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August 4, 2009

Board of Supervisors
800 S. Victoria Blvd.
Ventura, CA 93009

SUBJECT: Adoption of an Urgency Ordinance Amending Section J103.3 of Appendix J
Grading to the Ventura County Building Code, Ventura County Ordinance 4369
(4/5ths Vote Required)

Dear Board Members;

RECOMMENDATIONS:

1. **FIND** that the attached urgency ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) for the reasons set forth in the draft ordinance.
2. **FIND** that the attached urgency ordinance is needed for the immediate preservation of the public peace, health, or safety for the reasons set forth in the draft ordinance.
3. **READ IN TITLE ONLY, WAIVE FURTHER READING, AND ADOPT** the attached urgency ordinance.
4. **DIRECT** the Public Works Agency to file the appropriate CEQA Exemption.

FISCAL IMPACT:

Mandatory: No

Source of Funding: N/A

Funding Match Required: None

Impact on Other Departments: N/A

DISCUSSION:

The purpose of the proposed urgency ordinance is to make any and all grading permits for the Santa Susana Field Laboratory (SSFL) site, as defined therein, discretionary and to eliminate any permit exemptions that may exist for such site so that the County can evaluate any risks to the public's health, safety, and welfare that granting such permits or exemptions might entail while also complying with the provisions of the California Environmental Quality Act (CEQA) regarding discretionary projects.

The SSFL site is highly contaminated from activities related to large rocket engine testing, burning of toxic wastes in sodium burn pits (including napalm, as shown in the attached list), nuclear research, and a 1959 partial core meltdown of a small nuclear reactor on site. Toxic chemicals, Trichloroethylene (TCE), perchlorate, dioxins, radionuclides, mercury, lead, cadmium, asbestos, and other hazardous wastes have been found in soils, groundwater, and/or surface waters of the SSFL. These types of contaminants have been linked to increased risk of disease including cancer, thyroid disorders, lymphoma, and leukemia.

According to the California Department of Toxic Substances Control (DTSC), potential exposure to toxic contaminants can occur from direct contact with soils, sediments, weathered bedrock, surface water, air, and groundwater at SSFL.

The 2,850 acre SSFL site has been divided into four (4) areas for purposes of regulatory clean-up efforts and each area has been found to have contaminants in the soil, groundwater, and/or surface water. The contaminants found at the SSFL site pose a threat to human health and safety. These threats are well documented in the attached State of California, Environmental Protection Agency, DTSC August 2007 Consent Order for Corrective Action (P3-07/08-003) and the attached December 3, 2008 Order to Perform Interim/Source Removal Action (ISRA) of Soil from the Los Angeles Regional Water Quality Control Board (RWQCB), as well as in numerous other studies and reports, including Cohen, Y., et. al., 2006, "The Potential for Offsite Exposures Associated with Santa Susana Field Laboratory, Ventura County, California"; Morgenstern, H., J. Beebe-Dimmer, and S. Yu, 2007, "Cancer Incidence in the Community Surrounding the Rocketdyne Facility in Southern California." Pursuant to the August 2007 Corrective Action Order, DTSC is the lead agency for the overall cleanup of this site under the authority of the federal Resource Conservation and Recovery Act (RCRA).

An application for a ministerial grading permit to excavate, stockpile, and haul away contaminated soil from the SSFL site was submitted by Boeing North America on July 28, 2009. The grading project is in response to an Interim Source Removal Action (ISRA) Order by the RWQCB. The workplan involves removal of contaminated soil from certain areas within the site. These soil removal activities are arguably entitled to a ministerial grading permit.

Ministerial grading permits are reserved for small, straight-forward projects involving less than 10,000 cubic yards of dirt. The first grading permit being requested by Boeing as part of the RWQCB's approved ISRA work plan is for approximately 2,720 cubic yards of soil removal. The ISRA Soil Management Plan dated July 2009 estimates 7,600 cubic yards of soil are to be

excavated in 2009 but warns that final excavation amounts are uncertain because they can vary based on field conditions or confirmation sampling results.

There are several phases of the overall site clean-up operation at SSFL. Boeing's Soil Management Plan for the ISRA work involves more contaminated soil removal in 2010 and more again in 2011. In addition, soil removal may also take place on NASA-owned land at the SSFL. The ISRA project completion is scheduled to be done before the Fall 2012 rainy season.

Segmenting the removal process into several smaller grading projects makes it possible for the applicant to avoid the 10,000 cubic yard threshold for a discretionary permit. The full SSFL clean-up project under the DTSC August 2007 Consent Order for Corrective Action (P3-07/08-003) will be facility-wide with a 2017 completion date, and could amount to the hauling of hundreds (if not thousands) of truck loads of contaminated SSFL soil.

An over-the-counter, ministerial grading permit is not appropriate for remediation of contaminants on land that could qualify for Federal Super Fund status. A ministerial grading permit precludes discretionary review, public and regulatory agency input, and normal CEQA environmental impact review. Without the greater scrutiny, disclosure, and potential mitigation measures available through a discretionary permit review process, the County cannot condition the permit to adequately protect the public health and safety from contaminants that may be exposed during grading at the SSFL site.

To better safeguard the public from exposure to contaminants from SSFL, it is necessary to require all grading permits for the SSFL site to be processed through a discretionary permit process. This will allow the County to determine and apply necessary and appropriate permit conditions to protect the public health and safety.

Pursuant to subdivision (d) of Government Code sections 25123 and Government Code section 25131, the Board can adopt an ordinance to take effect immediately where (1) it is adopted for the immediate preservation of the public peace, health, or safety; (2) the Board passes the ordinance by a four-fifths vote; and (3) the ordinance contains a declaration of the facts that make its adoption urgent. The facts recited, above and in the draft ordinance, amply show the need for urgent action.

I respectfully request each member to vote to adopt this urgency ordinance today.

Sincerely,

A handwritten signature in cursive script that reads "Linda Parks".

Linda Parks
Supervisor Second District

ATTACHMENT I: Draft Urgency Ordinance

ATTACHMENT II: August 2007 Consent Order for Corrective Action

ATTACHMENT III: December 3, 2008 ISRA Order (RWQCB)

ATTACHMENT IV: List Of Documented Waste Disposed Of At Area I Burn Pit

cc:

Los Angeles Regional Water Quality Control Board
Department of Toxic Substances Control
National Aeronautics and Space Administration
U.S. Department of Energy
U.S. Environmental Protection Agency