

1 Jones Day  
2 Thomas M. Donnelly  
3 Daniel L. Corbett  
4 555 California St., 26<sup>th</sup> Floor  
5 San Francisco, California 94104  
6 Telephone: 415.626.3939  
7 email: tmdonnelly@jonesday.com  
8 dcorbett@jonesday.com

9 Attorneys for Petitioner,  
10 The Boeing Company

11 BEFORE THE  
12 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

13 In the Matter of the Petition for Review by The  
14 Boeing Company of Waste Discharge  
15 Requirements Order No. R4-2023-0359

File No.

**Petition for Review and Statement of  
Points and Authorities Pursuant to Water  
Code § 13320**

1 The Boeing Company (“Boeing”) hereby files this petition for review (“Petition”) of  
2 Waste Discharge Requirements Order No. R4-2023-0359 (“WDR”), adopted by the California  
3 Regional Water Quality Control Board, Los Angeles Region (“LA Regional Board”) on October  
4 19, 2023. A copy of the WDR is attached to this Petition as Exhibit A. This Petition is filed  
5 pursuant to the Water Code § 13320 and 23 C.C.R. § 2050.

6 **I. Name, Address, Telephone Number and Email Address of Petitioner**

7 The Boeing Company, Santa Susana Field Laboratory, 5800 Woolsey Canyon Road,  
8 Canoga Park, CA 91304-1148. Boeing requests that service of all notices and other submissions  
9 and correspondence related to this Petition be sent by email to its undersigned counsel:

10 Thomas M. Donnelly  
11 Daniel L. Corbett  
12 Jones Day  
13 555 California St., 26<sup>th</sup> Floor  
14 San Francisco, California 94014  
email: tmdonnelly@jonesday.com  
dcorbett@jonesday.com

15 **II. The L.A. Regional Board Action for Which this Petition for Review is Sought**

16 Boeing seeks review of the following limits and requirements in Waste Discharge  
17 Requirements Order No. R4-2023-0359:

- 18 1. Duplicative effluent limits at paired Outfalls 001 and 011, and paired Outfalls 002 and  
19 018, in violation of State Board Order WQ 2006-0012 (Exhibit C) (the “2006 Order”)  
20 and U.S. EPA’s Internal Waste Stream Rule.
- 21 2. Effluent limits at Outfall 008 for five constituents (antimony, nickel, selenium,  
22 thallium, and TCDD) that have no reasonable potential to cause or contribute to a  
23 violation of the State’s water quality standards.
- 24 3. New effluent limits for aluminum based on exceedances caused by naturally occurring  
25 background conditions unrelated to any significant materials from Boeing’s former  
26 industrial operations.

4. Duplicative infiltration and design feasibility studies related to groundwater, which is outside the scope of the WDR.
5. New monitoring requirement for PCB congeners using Method 1668C, which U.S. EPA repeatedly has declined to approve because it is unreliable, unnecessary, and impractical.
6. New monitoring requirements for additional constituents referenced in the Standardized Risk Assessment Methodology for SSFL, which are unsupported by evidence in the record.

Boeing further seeks review of the LA Regional Board's improper decision, during the October 19, 2023 hearing, to exclude rebuttal evidence properly submitted by Boeing, as well as Boeing's submission of updated references from its August 21, 2023 comments.

### **III. The Date the LA Regional Board Acted**

The LA Regional Board adopted the WDR on October 19, 2023.

### **IV. Statement of Reasons the Action is Inappropriate and Improper**

As set forth in the Statement of Points and Authorities attached to this Petition, the LA Regional Board's actions in adopting the WDR were inappropriate and improper, because it acted in excess of its jurisdiction, contrary to law, contrary to the State Board's 2006 Order and other directives, and against the evidence in the record. In excluding Boeing's properly submitted rebuttal evidence and submission of updated references to its August 21, 2023 comments, the LA Regional Board also improperly deprived Boeing of its procedural rights under the Water Code and implementing regulations.

### **V. Boeing is Aggrieved**

Boeing is the discharger under the WDR. As a result of the LA Regional Board's actions, Boeing will be subject to improper and inappropriate waste discharge requirements.

### **VI. Boeing's Requested Action by the State Board**

Boeing respectfully requests that the State Board grant this Petition for review, and provide the following relief:

1. Determine that the LA Regional Board acted inappropriately and improperly by adopting the WDR with the requirements summarized in section II, above;
2. Amend and reissue the WDR, or remand and direct the LA Regional Board to amend and reissue the WDR, as follows:
  - a. Remove effluent limits either at Outfalls 001 and 002, or Outfalls 011 and 018.
  - b. Remove effluent limits at Outfall 008 for antimony, nickel, selenium, thallium, and TCDD, and reinsert the reasonable potential and backsliding analyses to the WDR that were struck by the Board.
  - c. Remove all effluent limits for aluminum.
  - d. Remove requirements for infiltration and design feasibility studies at Silvernale and R-1 ponds.
  - e. Remove requirements for PCB congener monitoring using Method 1668C.
  - f. Remove requirements for monitoring additional constituents referenced in the Standardized Risk Assessment Methodology for SSFL.
3. Admit Boeing's October 17, 2023 submission of rebuttal comments and exhibits, and updated references from its August 21, 2023 comments, attached to this Petition as Exhibit O, into the record.
4. Admit Boeing's submission of additional evidence, as summarized in Appendices 1 and 2, to the record.

