards is
2 evidenced by the fact that the discharges contain pollutants in concentrations that exceed
3 the WQBELs imposed on other outfalls for these same constituents – WQBELs which
4 are necessary to ensure that discharges meet water quality standards. These discharges
5 were to the same receiving waters as were the discharges from outfalls that did have
6 numeric WQBELs, *i.e.*, the Los Angeles River and Calleguas Creek by way of the
7 intermittent flows of Dayton Canyon Creek, Bell Creek and the Arroyo Simi.

8 79. That these discharges violate applicable water quality standards is further
9 evidenced by the fact that the discharges contain pollutants in concentrations that exceed
10 the WQBELs that were imposed on these very outfalls for these very constituents by the
11 Regional Board on January 18, 2006 in Order R4-2006-0008 amending the NPDES
12 Permit. Again, these WQBELs are necessary to ensure that discharges meet water
13 quality standards.

14 80. That these discharges violate applicable water quality standards is further
15 evidenced by the fact that compliance with receiving water quality standards at any
16 outfall is properly determined with reference to end-of-pipe testing for concentrations in
17 excess of the WQBELs. To prevent further degradation of the water quality of the Los
18 Angeles River and Calleguas Creek and to protect their beneficial uses, mixing zones and
19 dilution credits were not employed in setting WQBELs. Furthermore, many of the
20 beneficial uses are intermittent for Dayton Canyon Creek, Bell Creek and the Arroyo
21 Simi and discharges from the Facility provide a significant portion of the headwaters for
22 these waterbodies. Since there is little assimilative capacity of the receiving water, a
23 dilution factor is not appropriate and the numeric WQBELs are properly a numeric
24 objective applied end-of-pipe. Furthermore, mixing zones and dilution credits are
25 improper for pollutants that are bioaccumulative such as metals.

26 81. Plaintiffs are informed and believe, and thereupon allege, that these
27 discharges of pollutants in concentrations that violate water quality standards are ongoing
28 and continuous.

1 **PRAYER FOR RELIEF**

2 Plaintiffs respectfully request that this Court grant the following relief:

3 a. Declare Boeing to have violated and to be in violation of the Act as alleged
4 herein;

5 b. Enjoin Boeing from discharging pollutants from the Facility and to the
6 surface waters surrounding and downstream from the Facility;

7 c. Enjoin Boeing from further violating the substantive and procedural
8 requirements of the NPDES Permit;

9 d. Order Boeing to pay civil penalties of \$27,500 per day per violation for all
10 violations occurring before March 15, 2004, and \$32,500 per day per violation for all
11 violations occurring after March 15, 2004, for each violation of the Act pursuant to
12 Sections 309(d) and 505(a) of the Act, 33 U.S.C. §§ 1319(d) and 1365(a) and 40 C.F.R. §§
13 19.1 - 19.4;

14 e. Order Boeing to take appropriate actions to restore or benefit the quality of
15 navigable waters impaired by their activities;

16 f. Award Plaintiffs costs (including reasonable investigative, attorney,
17 witness, and consultant fees) as authorized by the Act, 33 U.S.C. § 1365(d); and,

18 g. Award any such other and further relief as this Court may deem
19 appropriate.

20 Dated: February 17, 2006

Respectfully Submitted,

21 M.R. Wolfe & Associates, P.C.

22 By:

23 

24 Mark R. Wolfe

25 John Farrow

26 Attorneys for Plaintiffs

December 14, 2005

**By Certified Mail
Return Receipt Requested**

Mr. Steve Lafflam, Division Director
The Boeing Company
P.O. Box 7922
Canoga Park, CA 91309

Re: Notice of Citizen Suit Under Section 505 of the Clean Water Act (33 U.S.C. § 1365) – Santa Susana Field Laboratory

Dear Mr. Lafflam:

Pursuant to Clean Water Act section 505(a), 33 U.S.C. § 1365(a), I am writing on behalf of Committee to Bridge the Gap, Southern California Federation of Scientists, and Physicians for Social Responsibility – Los Angeles Chapter (collectively, “Plaintiffs”) to notify you of their intent to file a civil complaint in Federal District Court seeking relief for violations of the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, related to discharges from the Santa Susana Field Laboratory (“Facility”).

