

EDO Principal Correspondence Control

FROM: DUE: 02/27/03

EDO CONTROL: G20030058  
DOC DT: 01/28/03  
FINAL REPLY:

Representative Brad Sherman

TO:

Rathbun, OCA

FOR SIGNATURE OF :

\*\* GRN \*\*

CRC NO: 03-0060

Travers, EDO

DESC:

ROUTING:

Occupational Exposure (John L. Boyer)

Travers  
Paperiello  
Kane  
Norry  
Craig  
Burns/Cyr  
Merschhoff, RIV

DATE: 02/07/03

ASSIGNED TO:

CONTACT:

RES

Thadani

SPECIAL INSTRUCTIONS OR REMARKS:





# Congressman Brad Sherman

## 24th District, California

SERVING THE SAN FERNANDO AND CONEJO VALLEYS,  
LAS VIRGENES AND MALIBU

470-03-0060

COMMITTEE ON  
FINANCIAL SERVICES

COMMITTEE ON  
INTERNATIONAL RELATIONS

January 28, 2003

Mr. Dennis K. Rathbun  
Director, Office of Congressional Affairs  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Dear Mr. Rathbun:

We would appreciate your attention to the enclosed correspondence from our constituent, John L. Boyer.

Please investigate his concerns and respond to our San Fernando Valley District Office at the address indicated below. Should you have any questions or need further information, please contact my staff assistant, Michael Tou, at (818) 501-9200. Thank you for your time and attention.

Sincerely,

BRAD SHERMAN  
Member of Congress

BJS:mt  
Enclosure

#### WASHINGTON, DC OFFICE

1524 LONGWORTH HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-0524  
(202) 225-5911  
FAX: (202) 225-5879

#### SAN FERNANDO VALLEY OFFICE

5000 VAN NUYS BOULEVARD, SUITE 420  
SHERMAN OAKS, CA 91403-1791  
(818) 501-9200  
FAX: (818) 501-1554

#### VENTURA COUNTY OFFICE

2100 EAST THOUSAND OAKS BLVD., SUITE F  
THOUSAND OAKS, CA 91362-2903  
(805) 449-2372  
FAX: (805) 449-2375

CONSTITUENT ASSISTANCE FORM

NAME JOHN L. BOYER, JR. DATE 01-17-03

ADDRESS [REDACTED] STAFF \_\_\_\_\_

CITY AND ZIP [REDACTED]

PHONE (days) [REDACTED] (evenings) SAME

\*\*\*\*\*

FEDERAL AGENCY INVOLVED A.E.C.  
(e.g., Social Security, VA, Passport, etc.)

IDENTIFYING NUMBER [REDACTED]  
(Social Security Number, Claim Number, etc.)

Please briefly describe the type of assistance you are requesting:

*Without the Classified and/or Top Secret information the A.E.C failed to reveal to the Nuclear Regulatory Commission, when it was in its initial formative stage, there is little probability my radiation exposure will be determined relative to the two enclosed fact sheets.*

*I'm wondering if Congressman Brad Sherman knows of any avenue to gain access to the above missing information?*

I authorize Congressman Brad Sherman to act on my behalf.

Signature John L. Boyer Jr.

Date 01-17-03

Please return to: Congressman Brad Sherman  
5000 Van Nuys Blvd., Suite 420  
Sherman Oaks, CA 91403

*Notes: Brock Henderson, 611 Ryan Playa Drive, Suite 400  
Arlington, TX 76011, Phone 1-800-952-9677 is my  
only contact at the Nuclear Regulatory Commission.*



National Institute for Occupational  
Safety and Health  
Robert A. Taft Laboratories  
4676 Columbia Parkway  
Cincinnati, OH 45226-1998  
Phone: 513-841-4498  
Fax: 513-458-7125

June 14, 2002

Mr. John L. Boyer Jr.

Dear John Boyer:

This letter is to inform you that the National Institute for Occupational Safety and Health's (NIOSH) Office of Compensation Analysis and Support (OCAS) has received your claim for benefits under the Energy Employees Occupational Illness Compensation Program Act (The Act) from the Department of Labor (DOL).

OCAS has assigned your claim a NIOSH Tracking Number. The NIOSH Tracking Number is specific to your claim and will help us address any questions you may have while it is with OCAS. In addition, we have also enclosed a magnet that contains contact information (Enclosure 1). We hope this will serve as an easy reference point for you when obtaining information on your claim. We have included an optional space on the magnet for you to write your NIOSH Tracking Number. Your personal NIOSH Tracking Number is:

4538

OCAS is responsible for attempting to estimate (or reconstruct) the occupational radiation dose you received while working at facilities covered under The Act. The procedures and level of effort involved in dose reconstructions depend, in part, on: (1) the quantity and quality of available dose monitoring information, (2) the conditions under which the radiation exposure arose, and (3) the forms of radiation to which you were exposed. It is important to keep in mind that dose reconstruction requires considerable data collection and analysis.