**VII. Petition for Stay**

Boeing requests that the State Board issue an immediate stay of certain requirements in the WDR, as set forth in Boeing's separate Petition for Stay, filed concurrently with this Petition.

**VIII. Statement of Transmittal of Petition to the LA Regional Board**

A copy of this Petition has been transmitted by First Class mail to the Executive Officer of the LA Regional Board on November 20, 2023, with a courtesy copy by email to the Executive Officer and counsel for the LA Regional Board.

1 **IX. Statement that Issues and Objections Were Raised Before the LA Regional Board**

2 The substantive issues and objections raised in this Petition were previously raised before  
3 the LA Regional Board during the proceedings regarding adoption of the WDR, including in  
4 written comments by Boeing and others on or before August 21, 2023, and testimony by Boeing  
5 and others on September 28, 2023 and October 19, 2023.<sup>1</sup>

6 **X. Request to LA Regional Board to Prepare the Administrative Record**

7 Boeing requests that the LA Regional Board prepare and serve on Boeing copies of the  
8 administrative record pursuant to 23 C.C.R. § 2050.5(a), including transcripts of all hearings on  
9 this permit renewal action.

10 **XI. Request for Hearing**

11 Boeing requests a hearing on this Petition pursuant to 23 C.C.R. § 2050.6(b), so that  
12 Boeing may present evidence and arguments in support of the requested relief. This Petition  
13 raises substantial and complex issues of law and fact that are appropriate for argument and  
14 presentation of evidence, including testimony and documentary evidence, during a hearing.  
15 Many of these issues relate to complex and voluminous sampling and monitoring data collected at  
16 SSFL, and Boeing requests the opportunity to present summaries, analysis, and arguments  
17 regarding that data to the State Board. This data was referenced in Boeing's August 21, 2023  
18 comments and resubmitted with its October 17, 2023, submission, and in testimony by Boeing  
19 and others during the September 28 and October 19 hearings. Boeing also seeks an opportunity  
20 to respond to the new requirements that the LA Regional Board inserted into the WDR on  
21 October 19, 2023, against LA Regional Board and DTSC staff's recommendations, immediately  
22 before adopting them, and to provide argument based on its improperly excluded rebuttal  
23 evidence, as well as newly submitted evidence that was not available before the LA Regional  
24 Board approved the WDR.

25  
26 <sup>1</sup> The LA Regional Board added new requirements after the close of public comments, overriding  
27 staff recommendations and revising the Tentative WDR, at the conclusion of the October 19,  
28 2023 hearing. Boeing therefore did not have adequate opportunity to prepare and provide any  
comments on these new requirements, although Boeing or others previously had provided  
comments on the subject-matter of those new requirements.

1 **XII. Reservation of Rights**

2 On October 20, 2023, Boeing requested that the LA Regional Board transmit a copy of the  
3 Administrative Record for this matter. Counsel for the LA Regional Board responded that the  
4 record was not available because the LA Regional Board does not prepare an administrative  
5 record until a petition for review is filed. Boeing therefore is submitting this Petition without  
6 reviewing the administrative record. Boeing reserves the right to amend this Petition after it has  
7 had the opportunity to review the administrative record.

8 ///

1 **Statement of Points and Authorities**

2 **I. Introduction**

3 The Boeing Company (“Boeing”) is making substantial progress towards implementation  
4 of a final soil and groundwater cleanup action at the Santa Susana Field Laboratory (“SSFL” or  
5 the “Site”) under supervision of the Department of Toxic Substances Control (“DTSC”). Boeing  
6 already has completed, or is actively implementing, numerous interim cleanup actions for soil and  
7 groundwater. Additionally, for decades Boeing has effectively managed stormwater at the Site  
8 under a federal stormwater permit that, according to testimony by staff from the issuing agency,  
9 the Los Angeles Regional Water Quality Control Board (“LA Regional Board” or “Regional  
10 Board”), is one of the most, if not *the* most, stringent stormwater-only permits in the State. Ex. D  
11 at 226:5-7.<sup>2</sup>