The complaint will allege that Boeing has violated and continues to violate water quality standards, limitations, and orders in violation of Clean Water Act sections 301, 302, 307, and 402, 33 U.S.C. §§ 1311, 1312, 1317, and 1342 by causing and permitting the discharge of industrial waste water and storm water via eighteen outfalls to Bell Creek, Arroyo Simi, Dayton Canyon Creek and via various drainages toward Arroyo Simi, Runkel, Dayton, and Woolsey Canyon, which drain to the Los Angeles River and Calleguas Creek, in violation of the effluent and receiving water limitations and other requirements contained in NPDES Permit No. CA0001309.

Section 505(b) of the Clean Water Act provides that sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)), a citizen must give notice of intent to file suit. Notice must be given to the alleged violator, the U.S. Environmental Protection Agency, and the State in which the violations occur.

As required by the Clean Water Act, this Notice of Violation and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, the Boeing Company is hereby placed on formal notice by

Plaintiffs that, after the expiration of sixty (60) days from the date of this Notice of Violation and Intent to Sue, Plaintiffs intend to file suit in federal court against the Boeing Company under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the Clean Water Act. These violations are described more fully below.

I. SPECIFIC CLAIMS

The Boeing Company (hereinafter Boeing or Discharger) discharges waste from its Santa Susana Field Laboratory (SSFL) facility under waste discharge requirements, which serve as a National Pollutant Discharge Elimination System (NPDES) permit, contained in Order No. 98-051 adopted by the Los Angeles Regional Water Quality Control Board on June 29, 1998, NPDES Permit No. CA0001309. That Permit was renewed by the Los Angeles Regional Water Quality Control Board on July 1, 2004 by Order No. R4-2004-0111.

The Boeing Company has violated and continues to violate the terms and conditions of NPDES Permit No. CA0001309 (the "Permit"). Section 402(p) of the Clean Water Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES discharge permit (33 U.S.C. § 1342).

Discharge Prohibition I.A(2) of the Permit prohibits the discharge of materials other than those authorized in the Permit. Effluent Limitations I.B(3)-(6) of the Permit prohibit discharges of an effluent from Outfalls 001-010 and 015-017 with constituents in excess of specified limits. Receiving Water Limitation I.C(3)(a) prohibits discharges that cause pH to be depressed below 6.5 or raised above 8.5. Receiving Water Limitation I.C(4)(b) prohibits discharges that exceed specified chronic toxicity limitations.

Receiving Water Limitation I.C(6) prohibits discharges that cause a violation of any applicable water quality standard for receiving waters.

Requirement II.A of the Permit for Pollution Prevention and Best Management Practices Plans requires adoption of Best Management Practices ("BMPs") that reduce or prevent pollutants in storm water discharges and authorized non-storm water discharge.

A. Violations of Effluent Limitations I.B(3)-(6) and Receiving Water Limitations I.C(3)(a) and C(4)(b)

Plaintiffs allege that the discharges listed below violate Effluent Limitations I.B(3)-(6) and Receiving Water Limitations I.C(3)(a) and I.C(4)(b) contained in the Permit. Plaintiffs also allege that the unlawful discharge of these constituents is ongoing and that such violations will occur subsequent to the date of this notice of intent to sue. Each of these discharges from the Facility constitutes a separate violation of the Permit and the Clean Water Act.

The location, date, constituent, and permit limit violated by discharges exceeding specific effluent limitations and receiving water limitations for pH and chronic toxicity contained in the Permit are as follows:

