

JOINT SETTLEMENT FRAMEWORK

Agreement in Principle between The National Aeronautics and Space Administration and the State of California

Regarding Cleanup of Areas I and II of the Santa Susana Field Laboratory Administered by NASA

SUMMARY: The end state after cleanup of Areas I and II of the site administered by NASA will be background (i.e., at the completion of the cleanup, no contaminants will remain in the soil above local background levels), subject to any special considerations specified below.

- Clean up chemical contaminants to local background concentrations
Possible exceptions (where unavoidable by other means):
 - The framework acknowledges that, where appropriate, NASA will engage in an Endangered Species Act (ESA) Section 7 consultation with the U.S. Fish and Wildlife Service (FWS) over any species or critical habitat that may be affected by a federal action proposed to be undertaken herein on a portion of the site. Impacts to species or habitat protected under the Endangered Species Act may be considered as possible exceptions from the cleanup standard specified herein only to extent that the federal Fish and Wildlife Service, in response to a request by NASA for consultation, issues a Biological Opinion with a determination that implementation of the cleanup action would violate Section 7(a)(2) or Section 9 of the ESA, and no reasonable and prudent measures or reasonable and prudent alternatives exist that would allow for the use of the specified cleanup standard in that portion of the site.
- The acceptance and exercise of any of the following exceptions is subject to DTSC's oversight and approval, and the resulting cleanup is to be as close to local background as practicable:
 - Detection limits for specific contaminants exceed the local background concentration, in which case the cleanup goal shall be the detection limits for those specific contaminants.
 - Native American artifacts that are formally recognized as Cultural Resources
 - Other unforeseen circumstances but only to the extent that the cleanup cannot be achieved through technologically feasible measures. Under no circumstances shall exceptions for unforeseen circumstances be proposed in excess of five percent of the total soil cleanup volume.

- DTSC, in the course of overseeing and approving its chemical contaminant background study, will determine local background levels and chemical detection limits (using methods that are consistent with EPA guidance on determining local background concentration values). Upon completion of the DTSC led chemical background study, a “look-up” table of the chemical cleanup levels will be prepared, which will include both local background concentrations as well as minimum detection limits for specific contaminants whose minimum detection limits exceed local background concentrations.
- Residual concentrations “not to exceed” local background concentrations i.e., if during site survey efforts or during confirmatory sampling the level of any constituent detected in a soil sample is above local background levels, step-outs will be taken to delineate the contamination and removed; soil above local background will not be averaged with other soil. This process should not be inconsistent with any guidance that EPA may issue pertaining to the practice of implementing a not to exceed background cleanup approach.
- Cleanup to background means removal of soils contaminated above local background levels
 - No “leave in place” alternatives will be considered
 - No on-site burial or land filling of contaminated soil will be considered
- Backfill/replacement soils must not exceed local background levels
 - Onsite soils that do not exceed local background may be used as backfill/replacement soils
 - Offsite soils that have been verified to not exceed local background levels may be used as backfill/replacement soils
 - Backfill/replacement soils that are acceptable for use shall be verified by DTSC
- Disposal of contaminated soils:
 - Soils contaminated with chemical contaminants above local background:
 - Hazardous wastes to licensed Class 1 hazardous waste disposal facilities only
 - Non-hazardous waste to licensed Class 2 or subtitle D compliant Class 3 disposal facilities only
 - In addition to meeting the above disposal requirements, all soils must also meet the waste acceptance criteria for the receiving facility.

- To the extent any radiological materials are determined to be present at this portion of the site, DTSC and NASA will develop an appropriate sampling and disposal plan for those materials.
- Chemical investigation/data gaps
 - DTSC, in the course of overseeing and approving the chemical contaminant investigation work, will determine where onsite levels exceed local background.
- Development of risk assessments will not be required.
- As identified by DTSC as part of the investigation of chemical contaminants, NASA will remediate the areal extent of any contiguous chemical contamination of soil that emanates from within Areas I and II administered by NASA, even to the extent that it migrates beyond the boundaries of Areas I and II administered by NASA within or without the SSFL boundaries.
- Following completion of the characterization studies by DTSC, NASA will develop a remedial action implementation work plan that describes the cleanup activities in Areas I and II administered by NASA. The remedial action implementation work plan will be subject to DTSC review and approval.
- Scheduled completion of soils cleanup remains as 2017
- NASA's commitment to cleanup to local background applies to soils and not to groundwater at the site. Investigation and remediation of groundwater will be separately addressed, and provisions related to investigation and remediation of groundwater will be incorporated into a final agreement.
- Characterization and cleanup for chemical contaminants of both soils and groundwater are subject to DTSC approval.
- Final agreement between NASA and California, and the cleanup obligations within that agreement, will be legally binding and enforceable and embodied in an administrative order on consent (AOC).
- DTSC and NASA will develop a technical protocol for implementation of these principles and a protocol for resolving disputes that are similar to protocols agreed upon by DTSC and the U.S. Department of Energy with respect to Area IV.
- DTSC work to be fully funded by NASA.

- DTSC will conduct a public participation process to receive public input regarding the agreement prior to its finalization. This process will include a formal comment period and may include public meetings or discussions.
- DTSC will work with NASA to develop an approach for satisfying any applicable NEPA obligations.
- This agreement in principle concerns SSFL Areas I and II administered by NASA only and is between NASA and the State of California represented by the Department of Toxic Substances Control and the California Environmental Protection Agency. The framework is based upon the unique circumstances of Areas I and II administered by NASA, including the nature of the releases of chemical contamination that have occurred at Areas I and II administered by NASA. This framework does not establish precedent and shall not be used as precedent for any other agreement for any other area within the SSFL.