12 Despite this substantial progress towards a final soil and groundwater remedy at the Site,  
13 the strong protections offered by Boeing’s current stormwater permit, and the contrary  
14 recommendations and opinions of the LA Regional Board’s staff, on October 19, 2023, the LA  
15 Regional Board approved a renewed permit that added many new onerous and unwarranted  
16 requirements. (Order No. R4-2023-0359 (the “WDR”).) In adopting these requirements, the LA  
17 Regional Board acted in excess of its jurisdiction, contrary to law, contrary to the State Board’s  
18 previous orders and directives, and contrary to the evidence in the record. For example, the LA  
19 Regional Board again added duplicative effluent limits at two outfalls, in violation of both  
20 applicable federal regulation (the Internal Waste Stream Rule), and the State Board’s 2006  
21 decision *that expressly prohibited this exact action*. In addition, the Regional Board overruled  
22 its own staff’s recommendation to remove certain effluent limits from the WDR, without  
23 identifying any error in staff’s analysis and in violation of the State Board’s prior directives. *See*  
24 *In the Matter of the Petitions of County Sanitation District No. 2 of Los Angeles and Bill*  
25 *Robinson*, State Board File Nos. A-1509 and 1509(a), 2003 WL 25914831, at \*4 (July 16, 2003).

26 <sup>2</sup> The Regional Board’s attorney provided Boeing with a draft transcript of the September 28,  
27 2023 hearing, excerpts of which are attached to this Petition as Exhibit D. Boeing reserves the  
28 right to amend its Petition after the Regional Board serves the administrative record with the final  
certified transcript.

1 The Regional Board also improperly set new effluent limits on aluminum for the first time, after  
2 repeatedly deciding against doing that during past renewals, and despite the overwhelming  
3 evidence in the record that aluminum is naturally occurring rather than a residual significant  
4 material from the long-ceased industrial operations at SSFL.

5 Boeing is seeking review of these *and other* inappropriate and improper requirements in  
6 the WDR. Boeing requests that the State Board grant review and reissue the WDR without the  
7 improper requirements, as set forth below, or remand and order the LA Regional Board to do so.  
8 Boeing also requests that the State Board add to the administrative record Boeing's October 17,  
9 2023 submission of comments and evidence, which the LA Regional Board improperly refused to  
10 consider, as well as additional exhibits enclosed with this Petition, which are relevant and should  
11 be considered in these proceedings.<sup>3</sup>

## 12 **II. Background**

13 SSFL is an approximately 2,850 acre site in the Simi Hills in Ventura County, California.  
14 Ownership of the Site is divided between Boeing and the United States. Ex. A at F-4. Boeing's  
15 ownership of its portion of the Site began in 1996, when it acquired aerospace divisions of  
16 Rockwell International (including Rocketdyne). The National Aeronautics and Space  
17 Administration ("NASA") administers the federally owned portions of the Site, and the  
18 Department of Energy has leased and maintained buildings on portions of the Boeing-owned  
19 property. Ex. A at F-4. Beginning in or around 1948, the Site was used for various industrial  
20 operations by these entities, including rocket engine and component research, development,  
21 assembly, and testing, and nuclear and other energy research and development. *Id.* at F-5; Ex. Q  
22 at 1-4. Nuclear work ceased in 1988 and the last rocket engine test was in 2006. Current onsite  
23 activities include property maintenance and implementation of environmental programs as  
24 discussed below. Ex. A at F-5.

---

25  
26 <sup>3</sup> Appendix 1 to this Petition lists Boeing's Exhibits and summarizes their relevance to this  
27 Petition and the basis for consideration by the State Board. Appendix 2 to this Petition lists the  
28 evidence that was submitted by Boeing on October 17, 2023 and improperly excluded by the  
Regional Board, and summarizes the relevance of that evidence and the grounds for admission to  
the record.



1 DTSC entered into a Consent Order with Boeing, DOE, and NASA for the Site in 2007,  
2 following decades of investigation and other corrective actions under agency supervision. The  
3 2007 Consent Order required the three respondents to perform corrective actions for soil and  
4 groundwater at the Site. Numerous interim cleanup actions have been completed, including 15  
5 interim soil cleanup actions, which removed more than 106,000 cubic yards of contaminated soil  
6 and debris from the Site. Ex. D at 213:11-214:4; 247:6-14; Ex. G at 9. Interim groundwater  
7 cleanup is ongoing as well, including extraction and treatment of groundwater from both Boeing  
8 and NASA portions of the Site. Ex. A at F-7; Ex. D at 213:17-20; Ex. E at 31:9-12. Additional  
9 interim soil cleanup projects under two DTSC Imminent and Substantial Endangerment Consent  
10 Orders are ongoing or scheduled to begin within the next few months. Those actions include an  
11 ongoing soil cleanup at the adjacent property, the former Rocketdyne Atomics International Rifle  
12 and Pistol Club Shooting Range that began in June 2023, and the soil cleanup action at the former  
13 Area I Burn Pit scheduled to begin in early 2024. Ex. D at 213:23214:4; Ex. F at 4.