OUTFALL #	DATE	CONSTITUENT	REPORTED VALUE	PERMIT LIMIT	UNITS
002	12/28/04	Hg	0.21	0.10	µg/L
002	12/28/04	TCDD	3.7E-08	2.8E-08	µg/L
002	12/31/04	Hg	0.32	0.10	µg/L
003	10/17/04	pH	9.13	6.5-8.5	pH units
003	10/17/04	TCDD	8.51E-06	2.8E-08	µg/L
003	12/05/04	TCDD	4.50E-08	2.8E-08	µg/L
004	10/17/04	Cu	15.0	14.0	µg/L
004	10/17/04	TCDD	7.08E-05	2.8E-08	µg/L
005	10/17/04	TCDD	3.32E-06	2.8E-08	µg/L
005	12/27/04	Hg	0.20	0.10	µg/L
006	10/17/04	TCDD	1.92E-04	2.8E-08	µg/L
006	10/27/04	pH	6.29	6.5-8.5	pH units
006	12/27/04	Hg	0.22	0.10	µg/L
006	12/27/04	pH	9.70	6.5-8.5	pH units
010	10/20/04	pH	9.40	6.5-8.5	pH units
012	10/20/04	pH	8.75	6.5-8.5	pH units
018	10/20/04	pH	8.51	6.5-8.5	pH units
004	1/3/2005	Mercury	0.23	0.13	µg/L
005	1/3/2005	TCDD	3.89E-08	2.80E-08	µg/L
017	1/10/2005	Residual Chlorine	5	0.1	mg/L
009	1/11/2005	Oil and Grease	16	15	mg/L
015	1/11/2005	Residual Chlorine	1	0.1	mg/L
015	1/11/2005	Chronic Toxicity	>16	1	TUc
017	1/1//2005	Residual Chloride	1	0.1	mg/L
017	1/11/2005	Chronic Toxicity	8	1	TUc
001	1/18/2005	Mercury	0.26	0.1	µg/L
002	1/18/2005	Mercury	0.23	0.1	µg/L
002	2/4/2005	Sulfate	310	300	mg/L
001	2/11//2005	MBAS	1	0.5	mg/L
001	2/11/2005	Chromium	27	16.3	µg/L
001	2/11/2005	Iron	27	0.3	mg/L
001	2/11/2005	Lead	9.7	5.2	µg/L
001	2/11/2005	Manganese	370	50	µg/L
001	2/11/2005	TCDD	4.71E-08	2.80E-08	µg/L
001	2/18/2005	Iron	9.2	0.3	mg/L
001	2/18/2005	Manganese	140	50	µg/L
001	2/18/2005	TCDD	6.52E-07	2.80E-08	µg/L
007	2/18/2005	TCDD	6.98E-07	2.8E-08	µg/L

OUTFALL #	DATE	CONSTITUENT	REPORTED VALUE	PERMIT LIMIT	UNITS
001	2/26/2005	Iron	0.45	0.3	mg/L
001	2/28/2005	TCDD	4.71E-08	1.40E-08	µg/L
001	3/26/2005	Iron	0.42	0.3	mg/L
002	4/01/2005	Sulfate	310	300	mg/L
002	4/08/2005	Sulfate	360	300	mg/L
002	4/15/2005	Sulfate	400	300	mg/L
002	4/22/2005	Sulfate	400	300	mg/L
002	4/22/2005	TDS	1,000	950	mg/L
001	4/28/2005	Iron	0.36	0.3	mg/L
001	4/28/2005	TCDD	3.73E-08	2.80E-08	µg/L
002	4/28/2005	TCDD	6.28E-07	2.80E-08	µg/L

B. Violation of Receiving Water Limitation I.C(6)

Plaintiffs allege that the discharges listed below violate Receiving Water Limitation I.C(6) contained in the Permit, which prohibits discharges that cause a violation of any applicable water quality standard for receiving waters. Plaintiffs also allege that the unlawful discharge of these constituents is ongoing and that such violations will occur subsequent to the date of this notice of intent to sue. Each of these discharges from the Facility constitutes a separate violation of the Permit and the Clean Water Act.

The Permit established numeric water quality based effluent limitations for cadmium, copper, iron, lead, manganese, mercury, nickel, perchlorate, TCDD (dioxin), total settleable solids, and zinc for various outfalls at the Facility. Observance of these limitations is necessary to ensure that ambient water quality standards are not violated.

To prevent further degradation of the water quality of the Los Angeles River and Calleguas Creek and to protect their beneficial uses, mixing zones and dilution credits were not employed in setting these effluent limitations. This determination was based on the fact that many of the beneficial uses are intermittent for Dayton Canyon Creek, Bell Creek and the Arroyo Simi. The discharges from the Facility provide a significant portion of the headwaters for these waterbodies. Since there is little assimilative capacity of the receiving water, a dilution factor is not appropriate and the numeric water quality based effluent limitations is properly a numeric objective applied end-of-pipe. Furthermore, mixing zones and dilution credits are improper for pollutants that are bioaccumulative such as metals.