If you were monitored using present day technology and received only external radiation doses, dose reconstruction could be very simple. Dose-reconstruction can, however, require considerable research and analysis if: (1) your radiation doses were not monitored; (2) there was potential for internal doses through inhalation, ingestion, or absorption of radiation materials; or (3) the process and circumstances involved in your radiation exposures were complex. Enclosed you will find a brochure and a fact sheet that contain additional information on dose reconstruction, an overview of claims processing at OCAS, and our functions under The Act (Enclosures 2 and 3).



## NIOSH Fact Sheet

# What a Claimant Should Know About Radiation Dose Reconstruction

In accordance with The Act,<sup>1</sup> the National Institute for Occupational Safety and Health (NIOSH), Office of Compensation Analysis and Support (OCAS), is responsible for conducting occupational radiation dose reconstructions for covered employees with cancer who are not members of the Special Exposure Cohort (SEC).<sup>2</sup>

The purpose of this fact sheet is to explain dose reconstruction and its role in the compensation program. If this fact sheet does not answer your questions on dose reconstruction, please feel free to contact OCAS at 513-841-4498 (toll-free at 1-800-35-NIOSH or 1-800-356-4674) or by e-mail at [ocas@cdc.gov](mailto:ocas@cdc.gov).

### Purpose of Dose Reconstruction

Dose reconstructions are used to estimate the radiation doses to which an individual worker or group of workers have been exposed, particularly when radiation monitoring data are unavailable, incomplete, or of poor quality.



### How Radiation Doses are Reconstructed

NIOSH will reconstruct radiation doses by evaluating all appropriate data relevant to the energy employee's radiation exposure.

Examples of data that may be used in dose reconstruction include:

- Internal dosimetry data (such as results of urinalysis, in vivo measurement, etc.)
- External dosimetry data (such as film badge readings, thermoluminescent dosimetry results, etc.)
- Workplace monitoring data (such as air sample results and area radiation measurements)
- Workplace characterization data (such as solubility studies and particle size measurements)
- Process descriptions for each work location

If an individual's radiation exposures were monitored using present-day technology and consisted of only external radiation exposure, dose reconstruction would be very simple. It might only require summing the radiation doses recorded from radiation badges and adding estimated potential "missed" doses resulting from the limits of detection of monitoring badges used. However, for most claimants, the process will be more complex:

<sup>1</sup> In this document, "The Act" refers to the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA).

<sup>2</sup> The SEC is currently comprised of employees: (1) with specific cancers; (2) who worked at three specific DOE facilities or participated in certain nuclear weapons tests; and (3) who meet other additional requirements. These employees' cancers are presumed to be radiation-related for compensation purposes under The Act and they are eligible for compensation without a dose reconstruction.



Department of Health and Human Services  
Centers for Disease Control and Prevention  
National Institute for Occupational Safety and Health  
**DHHS (NIOSH) Publication No. 2002-138**



COPY 01-17-03 #1

## **Conducting Dose Reconstructions When There is Little or No Monitoring Data Available**

If an individual's radiation doses were not monitored or there is uncertainty about the monitoring methods used, dose reconstruction could require extensive data gathering and analysis. This may include:

- Determining specific characteristics of the monitoring procedures
- Identifying events that were unmonitored
- Identifying the types and quantities of radioactive materials involved
- Evaluating production processes and safety procedures
- Identifying the locations and activities of exposed persons
- Identifying comparable exposure circumstances for which data is available to make assumptions
- Conducting a variety of complex analyses to understand the data compiled or estimated

## **Additional Sources of Information That May be Used for Dose Reconstruction**

In cases where data are limited, NIOSH may use the following sources of information for dose reconstruction:

- DOE and its contractors, including Atomic Weapons Employers (AWEs) and the Former Worker Screening Program
- NIOSH and other records from health research on DOE worker populations
- Interviews and records provided by the claimant
- Co-workers of covered employees, or other witnesses with information relevant to the covered employee's exposure identified during an interview with NIOSH
- Labor union records from unions representing employees at covered facilities of DOE or AWEs
- Other relevant information

## **Time Needed to Complete Dose Reconstruction**

When done for research purposes, dose reconstructions may take from months to years to complete. In compensation programs, a balance between efficiency and precision is needed. As applied in The Act, dose reconstruction must rely on information that can be developed on a timely basis and on carefully stated assumptions. Therefore, our primary concern is to ensure the assumptions used to estimate doses are fair, consistent, and well grounded in the best available science. Every dose reconstruction will involve collection and review of information and one or more interview with the claimant. From start to finish, we estimate that it will take up to 90 to 180 days to complete most dose reconstructions.

## **Dose Reconstruction Results**

After dose reconstruction has been completed, a draft copy of the report will be sent to the claimant. NIOSH will conduct a closing interview with the claimant to review the dose reconstruction results. This will be the claimant's final opportunity to provide additional information that may affect the dose reconstruction. If no additional information is provided, the claimant will be asked to complete an OCAS-1 form. This form certifies that there is no additional information to give NIOSH regarding the claim and that the claim record for dose reconstruction should be closed.

Once NIOSH receives the signed OCAS-1 form, the final dose reconstruction report will be sent to the claimant and the Department of Labor (DOL) for completion of the compensation process.