14 Boeing also has managed stormwater at the Site for decades, under waste discharge  
15 requirements issued by the LA Regional Board. Over the past 16 years, Boeing has invested  
16 more than \$100 million to improve stormwater quality and compliance, and has achieved  
17 compliance with permit limits in over 99% of more than 19,000 samples taken since 2015. Ex. D  
18 at 244:25-247:17; Ex. G at 5-6.<sup>4</sup>

19 The majority of stormwater at SSFL is collected in a series of storage ponds, the largest of  
20 which is the Silvernale pond, and then treated to effluent limits that are set at or lower than  
21 drinking water standards. Ex. A at F-6 – F-7. Treated stormwater is discharged at two internal  
22 discharge points, Outfalls 011 and 018, and then flows southwards towards the perimeter of the  
23 Site, where it is discharged at Outfalls 001 and 002, respectively. *Id.* The discharges then flow to  
24 Bell Creek, a tributary of the Los Angeles River, which is a water of the United States. *Id.*  
25 Stormwater from Happy Valley, a northeastern portion of the Site, is discharged at Outfall 008

26 \_\_\_\_\_  
27 <sup>4</sup> The majority of those exceedances were associated with the 2018 Woolsey fire, which caused a  
28 loss of vegetation and resulting increase in erosion of soil containing naturally occurring  
constituents. Restoration activities helped return stormwater controls and water quality to pre-fire  
conditions. Exhibit D at 249:10-24.

1 and flows to Dayton Canyon Creek and, ultimately, to tributaries of the Los Angeles River. *Id.*  
2 Stormwater from Outfall 009 flows toward Arroyo Simi, a tributary of Callegous Creek, which is  
3 a water of the United States. *Id.* A map of the stormwater system, outfalls, and flow directions is  
4 provided as Exhibit B. Other outfalls, not specifically referenced in this Petition, also are  
5 depicted in Exhibit B and described in the fact sheet in the WDR.

6 As required by the LA Regional Board, Boeing has engaged and supports the activities of  
7 the independent Surface Water Expert Panel (“Expert Panel”). Ex. A at 23. The Panel,  
8 consisting of distinguished Ph.D. engineers and other experts approved by the LA Regional Board  
9 and with extensive experience in stormwater management, advises Boeing on its stormwater  
10 pollution prevention plan and best management practices plan, communicates with the public and  
11 facilitates public engagement, and submits annual reports to the LA Regional Board regarding  
12 monitoring results, BMP performance, and recommendations for improving stormwater controls.  
13 *Id.*

14 The currently operative waste discharge requirements (as of the date of this Petition) were  
15 issued on March 31, 2015, in Order No. R4-2015-0033 (NPDES Permit No. CA0001309). After  
16 Boeing’s timely renewal application on September 26, 2019, the LA Regional Board published  
17 Tentative WDR in Order No. R4-2022-XXXX for notice and comment on December 8, 2021.  
18 Ex. H. Following a hearing on February 10, 2022, the LA Regional Board deferred action on the  
19 WDR, to allow Board staff to analyze additional stormwater data. On July 21, 2023, the LA  
20 Regional Board issued Revised Tentative WDR, Order No. R4-2023-XXXX, for notice and  
21 comment. Ex. K. Boeing and other parties and interested persons submitted comments on or  
22 before August 21, 2023, and the LA Regional Board issued a further Revised Tentative WDR and  
23 Response to Comments (“RTC”) on September 25, 2023. Exs. L and M. The LA Regional  
24 Board held hearings on the revised Tentative WDR on September 28 and October 19, 2023.

25 Prior to the October 19 hearing, on October 17, Boeing submitted rebuttal evidence to  
26 support the rebuttal testimony the LA Regional Board had authorized Boeing to present. Ex. D at  
27 259:1-2; Ex. E at 45:20-22 (stating that Boeing had reserved 8 minutes for rebuttal). Boeing also  
28

1 submitted hyperlinks to documents referenced in Boeing's August 17, 2023 comments. Boeing's  
2 October 17 submission is attached as Exhibit O. However, at the start of the hearing on October  
3 19, the Chairperson of the LA Regional Board excluded Boeing's submission as untimely and  
4 prejudicial. Ex. E at 13:16 - 14:5. Boeing therefore provided its rebuttal testimony without the  
5 benefit of its rebuttal evidence in the record.

6 At the conclusion of the October 19 hearing, the LA Regional Board modified the revised  
7 Tentative WDR for the express purpose of making it stricter. Ex. E at 80:19 - 95:5 (summarizing  
8 the additions to the Tentative WDR). The LA Regional Board rejected the analyses and  
9 recommendations by Board staff against those stricter conditions, including staff  
10 recommendations to remove effluent limits for five constituents at Outfall 008 that were not  
11 supported by a reasonable potential analysis ("RPA") (Ex. L at F-29; F-39; F-43 - F-44; F-53 - F-  
12 54), and a staff recommendation not to require duplicative groundwater infiltration and design  
13 feasibility studies at two ponds (Ex. D at 240:15 - 241:6; Ex. E. at 21:23 - 22:5; Ex. M at 30).  
14 The Regional Board also failed to heed the testimony by a DTSC representative and a member of  
15 the Expert Panel, demonstrating why some of the new requirements and stricter conditions were  
16 not necessary or appropriate. Ex. E at 25:25 - 28:7; 36:4 - 38:3.