Numeric water quality based effluent limitations for particular constituents were not imposed on outfalls without historical data for those constituents. Therefore, not all of the eighteen Facility outfalls contained numeric water quality based effluent limitations for cadmium, copper, iron, lead, manganese, mercury, nickel, perchlorate, TCDD (dioxin), total settleable solids, and zinc.

However, all of the outfalls discharge to the same receiving waters, *i.e.*, the Los Angeles River and Calleguas Creek by way of the intermittent flows of Dayton Canyon Creek, Bell Creek and the Arroyo Simi. Therefore, compliance with receiving water quality limitations at any outfall is properly determined with reference to end-of-pipe testing for concentrations in excess of the discharge limitations imposed at other outfalls.

The discharges listed below contain cadmium, copper, iron, lead, manganese, mercury, nickel, perchlorate, TCDD (dioxin), total settleable solids, and zinc in excess of the maximum permit limits established for these constituents at any other outfall at the Facility, and they violate the prohibition against discharges that cause a violation of any applicable water quality standard for receiving waters:

OUTFALL #	DATE	CONSTITUENT	UNITS	REPORTED VALUE	MAX WQBEL
017	11-Jan-05	Cadmium	ug/L	5.0	4
008	18-Feb-05	Copper	ug/L	15	14
010	20-Oct-04	Copper	ug/L	21	14
015	11-Jan-05	Copper	ug/L	32	14
011	04-Jan-05	Iron	mg/L	1.5	0.3
011	11-Jan-05	Iron	mg/L	0.98	0.3
011	11-Feb-05	Iron	mg/L	1.6	0.3
011	25-Feb-05	Iron	mg/L	0.56	0.3
011	25-Mar-05	Iron	mg/L	0.43	0.3
018	18-Feb-05	Iron	mg/L	2.6	0.3
007	18-Feb-05	Lead	ug/L	6.3	5.2
008	20-Oct-04	Lead	ug/L	9.8	5.2
008	27-Oct-04	Lead	ug/L	9	5.2
008	28-Dec-04	Lead	ug/L	6.4	5.2
008	18-Feb-05	Lead	ug/L	13	5.2
009	28-Dec-04	Lead	ug/L	11	5.2
009	18-Feb-05	Lead	ug/L	10	5.2
010	20-Oct-04	Lead	ug/L	17	5.2
010	28-Dec-04	Lead	ug/L	5.7	5.2
010	18-Feb-05	Lead	ug/L	6.2	5.2
012	02-Mar-05	Lead	ug/L	6.0	5.2
018	11-Feb-05	Lead	ug/L	6.0	5.2
011	18-Mar-05	Manganese	ug/L	65	50
018	18-Feb-05	Manganese	ug/L	93	50
008	28-Dec-04	Mercury	ug/L	0.14	0.13
008	04-Jan-05	Mercury	ug/L	0.14	0.13
008	11-Feb-05	Mercury	ug/L	0.17	0.13
009	20-Oct-04	Mercury	ug/L	0.15	0.13
009	28-Dec-04	Mercury	ug/L	0.16	0.13
009	04-Jan-05	Mercury	ug/L	0.20	0.13