# Happy Thanksgiving



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 Lows: 48-56  
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THURSDAY, NOVEMBER 28, 2002

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# Lab cases revived

## Cancer claims against Rocketdyne can go to trial

By Lisa Mascaro  
 Staff Writer

Eighteen San Fernando Valley-area residents may proceed to trial with claims the Rocketdyne Santa Susana Field Lab caused their cancer and other illnesses, a federal appellate panel ruled Wednesday. The U.S. 9th District Court of Appeals overturned a lower court's finding that the

plaintiffs failed to file their cases in time under the statute of limitations and should have suspected the lab in their illnesses. However, it upheld the lower court's dismissal of 34 of 52 claims. "It's a big victory for all the people in the community," said Troy A. Thielemann, an attorney for the Santa Barbara-based firm Cappello & McCann, which represents 300 people who have filed various

other suits against the company. "There are other people sitting in the wings in other cases this will affect," he said. "We think it's a tremendous win. It's a case that's going to be very important to future cases, as well, in the toxic tort arena." A spokesman for Boeing Rocketdyne said the company believes the case has no merit; and said a jury could still uphold the

statute of limitations. "We still stand by what we said before. The plaintiffs have offered no scientific evidence to this point. The case is of no merit. Ultimately it will be decided that we're not at fault," said Boeing spokesman Dan Beck. The plaintiffs filed suit in 1997 claiming  
 See LAB / Page 31

## What Happens to Claims Once OCAS is Done with Them?

Once OCAS has completed the dose reconstructions for claims, the results are sent to DOL. At that time, DOL will use guidelines for assessing the probability of causation to determine whether an individual's cancer is "at least as likely as not," to have been caused by occupational exposure to ionizing radiation. This will permit DOL to decide whether to award compensation to individuals seeking Federal compensation under the Act.

## Overview of Claims Processing at OCAS

1. Receive Claim Packet from DOL
2. Catalog and File Claim Packet
3. Assign claim a NIOSH Tracking Number
4. Review Claim Packet Contents for Work History
5. Collect Dose Information from DOE
6. Review Dose Information
7. Interview Claimant
8. Conduct Dose Reconstruction
9. Submit Information from Dose Reconstruction to DOL & Claimant

This process may take several months to complete.

## Contact Information

NIOSH, Office of  
Compensation Analysis  
and Support  
4676 Columbia Parkway, MS R-45  
Cincinnati, Ohio 45226  
(513) 841-4498  
(513) 458-7125 (Fax)  
E-mail: [ocas@cdc.gov](mailto:ocas@cdc.gov)

NIOSH Toll-Free Number:  
1-800-35-NIOSH  
(1-800-356-4674)

NIOSH Web Site: [www.cdc.gov/niosh](http://www.cdc.gov/niosh)

Office of Worker Advocacy (EH-8)  
Office of Environment, Safety  
and Health  
U.S. Department of Energy (DOE)  
Web Site: [tis.eh.doe.gov/advocacy/index.html](http://tis.eh.doe.gov/advocacy/index.html)  
Hotline: 1-877-447-9756

Department of Labor (DOL)  
Web Site: [www.dol.gov/dol/esa/public/regs/compliance/owcp/eeoicp/main.htm](http://www.dol.gov/dol/esa/public/regs/compliance/owcp/eeoicp/main.htm)  
Toll-Free Number: 1-866-888-3322

DOL District Offices:  
Jacksonville, Florida  
1-877-336-4272

Cleveland, Ohio  
1-888-859-7211

Denver, Colorado  
1-888-805-3389

Seattle, Washington  
1-888-805-3401

DHHS (NIOSH) Publication No. 2002-137



# NIOSH Office of Compensation Analysis and Support

*...conducting activities to assist claimants and support the role of the Secretary of Health and Human Services under the Energy Employees Occupational Illness Compensation Program Act of 2000.*



Department of Health and Human Services  
Centers for Disease Control and Prevention  
National Institute for Occupational Safety  
and Health

**NIOSH**

## What is NIOSH?

The National Institute for Occupational Safety and Health (NIOSH) is part of the Centers for Disease Control and Prevention (CDC), an agency in the Department of Health and Human Services (HHS). NIOSH is the Federal agency responsible for conducting research and making recommendations for the prevention of work-related disease and injury.

## What is OCAS?

OCAS is the Office of Compensation Analysis and Support at NIOSH. OCAS is responsible for conducting occupational radiation dose reconstructions for certain workers with cancer who filed claims for compensation under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA or The Act).<sup>1</sup>

In order to conduct the dose reconstruction, OCAS will obtain information, data, and records from the Department of Energy (DOE) or other sites where an individual has worked. In addition, OCAS will also conduct phone interviews with each claimant. This interview is designed to obtain any additional information regarding radiation exposure and work history to help us identify the information we need from DOE to complete radiation dose reconstructions.

<sup>1</sup> EEOICPA is the Act that established a compensation program for individuals who, over the past 50 years, have performed duties uniquely related to the nuclear weapons production and testing programs at DOE and its predecessor agencies. The list of employees also includes workers from certain Atomic Weapons Employers (AWEs).

