October 12, 2007 Draft

SB __ (Kuehl) - Urgency Bill

[SB 990 (Kuehl) Clean-up Language for 2008]

SECTION 1. Article 5.5 (commencing with Section 25359.20) is added to Chapter 6.8 of Division 20 of the Health and Safety Code, to read:

Article 5.5. Cleanup of Santa Susana Field Laboratory

25359.20. (a) Notwithstanding paragraph (1) of subdivision (b) of Section 25187 of the Health and Safety Code, the department may use any legal remedies available pursuant to Chapter 6.8 (commencing with Section 25300) or Chapter 6.5 (commencing with Section 25100) to compel a responsible party or parties to take or pay for appropriate removal or remedial action necessary to protect the public health and safety and the environment at the Santa Susana Field Laboratory site in Ventura County.

(b) A response action taken or approved at the Santa Susana Field Laboratory site shall be conducted in accordance with the provisions of this chapter.

(c) A response action taken or approved pursuant to this chapter for the Santa Susana Field Laboratory site shall be based upon, and be no less stringent than, the provisions of Section 25356.1.5. In calculating the risk, the cumulative risk from radiological and chemical contaminants at the site shall be summed, and the land use assumption shall be either suburban residential or rural residential (agricultural), whichever produces the lower permissible residual concentration for each contaminant. In the case of radioactive contamination, the department shall use as its risk range point of departure the concentrations in the Preliminary Remediation Goals issued by the Superfund Office of the United States Environmental Protection Agency in effect as of January 1, 2007.

(d) Notwithstanding any other provision of law regarding transfers of land, no person or entity shall sell, lease, sublease, or otherwise transfer land presently, or formerly occupied by the Santa Susana Field Laboratory, except as provided in subdivision (e).

(e) As a condition for a sale, lease, sublease, or transfer of land presently or formerly occupied by the Santa Susana Field Laboratory, the Director of the Department of Toxic Substances Control or his or her designee shall certify that the land has undergone complete remediation pursuant to the most protective standards in subdivisions (a) to (c), inclusive.

(f) Notwithstanding any other provision of this section, subdivisions (b), (c), (d) and (e) do not apply if the Secretary for Environmental

Protection determines all of the following: (1) at least one written agreement has been fully executed that establishes a process for the transfer to the State of California of the land presently or formerly occupied by the Santa Susana Field Laboratory; (2) the Boeing Company is a signatory to at least one such agreement; (3) any and all such agreements are consistent with the October XX, 2007 Letter of Intent signed by the California Environmental Protection Agency, the Resources Agency and the Boeing Company relating to the Santa Susana Field Laboratory site; and (4) any and all such agreements provide for a public process consistent with this chapter. This subdivision shall not apply to any portion of the land presently or formerly occupied by the Santa Susana Field Laboratory that is not the subject of a written agreement for transfer to the State of California.

SEC. 2. The Legislature finds and declares that due to the following unique circumstances regarding the former Santa Susana Field Laboratory, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

(a) Founded in late 1940s, the Santa Susana Field Laboratory (SSFL) was a facility dedicated to the development and testing of nuclear reactors, rockets, missiles, and munitions. The location of SSFL was chosen for its remoteness in order to conduct work that was considered too dangerous to be performed in more densely populated areas. In subsequent years, however, southern California's population has mushroomed. Today, more than 150,000 people live within five miles of the facility, and at least half a million people live within 10 miles.

(b) Throughout the years, approximately 10 nuclear reactors were operated at SSFL, in addition to several "critical facilities" (low power reactors); a sodium burn pit in which sodium-coated radioactively contaminated objects were burned in an open pit; a plutonium fuel fabrication facility; a uranium carbide fuel fabrication facility; and a Hot Lab used for remotely cutting up irradiated nuclear fuel.

(c) The Hot Lab suffered a number of fires involving radioactive materials and at least four of the 10 nuclear reactors suffered accidents, including a partial meltdown.

(d) The reactors located on the grounds of SSFL were considered experimental, and, therefore, had no containment structures. Reactors and highly radioactive components were housed without the large concrete domes surrounding modern power reactors.

(e) The most famous accident occurred in July of 1959, when the Sodium Reactor Experiment (SRE) experienced a partial core meltdown releasing radioactive gasses and particles into the atmosphere over a period of weeks. Recent studies have concluded that this accident may have caused hundreds of cancer cases in the Los Angeles area.

(f) One of the disposal procedures at the site in the 1950s and 1960s would consist of workers disposing of barrels filled with highly toxic substances by shooting the barrels at a distance with shotguns, so that they would explode and burn, releasing some of their contents in the form of gasses and particulates into the air. In the mid-1990s a similar practice involving the illegal disposal by open air burning led to the death of two workers at the facility.

(g) Additionally, large amounts of toxic chemicals were released into the soil, air, and groundwater and surface water. For example, the rocket test stands were routinely washed off with TCE, approximately half a million gallons of which were allowed to

percolate into the soil and groundwater. Significant contamination exists by perchlorate, heavy metals, PCBs, dioxins, volatile organic, and semivolatile organic compounds, in addition to radioactivity.

(h) In 1989, the United States Department of Energy (DOE) found widespread chemical and radioactive contamination at the site, and a cleanup program commenced. In 1995 the United States Environmental Protection Agency (EPA) and DOE announced that they had entered into a Joint Policy Agreement to assure that all DOE sites would be cleaned up to standards consistent with EPA's Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) standards, also known as Superfund. Those standards would have required a full characterization of the site and cleanup of the remaining contamination to standards deemed protective by EPA. In 2003, DOE declined to follow the 1995 Joint Policy and chose to instead rely on less protective cleanup standards. EPA declared that under the circumstances the site would not be safe for unrestricted release but only for day hikes with restrictions on picnicking; however, DOE continues to insist upon unrestricted release despite the use of sitewide cleanup standards not in keeping with the 1995 Joint Policy and EPA CERCLA guidance.

(i) The Boeing Company currently owns land presently or formerly occupied by the Santa Susana Field Laboratory.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.