010	28-Dec-04	Mercury	ug/L	0.36	0.13
010	04-Jan-05	Mercury	ug/L	0.24	0.13
010	18-Feb-05	Mercury	ug/L	0.14	0.13
011	28-Dec-04	Mercury	ug/L	0.24	0.13
01	04-Jan-05	Mercury	ug/L	0.25	0.13
011	11-Feb-05	Mercury	ug/L	0.14	0.13
015	11-Jan-05	Mercury	ug/L	0.29	0.13
017	11-Jan-05	Mercury	ug/L	0.30	0.13
018	28-Dec-04	Mercury	ug/L	0.26	0.13
018	04-Jan-05	Mercury	ug/L	0.16	0.13
018	11-Jan-05	Mercury	ug/L	0.16	0.13
018	11-Feb-05	Mercury	ug/L	0.15	0.13
018	18-Feb-05	Mercury	ug/L	0.15	0.13
015	11-Jan-05	Nickel	ug/L	830	96
015	09-Jan-05	Perchlorate	ug/L	150	6
017	09-Jan-05	Perchlorate	ug/L	43	6
008	20-Oct-04	TCDD TEQ	ug/L	6.66E-08	2.80E-08
008	27-Oct-04	TCDD TEQ	ug/L	5.93E-08	2.80E-08
008	28-Dec-04	TCDD TEQ	ug/L	8.10E-08	2.80E-08
008	18-Feb-05	TCDD TEQ	ug/L	8.66E-07	2.80E-08
009	20-Oct-04	TCDD TEQ	ug/L	7.59E-08	2.80E-08
009	28-Dec-04	TCDD TEQ	ug/L	3.42E-07	2.80E-08
009	04-Jan-05	TCDD TEQ	ug/L	1.72E-06	2.80E-08
009	26-Jan-05	TCDD TEQ	ug/L	1.35E-07	2.80E-08
009	11-Feb-05	TCDD TEQ	ug/L	1.13E-07	2.80E-08
009	18-Feb-05	TCDD TEQ	ug/L	6.33E-07	2.80E-08
010	20-Oct-04	TCDD TEQ	ug/L	2.19E-06	2.80E-08
010	27-Oct-04	TCDD TEQ	ug/L	6.77E-07	2.80E-08
010	28-Dec-04	TCDD TEQ	ug/L	1.25E-06	2.80E-08
010	04-Jan-05	TCDD TEQ	ug/L	2.92E-07	2.80E-08
010	11-Jan-05	TCDD TEQ	ug/L	4.68E-07	2.80E-08
010	11-Feb-05	TCDD TEQ	ug/L	1.03E-06	2.80E-08
010	18-Feb-05	TCDD TEQ	ug/L	7.53E-06	2.80E-08
010	23-Mar-05	TCDD TEQ	ug/L	1.62E-06	2.80E-08
011	28-Dec-04	TCDD TEQ	ug/L	2.50E-07	2.80E-08
011	04-Jan-05	TCDD TEQ	ug/L	1.20E-07	2.80E-08
011	11-Jan-05	TCDD TEQ	ug/L	3.21E-08	2.80E-08
01	11-Feb-05	TCDD TEQ	ug/L	1.78E-07	2.80E-08
011	18-Feb-05	TCDD TEQ	ug/L	4.91E-07	2.80E-08
011	25-Feb-05	TCDD TEQ	ug/L	1.00E-07	2.80E-08
011	25-Feb-05	TCDD TEQ	ug/L	8.67E-08	2.80E-08
011	04-Mar-05	TCDD TEQ	ug/L	2.89E-08	2.80E-08
011	11-Mar-05	TCDD TEQ	ug/L	3.90E-08	2.80E-08

011	18-Mar-05	TCDD TEQ	ug/L	2.84E-08	2.80E-08
011	25-Mar-05	TCDD TEQ	ug/L	9.03E-08	2.80E-08
012	02-Mar-05	TCDD TEQ	ug/L	2.13E-07	2.80E-08
015	11-Jan-05	TCDD TEQ	ug/L	1.68E-07	2.80E-08
017	11-Jan-05	TCDD TEQ	ug/L	7.60E-07	2.80E-08
018	20-Oct-04	TCDD TEQ	ug/L	2.79E-06	2.80E-08
018	27-Oct-04	TCDD TEQ	ug/L	6.76E-07	2.80E-08
018	28-Dec-04	TCDD TEQ	ug/L	3.33E-07	2.80E-08
018	11-Feb-05	TCDD TEQ	ug/L	4.29E-06	2.80E-08
018	18-Feb-05	TCDD TEQ	ug/L	8.66E-07	2.80E-08
018	26-Feb-05	TCDD TEQ	ug/L	1.80E-07	2.80E-08
018	10-Mar-05	TCDD TEQ	ug/L	2.81E-07	2.80E-08
018	23-Mar-05	TCDD TEQ	ug/L	9.38E-07	2.80E-08
011		Total Settleable Solids			
	18-Feb-05		ml/l/hr	0.60	0.3
015	11-Jan-05	Zinc	ug/L	160	119

C. Violation of SWPPP and BMPP and Failure to Implement BAT/BCT

Requirement II.A of the Permit requires adoption and implementation of a Storm Water Pollution Prevention Plan (“SWPPP”) and a Best Management Practices Plan (“BMPP”) including Best Management Practices (“BMPs”) that reduce or prevent pollutants in storm water discharges and authorized non-storm water discharge. Each pollutant and its source may require one or more BMPs. BMPs include non-structural and structural measures, including disposal of waste material, erosion control and site stabilization, inspections, quality assurance, overhead coverage, retention ponds, control devices, secondary containment structures, and treatment. BMPs for non-storm water discharges shall be site-specific and shall cover all areas of the facility. Dischargers must reduce or prevent pollutants in storm water and authorized non-storm water discharges through implementation of Best Available Technology Economically Achievable (“BAT”) and Best Conventional Pollutant Control Technology (“BCT”).