## What is Dose Reconstruction?

The basic principle of dose reconstruction is to characterize the occupational radiation environment in which a worker was exposed. This characterization is a scientific process that uses available personal monitoring and/or workplace information. In most cases, where an individual's radiation monitoring data is insufficient for a complete dose reconstruction, OCAS will use information provided to us from the claimant in a phone interview.

## Who Can File Claims?

DOE nuclear weapons production and testing program workers (including certain contractors, subcontractors, and atomic weapons employers) or their survivors can file claims.



## How to File a Claim

Anyone wishing to file a claim will need to complete either Form EE-1 or EE-2 along with Form EE-3 and send them to the Department of Labor (DOL). DOL will verify the eligibility of the claim and will submit eligible claims to OCAS for dose reconstruction. The forms can be obtained from DOL or the Resource Centers established by the DOL and DOE. Contact information for DOL and DOE is located on the back of this brochure.

## How Does OCAS Receive Compensation Claims?

After DOL receives the claims, they will verify the eligibility of the claimant and will submit eligible claims to OCAS for dose reconstruction.

## What is the Special Exposure Cohort?

The Act also established a "Special Exposure Cohort" (SEC). The SEC is comprised of employees:

- With specific cancers
- Who worked at three specific DOE facilities or participated in certain nuclear weapons tests
- Who meet other additional requirements (see The Act)

These employees' cancers are presumed to be radiation-related for compensation purposes under The Act.

Additional information on the SEC can be obtained by contacting OCAS or DOL. Contact information for OCAS and DOL is located on the back of this brochure.

# Residents gain green light for trial on cancer claims

LAB / From Page 1

Hazardous radioactive and other substances released from Rocketdyne caused their illnesses, which include cancers and other problems. The original suit involved six plaintiffs, but was amended several times adding new plaintiffs and claims. Seven of the 52 plaintiffs are estates of people who died, according to the court.

The plaintiffs live or have lived in the San Fernando or Simi valleys, where Rocketdyne for decades conducted nuclear energy and rocket testing at its lab in the hills in between the two valleys.

The Daily News in 1989 reported that nuclear and chemical contamination had been found on the site, and a pair of UCLA studies in 1997 and 1999 found higher cancer mortality rates among workers in certain jobs at the site.

Nuclear testing was shut down and the site is now under a federally funded, \$186-million environmental cleanup that is slated to be complete in coming years.

The lower court threw out most

of the claims in March 2000, saying the statute of limitations required that plaintiffs needed to have filed their personal injury claims within one year of knowing about their problems. Five of the cases were reinstated later that year.

The lower court said that "past publicity about releases of potentially hazardous substances from the Rocketdyne facilities should have led" many of the plaintiffs to suspect that the defendants caused their injuries prior to the first UCLA study being released, according to Wednesday's ruling.

But the appeals court disagreed in a 2-1 decision released Wednesday.

"We reverse the district court's ruling that ... publicity about the Rocketdyne facilities was sufficient for a reasonable plaintiff to know that Defendants' actions were the cause of his or her injury," the appeals court wrote.

Summary judgment was improper because factual disputes remain over whether Plaintiffs knew or should have known of their claims more than a year before they filed them.

The 18 plaintiffs who filed after the 1997 UCLA study was

released were allowed by the appeals court to go forward with their claims.

The appeals court upheld the lower court's dismissal of 34 of the plaintiffs who filed before the UCLA study was released. It said they failed to offer evidence regarding how and when they discovered their claims.

The case, O'Connor vs. Boeing, was among the first personal injury cases filed after concerns were raised about contamination from the field lab, Thielemann said.

A class-action suit by the same law firm that would have involved potentially thousands of healthy residents across the two valleys and set up medical monitoring for them was thrown out in 2000.

Now Cappello & McCann is handling 10 Rocketdyne-related cases involving 300 personal injury and wrongful death plaintiffs.

Thielemann said Wednesday's ruling has the potential to affect many of the other Rocketdyne-related cases his firm is handling, as well as those in other communities with environmental suits that deal with the statute of limitations issues.

# Drug fighting disease in India

The New York Times

A drug originally developed to combat breast cancer has instead proved effective against a parasitic disease that kills tens of thousands of people each year, many of them in northeastern India, researchers reported in Thursday's issue of The New

England Journal of Medicine.

Confirming earlier studies, an international team of researchers has found the drug miltefosine (pronounced "millee-fos-ee"), a pill that can be taken orally, cured the disease, visceral leishmaniasis, 94 percent of the time.

About half a million people

worldwide are infected annually with visceral leishmaniasis (pronounced "leesh-ma-NIGH-ah-sis," also known as kala azar or black fever), with about half of the cases in India. The disease is transmitted via the bites of sandflies, which inject the parasite, leishmania donovani, into the body.