17 Boeing now seeks review of several of those last-minute modifications, as well as other  
18 conditions that exceed the LA Regional Board's authority in this permit proceeding, and are  
19 contrary to law and regulation, prior State Board orders, and evidence that is in the record or  
20 should be in the record.

### 21 **III. Standard of Review**

22 On this Petition for review, the State Board is charged with determining whether the LA  
23 Regional Board's action in adopting the WDR was appropriate and proper, or inappropriate and  
24 improper. 23 C.C.R. § 2052(a)(2). The State Board exercises its independent judgment when  
25 reviewing the LA Regional Board's decisions. *In re Petition of Exxon Company, U.S.A., Central*  
26 *Valley RWQCB*; File No. A-3, 1985 WL 1120860, at \*5 (August 22, 1985) (finding the Central  
27 Valley Regional Board erred in naming two parties to a cleanup order because it was not  
28

1 supported by the evidence in the record). The State Board must consider the record before the  
2 LA Regional Board, and any other relevant evidence the State Board determines should be  
3 considered in the interest of effectuating and implementing the State’s water quality programs.  
4 Cal. Water Code § 13320(b).

#### 5 **IV. Applicable Law**

6 The LA Regional Board’s jurisdiction in this proceeding is limited to stormwater under its  
7 federal National Pollutant Discharge Elimination System (“NPDES”) permitting authority under  
8 the Clean Water Act. Ex. A at 5. The LA Regional Board is bound to comply with all federal  
9 rules and requirements applicable to such permits. As the LA Regional Board and its staff has  
10 repeatedly acknowledged, it may not regulate groundwater *with this NPDES permit*, since doing  
11 so would improperly expand its jurisdiction under the federal program, and DTSC is the lead  
12 agency for soil and groundwater cleanup at SSFL. Ex. E at 42:11-13; 46:23-24; 63:20-23; 73:4-  
13 17; Ex. M at 30; Ex. V. Boeing therefore cites to governing federal law and regulation, as well as  
14 implementing State law as applicable.

#### 15 **V. Argument**

##### 16 **A. The LA Regional Board Violated the State Board’s 2006 Order and EPA’s** 17 **Internal Waste Stream Rule, 40 C.F.R. § 122.45(h), When Setting New Effluent** 18 **Limits at Paired Outfalls.**

19 After stormwater is discharged from internal Outfalls 011 and 018, it is conveyed  
20 southward, and mixed with additional stormwater along the way, towards the perimeter of the  
21 SSFL site, where it is discharged at Outfalls 001 and 002, respectively. *See* Ex. B. In a prior  
22 version of the WDR, in 2005, the LA Regional Board initially set effluent limits at all four of  
23 these paired outfalls (001 and 011, and 002 and 018). The State Board decided on review that  
24 setting effluent limits at all four outfalls created an improper risk of duplicate enforcement,  
25 because the same water was discharged through each paired outfall. Ex. C at 3; 13-14. The State  
26 Board ordered the LA Regional Board to set effluent limits at *either* Outfalls 001 and 002, *or* at  
27 Outfalls 011 and 018, but not at all four. *Id.* at 16. On remand, the LA Regional Board removed  
28 the limits from Outfalls 001 and 002, which is how it remained until 2023.

1 Despite this clear direction from the State Board, in the new WDR, the LA Regional  
2 Board has again added duplicative effluent limits at Outfalls 001 and 002. Ex. A at 6-9. The  
3 Regional Board contends that new information about potential new source areas that drain to  
4 Outfalls 001 and 002, not known when the State Board reviewed the WDR in 2006, warrants  
5 setting compliance limits at Outfalls 001 and 002. *Id.* at F-27. But even if that is the case, that  
6 only shows that the compliance limits should at most be ***moved*** to the perimeter Outfalls 001 and  
7 002, not duplicated there. Because discharges from Outfalls 011 and 018 flow to Outfalls 001  
8 and 002, respectively, the LA Regional Board again has set compliance limits twice on the same  
9 discharges, just as it did in 2005, creating a risk of duplicate enforcement, in violation of the State  
10 Board's Order.<sup>5</sup>

11 This conclusion, that the effluent limits at most should be ***moved*** to Outfalls 001 and 002,  
12 is required by U.S. EPA's Internal Waste Stream Rule, which the LA Regional Board has failed  
13 to consider or follow. That regulation limits when the permitting agency may set effluent limits  
14 at an internal outfall within a facility, before discharges are mixed with other waste streams. 40  
15 C.F.R. § 122.45(h). The permit writer may do so only when setting effluent limitations at the  
16 perimeter outfall is "impractical or infeasible," in which case the permit writer must explain in the  
17 Fact Sheet the "exceptional circumstances" that make the limits on internal outfalls necessary.  
18 *Id.*; *see also* Ex. N at 8-4 ("Internal monitoring is generally not appropriate for determining  
19 compliance with water quality-based effluent limitations (WQBELs) unless final effluent  
20 monitoring is impractical (e.g., the final discharge point is submerged or inaccessible).")