The Boeing Company has been operating with an inadequately developed or implemented SWPPP and BMPP and without implementing BAT/BCT in violation of these requirements. For example, inadequate treatment of discharges has resulted in numerous violations of discharge limitations. The Boeing Company has been in continuous violation of requirement II.A of the Permit every day since June 29, 1998 and will continue to be in violation every day that it fails to develop and implement an effective SWPPP and BMPP. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the Clean Water Act, the Boeing Company is subject to penalties for violations of the Permit and the Clean Water Act occurring since December 14, 2000.

II. Persons Responsible for the Violations.

Plaintiffs put the Boeing Company on notice that it is the person responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, Plaintiffs put the Boeing Company and its agents on notice that it intends to include those persons in this action.

IV. Name and Address of Noticing Parties.

Plaintiffs are membership organizations interested in protecting beneficial uses of water resources and water quality on behalf of their members. Specifically, Plaintiffs are interested in ensuring that discharges from the Facility do not continue to impair the uses and quality of the waters to which the Facility discharges waste and contaminated water.

Plaintiffs' names, addresses and telephone numbers are as follows:

Physicians for Social Responsibility
Los Angeles Chapter
617 S. Olive Street #810
Los Angeles, CA 90014-1629
(213) 689-9170 x 107
Attn: Jonathan Parfrey, Executive Director

Southern California Federation of Scientists
3318 Colbert Avenue
Los Angeles, CA 90068
(310) 390-3898
Attn: Dr. Sheldon C. Plotkin, Executive Board

Committee to Bridge the Gap
1637 Butler Avenue Suite 203
Los Angeles, CA 90025
(310) 478-0829
Attn: Daniel Hirsch, President

V. Counsel.

Plaintiffs have retained legal counsel to represent them in this matter. Please direct all communications to:

December 14, 2005

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John Farrow
M. R. Wolfe & Associates, P.C.
Attorneys-At-Law
49 Geary Street, Ste. 200
San Francisco, CA 94108
Tel: (415) 369-9400
Fax: (415) 369-9405

VI. Penalties.

Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Clean Water Act subjects the Boeing Company to a penalty of up to \$32,500 per day per violation for all violations occurring during the period commencing five years prior to the date of this Notice of Violations and Intent to Sue. In addition to civil penalties, Plaintiffs will seek injunctive relief preventing further violations the Clean Water Act pursuant to Section 505(a) and (d). 33 U.S.C. § 1365(a) and (d). Pursuant to Section 505(d) of the Clean Water Act, the prevailing party is permitted to recover costs and fees, including attorneys' fees. 33 U.S.C. § 1365(d).

Plaintiffs believe this Notice of Violations and Intent to Sue sufficiently states grounds for filing suit. We intend, at the close of the 60-day notice period, or thereafter to file a citizen suit under Section 505(a) of the Clean Water Act against the Boeing Company and its agents for the above referenced violations.

During the 60-day notice period, Plaintiffs would be willing to discuss effective remedies for the violations noted in this letter. However, if you wish to pursue such discussion in the absence of litigation, Plaintiffs suggest you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. Plaintiffs do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Yours sincerely,

M. R. WOLFE & ASSOCIATES

John H. Farrow

JHF:es

cc: (by certified mail – return receipt requested):

December 14, 2005

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Corporation Service Company
dba CSC - Lawyers Incorporating Service
Registered Agent for The Boeing Company
P.O. Box 526036
Sacramento, CA 95852-6036

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Washington, D.C. 20460

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Celeste Cantú, Executive Director
State Water Resources Control Board
1001 “I” Street
Sacramento, CA. 95814
P.O. Box 100
Sacramento, CA. 95812-0100

Jonathan Bishop, Executive Officer
Regional Water Quality Control Board
Los Angeles Region
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