*Verina on Oct 13, 2000*  
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.	)	
	)	

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**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

Rocketdyne Environmental Class Action  
2801 Ocean Park Blvd., PMB #9  
Santa Monica, CA 90405

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First Class Mail  
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NOTICE IN A CONSPICUOUS LOCATION (E.G. A BULLETIN BOARD) WHERE IT MAY BE EASILY VIEWED BY ALL  
OF YOUR EMPLOYEES.

FIRST CLASS MAIL

PLEASE FORWARD - IMPORTANT LEGAL NOTICE

*Revised on Oct 13, 2000*  
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.	)	

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**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

Rocketdyne Environmental Class Action  
2801 Ocean Park Blvd., PMB #9  
Santa Monica, CA 90405

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OF YOUR EMPLOYEES.

FIRST CLASS MAIL

PLEASE FORWARD - IMPORTANT LEGAL NOTICE

Sent form on Feb 8<sup>th</sup>, 1999

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

LAWRENCE O'CONNOR, et al.,  
Plaintiffs,

v.

BOEING NORTH AMERICAN, INC., et al.,  
Defendants.

Civil Action No. 97-1554 ABC (RCx)

CLASS ACTION

NOTICE OF PENDENCY  
OF CLASS ACTION

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

The purpose of this Notice is to inform you of the pendency of a class action, the manner in which this class action may affect your rights, and what steps you may take in relation to this class action.

THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION BY THE COURT AS TO THE MERITS OF THE CLAIMS OR DEFENSES BY ANY OF THE PARTIES TO THIS CLASS ACTION.

**PERSONS TO WHOM THIS NOTICE APPLIES**

**YOU ARE HEREBY NOTIFIED**, pursuant to Rule 23 of the *Federal Rules of Civil Procedure* and an order of the United States District Court for the Central District of California ("the District Court") dated September 18, 1998, that there is now pending, before the Honorable Audrey B. Collins in the District Court, a class action on behalf of the following three classes of persons:

- (1) All persons: (a) who presently reside or work within the boundaries of the Class Area depicted in the map attached to this Notice 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.
- (2) All persons who own real property located within the Class Area.
- (3) All persons who presently reside or work in the Class Area and/or who own real property located within the Class Area.

## YOU MAY BE A CLASS MEMBER

If you fall within the definition set forth in paragraph (1) above, you may be a member of the class which will be referred to in this Notice as **Class I**.

If you fall within the definition set forth in paragraph (2) above, you may be a member of the class which will be referred to in this Notice as **Class II**.

If you fall within the definition set forth in paragraph (3) above, you may be a member of the class which will be referred to in this Notice as **Class III**.

You may be a member of any one or more of **Class I**, **Class II** and/or **Class III**.

## PERSONS NOT ELIGIBLE FOR MEMBERSHIP

If you are a present or former employee of any of the following companies, you are not eligible for membership in **Class I**: Boeing North American, Inc., Rockwell International Corporation, North American Rockwell Corporation, Rockwell Manufacturing Company, Rockwell Standard Corporation, Rocketdyne, Inc., North American Aviation, Inc., and Atomics International, Inc.

The companies listed above are not eligible for membership in **Class II** and/or **Class III**.

## ACTIONS TO BE TAKEN BY CLASS MEMBERS

If you are a member of **Class I** only, you are not required to take any action at this time, although there are certain actions described in this Notice which you may take if you wish to do so. If you take no action, your claims will continue to be pursued by the representatives of **Class I**, your interests will be represented by Class Counsel, and your rights as a member of **Class I** will be determined as part of the litigation which is being pursued on behalf of all members of **Class I**.

If you are a member of **Class II** and/or **Class III**, you have a choice to make, and you are required to make that choice by no later than **March 31, 1999**. Your choice is either to remain a member of **Class II** and/or **Class III** or to exercise your right to voluntarily exclude yourself from membership in **Class II** and/or **Class III**.

If you wish to remain a member of **Class II** and/or **Class III**, you are not required to take any action at this time, although there are certain actions described in this Notice which you may take if you wish to do so. If you take no action, your claims will continue to be pursued by the representatives of **Class II** and/or **Class III**, your interests will be represented by Class Counsel, your rights as a member of **Class II** and/or **Class III** will be determined as part of the litigation which is being pursued on behalf of all members of **Class II** and **Class III**.

If you wish to exclude yourself from **Class II** and/or **Class III**, you must follow the steps set forth in the next section of this Notice entitled "**Right to Exclude Yourself from Class II and/or Class III**". If you do not exercise your right to voluntarily exclude yourself from membership in **Class II** and/or **Class III**, you shall be deemed a member of **Class II** and/or **Class III**, your rights as a member of **Class II** and/or **Class III** will be determined in the manner described above, and you will be barred from pursuing your own individual claims against the defendants for the same type of relief which is being sought on behalf of **Class II** and/or **Class III** by means of a separate lawsuit. As a member of **Class II** and/or **Class III**, you will be entitled to participate in the proceeds of any judgment or settlement in favor of **Class II** and/or **Class III**. Any judgment entered as to the members of **Class II** and/or **Class III**, whether favorable or not, will include and bind you under the rule of res judicata.