21 The LA Regional Board has failed to comply with the Internal Waste Stream Rule. If  
22 discharges from Outfalls 011 and 018 mix with other distinct flows of contaminated stormwater  
23 before ultimate discharge from the facility near the perimeter Outfalls 001 and 002, as the

---

24 <sup>5</sup> The Regional Board has attempted to mitigate the prejudice of duplicate enforcement by  
25 adopting the following limitation: "this Order treats effluent limitation exceedances at paired  
26 outfalls as a single violation if they occur during the same discharge event and if the exceedances  
27 involve the same pollutant parameter." Ex. A at F-29. It is unclear how this provision will work  
28 in practice if there are exceedances at multiple outfalls. It also is inconsistent with the State  
Board's 2006 Order and, as discussed below, U.S. EPA's Internal Waste Stream Rule. Instead of  
inventing unclear new enforcement procedures, the Regional Board should follow the regulation  
and this Board's 2006 Order.

1 Regional Board contends, then under the Internal Waste Stream Rule, the compliance limits  
2 presumptively must be set at the perimeter outfalls **only**. The LA Regional Board has not  
3 explained in the Fact Sheet any “exceptional circumstances” that make this infeasible or  
4 impractical. Therefore, it has violated the Internal Waste Stream Rule by setting effluent limits at  
5 the internal Outfalls 011 and 018.

6 40 C.F.R. § 122.45(a) does not support the LA Regional Board’s action. The Response to  
7 Comments incompletely quotes this regulation as follows:

8 All permit effluent limitations ... shall be established for each outfall or  
9 discharge point of the permitted facility, except as otherwise provided  
under § 122.44(k)(BMPs where limitations are infeasible)...

10 Ex. M at 2. However, this quotation omits the most important part of this regulation, the Internal  
11 Waste Stream Rule. The full regulatory provision is as follows:

12 All permit effluent limitations ... shall be established for each outfall or  
13 discharge point of the permitted facility, except as otherwise provided  
14 under § 122.44(k)(BMPs where limitations are infeasible) **and** paragraph  
[h] of this section (**limitations on internal waste streams**).<sup>6</sup>

15 40 C.F.R. § 122.45(a) (emphasis added). It was inappropriate and improper for the LA Regional  
16 Board to fail to consider and follow the Internal Waste Stream Rule.

17 Boeing does not challenge continuing benchmark monitoring at whichever paired outfalls  
18 do not have effluent limits. Granting the relief sought by Boeing will not deprive the LA  
19 Regional Board of any data or information, but instead only will eliminate duplicative compliance  
20 limits and the potential for duplicative enforcement, which the 2006 Order and the Internal Waste  
21 Stream Rule prohibit.<sup>7</sup>

22 <sup>6</sup> As the Fifth Circuit recognized, section 122.45(a) contains a typographical error, mistakenly  
23 referring to the Internal Waste Stream Rule as subsection (i), when in fact it is in subsection (h).  
See *Texas Mun. Power Agency v. Adm'r of U.S. E.P.A.*, 836 F.2d 1482, 1488 n.24 (5th Cir. 1988).

24 <sup>7</sup> The LA Regional Board’s Response to Comments also states that limits at all four paired  
25 outfalls are required because “the water discharged from Outfalls 011 and 001 and Outfalls 002  
26 and 018.” Exhibit M at 3. But even if this were true (and the LA Regional Board’s cursory and  
27 conclusory statement makes it difficult to evaluate), it can be addressed by setting effluent limits  
28 at Outfalls 002 and 001, with benchmark monitoring at Outfalls 011 and 018, consistent with the  
Internal Waste Stream Rule and this Board’s 2006 Order. The Response to Comments also  
references “the **possibility** of dilution from runoff generated in the undeveloped area.” *Id.* at 6

1 For these reasons, Boeing respectfully requests that the State Board order the LA Regional  
2 Board to set effluent limits *either* at Outfalls 011 and 018, *or* at 001 and 002 (based on the LA  
3 Regional Board’s alleged new information), *but not both*.