## RIGHT TO EXCLUDE YOURSELF FROM CLASS II AND/OR CLASS III

If you are a member of Class I, you may not elect to voluntarily exclude yourself from membership in Class I. Rather, membership in Class I is mandatory, and you, as a member of Class I, are barred from pursuing your own individual claim for the same type of relief which is being sought on behalf of Class I. You may, however, choose not to participate in any of the relief which may be obtained for the benefit of Class I.

If you are a member of Class II and/or Class III, you may act to voluntarily exclude yourself from membership in Class II and/or Class III by exercising your right to be excluded from Class II and/or Class III. If you request exclusion, you will not be entitled to share in any recovery obtained for the benefit of Class II and/or Class III; you will not be bound by any judgment, whether favorable or not, entered for or against Class II and/or Class III; and you may pursue any claims which you have against the defendants by means of a separate lawsuit on your own behalf.

All requests for exclusion must be made in writing and must be mailed to:

Rocketdyne Environmental Class Action  
2801 Ocean Park Boulevard #9  
Santa Monica, California 90405

All requests for exclusion from Class II and/or Class III must be postmarked no later than **March 31, 1999**, and must include your name, address, telephone number and signature as well as an affirmative statement that you request to be excluded from Class II and/or Class III. Any request for exclusion made on behalf of a member of Class II and/or Class III by a representative of that class member must state the capacity in which the representative is acting (e.g. legal guardian). You may use the attached form entitled "Request for Exclusion."

## BOUNDARIES OF THE CLASS AREA

The boundary line of the Class Area in the map attached to this Notice is described as follows:

Beginning at the intersection of Canoga Avenue and Nordoff Street (referenced by the large black dot centrally located on the map), and moving in a clockwise direction, the boundary line of the Class Area crosses the following major intersections: DeSoto Avenue and Lassen Street (*Point 1*); Lurline Avenue and Devonshire Street (*Point 2*); Winnetka Avenue and Northridge Road (*Point 3*); Corbin Avenue and Chatsworth Street (*Point 4*); Tampa Avenue and Atlanta Avenue (*Point 5*); Reseda Boulevard and the 118 Freeway (*Point 6*); Balboa Boulevard and Halsey Street (*Point 7*); Woodley Avenue and Chatsworth Street (*Point 8*); Gothic Avenue and Devonshire Street (*Point 9*); Hayvenhurst Avenue and Nordoff Street (*Point 10*); Woodley Avenue and Rayen Street (*Point 11*); Haskell Avenue and Roscoe Boulevard (*Point 12*); Sepulveda Boulevard and Stagg Street (*Point 13*); Sepulveda Boulevard and Saticoy Street (*Point 14*); Sepulveda Boulevard and Vose Street (*Point 15*); Noble Avenue and Vanowen Street (*Point 16*); Sepulveda Boulevard and Victory Boulevard (*Point 17*); Balboa Boulevard and the U.S. Highway 101 (*Point 18*); Armetoy Avenue and Ventura Boulevard (*Point 19*); White Oak Place and Alonzo Avenue (*Point 20*); Reseda Boulevard and Hermano Drive (*Point 21*); Tampa Avenue and Wells Drive (*Point 22*); Winnetka Avenue and Wells Drive (*Point 23*); West Hills Drive and Ventura Boulevard (*Point 24*); DeSoto Avenue and Ventura Boulevard (*Point 25*); Canoga Avenue and Arcos Drive (*Point 26*); Topanga Canyon Boulevard and Buenaventura Street (*Point 27*); Ryder Avenue and Ventura Boulevard (*Point 28*); and Valley Circle Boulevard and Calenda Drive (*Point 29*).

From Valley Circle Boulevard, the boundary line of the Class Area heads in a westerly direction and crosses the following streets and fire roads: Round Meadow Road and Smith Road (*Point 30*) and then Bell Canyon Fire Road approximately 2 miles north of U.S. 101 (*Point 31*). From Bell Canyon Fire Road, the boundary line of the Class Area turns in a northerly direction approximately following East Bell Canyon Road to North Saddlebow Road (*Point 32*). The boundary line of the Class Area then heads to the northwest and crosses the intersection of North Saddlebow Road and Bell Canyon Fire Road (*Point 33*). The boundary line of the Class Area then turns in a westerly direction (*Point 34*) crossing Cheeseboro Canyon Road (*Point 35*), Palo Comado Fire Road (*Point 36*), Deerbrook Road (*Point 37*), and several unnamed fire roads (*Points 38 through 40*). The boundary line of the Class Area then heads north and northeasterly intersecting Sinaloa Road (*Point 41*), Montgomery Fire Road (*Point 42*), Runkle Hall Road (*Point 43*), Edison Road (*Point 44*), and Arness Fire Road (*Point 45*).