4 **B. The LA Regional Board Set Effluent Limits in Violation of the Procedures in 40**  
5 **C.F.R. § 122.44 and Against the Weight of Evidence in the Record.**

6 The LA Regional Board acted improperly by carrying over the effluent limits for five  
7 constituents (antimony, nickel, selenium, thallium, and TCDD) at Outfall 008 from the prior  
8 WDR, even though those limits were not supported by the reasonable potential analyses (“RPAs”)  
9 for those constituents, and removal of those limits qualifies for two separate exceptions to the  
10 backsliding prohibition. These actions were contrary to federal law and regulation, EPA guidance,  
11 Board staff’s decisions, and the evidence in the record.

12 On renewal, the LA Regional Board must consider whether new information or changed  
13 circumstances warrant removing effluent limits from the permit. 40 C.F.R. § 122.44(l); Ex. N at  
14 6-14 - 6-15; *In the Matter of the Petitions of County Sanitation District No. 2 of Los Angeles and*  
15 *Bill Robinson*, Files Nos. A-1509 and 1509, 2003 WL 25914831, at \*4 (July 16, 2003). Although  
16 federal law and regulation generally prohibit making a permit less stringent on reissuance (i.e.,  
17 backsliding), this prohibition does not apply in certain circumstances, including two that are  
18 relevant here. First, there is no prohibited backsliding where new information “which was not  
19 available at the time of permit issuance ... would have justified the application of a less stringent  
20 effluent limitation at the time of permit issuance.” 40 C.F.R. § 122.44(l)(2)(i)(B). New  
21 monitoring data indicating that there is no reasonable potential for the constituent to cause or  
22 contribute to violations of the State’s water quality standards triggers this exception. *Sanitation*

23 \_\_\_\_\_  
24 (emphasis added.) This is not a showing in the Fact Sheet of “exceptional circumstances” making  
25 monitoring at Outfalls 001 and 002 impractical or infeasible, as required by the Internal Waste  
26 Stream Rule. Moreover, if the compliance points are moved to the perimeter outfalls, benchmark  
27 monitoring at Outfalls 011 and 018 still would continue to provide the same data to the LA  
28 Regional Board it has received under previous WDRs. Following the Internal Waste Stream Rule  
and this Board’s 2006 Order will not deprive the LA Regional Board of any information it would  
have under the new WDR to help it understand the possibility of dilution.

1 *District*, 2003 WL 25914831, at \*4. Second, there is no prohibited backsliding where the  
2 receiving water is not impaired for the pollutant at issue, and removing the limit therefore is  
3 consistent with the state’s antidegradation policy. 33 U.S.C. § 1313(d)(4); *Sanitation District*,  
4 2003 WL 25914831, at \*4 (remanding because the LA Regional Board failed to properly consider  
5 these two exceptions to the backsliding rule and instead retained effluent limits that were not  
6 supported by the RPA). If retention of the permit limit is unsupported by these analyses, it should  
7 be removed (unless the Regional Board can articulate is a separate basis, other than RPA and anti-  
8 backsliding, for including it). *Sanitation District*, 2003 WL 25914831, at \*4; Ex. N at 6-14 - 6-15.

9         The LA Regional Board has violated these principles, in much the same way it did in  
10 *Sanitation District*. Here, Board staff performed new RPAs for the five constituents at Outfall  
11 008, and concluded there was no reasonable potential for these constituents to cause or contribute  
12 to violations of the State’s water quality standards. Ex. L at F-29; F-43 - F-44; F-52 - F-55 . This  
13 analysis was based on new information, including completion of an Interim Source Removal  
14 Action in 2010 that removed more than 4,000 cubic yards of soil from the Outfall 008 watershed,  
15 and more than 10 years of post-removal action monitoring data. *Id* at F-57. Staff therefore  
16 properly concluded that the exception to the backsliding rule for new information applied. *Id* at F-  
17 56 - F-57. Staff also properly concluded that the additional exception under CWA section  
18 303(d)(4)(B) applies, because the receiving water, Dayton Canyon Creek, is not impaired for these  
19 five pollutants and removing these limits is consistent with the State’s antidegradation policy.  
20 Staff therefore removed these effluent limits from the Tentative Permit. *Id.* at F-52 - F-53.

21         The LA Regional Board identified no flaws in Staff’s analysis. On the contrary, in adding  
22 the limits back into the final WDR, the LA Regional Board acknowledged “recent data indicating  
23 that there was no RPA for these constituents.” Ex. A at F-32; *see also id.* at F-43 - F-44 (adopting  
24 staff’s reasonable potential analyses for these constituents). Nonetheless, it added these limits  
25 back into the permit solely as holdovers from the prior WDR. *Id.*. (“In addition to WQBELs  
26 based on reasonable potential, this permit carries over effluent limits from the previous permit”);  
27  
28



1 and Table F-1 (limits for antimony, nickel, selenium, thallium and TCDD “based on previous  
2 permit”).