The boundary line of the Class Area then heads in a northerly direction (*Point 46*), after which it turns east and crosses the intersections of Stearns Street and Los Angeles Avenue (*Point 47*), Yosemite Avenue and East Fearing Street (*Point 48*), and Kuehner Drive and Menlo Street (*Point 49*). The boundary line of the Class Area then turns in a southerly direction until intersecting Santa Susana Pass Road (*Point 50*). The boundary line of the Class Area follows Santa Susana Pass Road until the intersection of Santa Susana Pass Road and Box Canyon Road (*Point 51*). At that intersection, the boundary line of the Class Area heads north, then easterly, crossing Rocky Peak Fire Road (*Point 52*).

The boundary line of the Class Area then heads back in a southerly direction crossing the 118 Freeway (*Point 53*) and, just south of Trigger Street (*Point 54*), the boundary line heads in a southwesterly direction to the intersection of Box Canyon Road and Lake Manor Drive (Valley Circle Boulevard) (*Point 55*). The boundary line of the Class Area then intersects Woolsey Canyon Road (*Point 56*) and follows in a southeasterly direction crossing Fallbrook Avenue near the Hughes Facility (*Point 57*). At the intersection of Farralone Avenue and Roscoe Avenue (*Point 58*), the boundary line of the Class Area proceeds in a northwesterly direction back to the intersection of Canoga Avenue and Nordoff Street.

### **PARTIES TO THE CLASS ACTION**

The plaintiffs who are pursuing this class action on behalf of the members of **Class I** are Harold Samuels and Joyce Samuels ("the Samuels"). The Samuels are members of **Class I** and have been certified by the District Court to represent the interests of all members of **Class I**. The Samuels reside in Woodland Hills, California.

The plaintiffs who are pursuing this class action on behalf of the members of **Class II** and **Class III** are Lawrence O'Connor, Margaret O'Connor, William Rueger and Mary Jane Vroman. They are members of **Class II** and **Class III** and have been certified by the District Court to represent the interests of all members of **Class II** and **Class III**. Plaintiff Robert Grandinetti also is acting as a representative of **Class III** and has been certified by the District Court to so act. The O'Connors reside in Woodland Hills, California; Mr. Rueger resides in Santa Susana, California; and Mrs. Vroman resides in Woodland Hills, California. Mr. Grandinetti works within the Class Area.

The defendants in this action are Boeing North American, Inc. and Rockwell International Corporation ("the Defendants").

### **DESCRIPTION OF THE CLASS ACTION**

The original complaint in this class action was filed on March 10, 1997. The operative Fourth Amended Complaint in this class 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 four facilities located in the greater Simi Valley and San Fernando Valley area. Those four facilities, referred to as "the Rocketdyne Facilities", were 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.

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 through the Class Area 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 plaintiffs have not been exposed to any substances released from the Rocketdyne Facilities that place them at an increased risk of illness or disease. The Defendants also maintain 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 damage to plaintiffs and contest the merits of plaintiffs' claims.

**TYPE OF RELIEF SOUGHT**

The members of **Class I** assert claims for relief under the Declaratory Judgment Act, 28 U.S.C. § 2201 *et. seq.*, the Price Anderson Act, 42 U.S.C. § 2210 *et. seq.* and California common law. The members of **Class I** seek mandatory injunctive relief in the form of a comprehensive, court-supervised program of medical monitoring and declaratory relief. The medical monitoring program sought to be implemented does not include treatment.

The claims for relief asserted by the members of **Class II** include claims for negligence, strict liability, trespass and nuisance. The members of **Class II** seek compensatory and punitive damages for contamination of their property, loss of the use and enjoyment of their property, diminution in the fair value of their property, impairment of the salability of their property and stigmatization of their property. The members of **Class II** also seek mandatory injunctive relief requiring that the Defendants, *inter alia*, clean up the contamination caused to their property.

The claims for relief asserted by the members of **Class III** are brought under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9607 *et. seq.* and section 17200 of the California Business & Professions Code ("the UCA"). The members of **Class III** seek to recover necessary "response costs" under CERCLA including, *inter alia*, clean up costs, costs of alternative water supplies and costs for air filtration systems. The members of **Class III** also seek injunctive relief under the UCA.

### **CLAIMS FOR PERSONAL INJURY OR WRONGFUL DEATH**

**NO CLAIMS FOR PERSONAL INJURY OR WRONGFUL DEATH ARE BEING ASSERTED, AND NO DAMAGES FOR PERSONAL INJURY OR WRONGFUL DEATH ARE BEING SOUGHT, ON BEHALF OF CLASS I, CLASS II AND/OR CLASS III. IF YOU, AS A MEMBER OF CLASS I, CLASS II AND/OR CLASS III, WISH TO PURSUE A CLAIM AGAINST THE DEFENDANTS FOR PERSONAL INJURY OR WRONGFUL DEATH RESULTING FROM THE RADIOACTIVE AND/OR CHEMICAL SUBSTANCES RELEASED FROM THE ROCKETDYNE FACILITIES, YOU MUST FILE AN INDIVIDUAL LAWSUIT ON YOUR OWN BEHALF SEEKING DAMAGES FOR PERSONAL INJURY OR WRONGFUL DEATH.**

**PLEASE NOTE THAT YOUR FAILURE TO ACT PROMPTLY AS TO ANY CLAIM FOR PERSONAL INJURY OR WRONGFUL DEATH MAY RESULT IN YOUR CLAIM BEING BARRED BY THE APPLICABLE STATUTE OF LIMITATIONS.**

### **CLASS CERTIFICATION**

On July 13, 1998, after a hearing before the Honorable Audrey B. Collins, the District Court conditionally certified this action as a class action to be maintained by plaintiffs on behalf of the members of **Class I, Class II and/or Class III** as defined in this Notice. The Court 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.

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)

### **EFFECT OF CLASS CERTIFICATION**

The fact that the District Court has certified this case to proceed as a class action does not mean that any money damages or other relief necessarily will be recovered in this action because there are numerous contested issues of fact and law which have not yet been resolved. Rather, the effect of class certification is that the final outcome of this lawsuit – whether in favor of plaintiffs or the Defendants – will apply in the same manner to each member of **Class I, Class II and/or Class III**.

Since the District Court has certified this action to proceed as a class action, the claims of **Class I, Class II and/or Class III** may not be dismissed, settled or compromised without the approval of the District Court. In the event of any proposed compromise or settlement on behalf **Class I, Class II and/or Class III**, the members of each respective class shall receive notice of the basis for and terms of any proposed compromise or settlement and will be afforded an opportunity to be heard.

## **RECOVERY BY CLASS MEMBERS**

Any recovery which may be obtained for the benefit of **Class I, Class II and/or Class III** will be distributed to members of that respective class pursuant to a plan of allocation approved by the District Court. You may be required, as a condition of participating in any recovery obtained, to provide certain information relating to your medical history, your occupational history, your ownership of property, and/or any necessary "response costs" incurred by you.

## **RESPONSIBILITY FOR ATTORNEYS' FEES AND EXPENSES**

In a class action, Class Counsel's entitlement to the payment of their attorneys' fees and reimbursement of their expenses is determined by the District Court at the conclusion of the case.

If this class action is successful and a recovery is obtained for the benefit of **Class I, Class II and/or Class III**, either through settlement or judgment, Class Counsel will apply to the District Court for approval of the payment of their attorneys' fees and reimbursement of their expenses from the recovery obtained for each respective class.

Under no circumstances will you, as a member of **Class I, Class II and/or Class III**, be personally responsible for any attorneys' fees incurred or expenses advanced by Class Counsel.

## **RIGHT TO APPEAR IN THE CLASS ACTION**

Any member of **Class I, Class II and/or Class III** who does not request exclusion, and who so wishes, may appear through his or her own attorney in this class action.

The original of all documents relating to an appearance through counsel should be filed with the Clerk of the District Court located at 312 N. Spring Street, Los Angeles, California 90012. Such documents must be identified as filed in connection with this class action by including thereon the caption and case number appearing at the head of this Notice. Copies of all documents filed with the District Court shall be served by mail upon the following counsel:

J. Paul Gignac, Esq.  
Cappello & McCann LLP  
831 State Street  
Santa Barbara, CA 93101

John A. Reding, Esq.  
Paul, Hastings, Janofsky & Walker LLP  
345 California Street  
San Francisco, CA 94104-2635

If you do not enter an appearance through counsel of your choice at your own expense, you will be represented in this class action by Class Counsel appointed by the District Court.

## **RIGHT TO INTERVENE IN THE CLASS ACTION**

Any member of **Class I, Class II and/or Class III** who does not request exclusion, and who so wishes, may apply to the District Court to intervene individually in this class action upon satisfaction of the requirements set forth under Rule 24 of the *Federal Rules of Civil Procedure*.

The original of all documents relating to an application to intervene should be filed with the Clerk of the District Court located at 312 N. Spring Street, Los Angeles, California 90012. Such documents must be identified as filed in connection with this class action by including thereon the caption and case number appearing at the head of this Notice. Copies of all documents filed with the District Court shall be served by mail upon the following counsel:

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**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.

**ADDITIONAL COPIES OF THIS NOTICE**

You may obtain additional copies of this Notice by calling the following toll-free number:

**1-800-700-1195**

**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 class 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 class action.**

Dated: February 5, 1999

Clerk of the United States District Court



**Rocketdyne Environmental Class Action**  
2801 Ocean Park Blvd., #9  
Santa Monica, CA 90405

FIRST CLASS MAIL  
U.S. POSTAGE  
**PAID**  
HDM

Resident



(85)

**SI USTED DESEA OBTENER UNA COPIA DE ESTE DOCUMENTO LEGAL EN ESPANOL, FAVOR DE ACTUAR IMMEDIATAMENTE Y LLAMAR A (626) 685-9800.**

**IF YOU ARE A BUSINESS ENTITY, YOU ARE REQUIRED BY ORDER OF THE COURT TO POST A COPY OF THIS NOTICE IN A CONSPICUOUS LOCATION (E.G. A BULLETIN BOARD) WHERE IT MAY BE EASILY VIEWED BY ALL OF YOUR EMPLOYEES.**

**FIRST CLASS MAIL**

**PLEASE FORWARD - IMPORTANT LEGAL NOTICE**