3 To support its action, the LA Regional Board cited several inapposite authorities in the  
4 Fact Sheet and during the hearing. First, in *City & County of San Francisco v. EPA*, 75 F.4th  
5 1074, 1091-93 (9th Cir. 2023), the Ninth Circuit considered whether narrative limits could be  
6 adopted without performing an RPA, and concluded they could be. It never considered or  
7 addressed adoption of a numeric limit when it is undisputed that the limit is unsupported by the  
8 RPA and that two exceptions to the backsliding rule apply. Second, although Clean Water Act  
9 section 301 authorizes more stringent permit limits necessary to meet water quality or treatment  
10 standards or schedules for compliance under state law, the LA Regional Board has not explained  
11 how, and there is no evidence in the record that, the contested limits are necessary to meet any  
12 standards or schedules under state law. Finally, the Permit Writers Manual states that “Pollutants  
13 of concern can also be identified ...because they were previously identified as needing WQBELs  
14 in the Previous Permit,” Ex. A at F-33, but also states that the permit writer “**must** determine  
15 whether the conditions leading to a decision to include WQBELs for the pollutant in the previous  
16 permit continue to apply,” and “**would need to** complete an anti-backsliding analysis to determine  
17 whether to remove the WQBELs from the reissued permit.” Ex. N at 6-14 - 6:15 (emphasis  
18 added). Nothing in the Manual supports the LA Regional Board’s conclusion that a WQBEL can  
19 be retained even if it is contrary to a completed RPA and there is no backsliding.<sup>8</sup>

20 For these reasons, Boeing requests that the State Board reissue the WDR without these  
21 five effluent limits at Outfall 008 and with the omitted RPA and backsliding analysis, or instruct  
22 the LA Regional Board to do so. Remand for reconsideration is not appropriate on this issue. As  
23 discussed, Board staff already performed all requisite factual analyses and concluded that there is  
24 no reasonable potential for these constituents to cause or contribute to violations of the State’s

25  
26 <sup>8</sup> During the hearing, LA Regional Board members also discussed the future risks of extreme  
27 weather patterns and fires due to climate change. This was not among the reasons given by the  
28 LA Regional Board in the WDR for retaining these limits. Moreover, as EPA’s representative  
testified during the hearing, these are not factors properly considered in an RPA. See Exhibit D at  
289-2-17.

1 water quality standards, and no backsliding. The Board accepted those analyses, but nonetheless  
2 adopted the limits at issue for legally defective reasons. Once those legal errors are corrected,  
3 there is nothing to reconsider.

4 **C. The LA Regional Board Acted in Excess of Its Jurisdiction, Contrary to Law,**  
5 **and Against the Evidence in the Record, by Setting Effluent Limits on**  
6 **Aluminum, a Naturally Occurring Background Material.**

7 The LA Regional Board’s jurisdiction in this proceeding is limited to stormwater under its  
8 NPDES permitting authority under the Clean Water Act. That authority, as applicable here, is  
9 limited to permitting of stormwater related to “industrial activity,” including discharges in areas  
10 where “significant materials” remain from former industrial activities. 40 C.F.R. §  
11 122.26(a)(1)(ii) and (b)(14); Cal. Water Code §§ 13370 et seq. “Significant materials” include,  
12 for example, “raw materials; fuels; materials such as solvents, detergents, and plastic pellets;  
13 finished materials such as metallic products....” 40 C.F.R. § 122.26(b)(12). Naturally occurring  
14 materials in the soil, surface water, or subsurface that are not “significant materials” remaining  
15 from industrial activity are outside the LA Regional Board’s jurisdiction under the NPDES  
16 program. *Id.*

17 Aluminum is a pervasive, naturally occurring constituent in soil and stormwater at SSFL.  
18 The Surface Water Expert Panel concluded that “there are no industrial or impacted soil sources  
19 of aluminum at this site, and therefore aluminum exceedances in stormwater are likely from  
20 natural background soils.” Ex. P at App’x C, p. 33.<sup>9</sup> This conclusion is evident in Figure 29  
21 from the Expert Panel’s report, which compares aluminum detections in soil with potential soil  
22 cleanup areas at the Site. *Id.* The Panel found that there is “no difference” between the levels of  
23 aluminum in soil cleanup areas from levels in unimpacted soils. The Panel also concluded that  
24 aluminum in stormwater above the WDR’s limit could not be explained by industrial-impacted  
25 soil, because aluminum is present in soil only at or below site-specific background levels. *Id.* at

---

26 <sup>9</sup> Boeing requests that the State Board add the Expert Panel report to the record of this  
27 proceeding, on the grounds that it is significant and relevant to the issues raised by this Petition,  
28 that it was not issued until after the LA Regional Board adopted the final WDR, and that it should  
be considered by the State Board to effectuate the State’s water quality control policies. Cal.  
Water Code § 13320(b).

1 33-35. Finally, the Panel found that the soil and stormwater have consistent ratios of aluminum  
2 to iron, further indicating that aluminum in stormwater results from natural background  
3 conditions. *Id.* at 35. Notably, the LA Regional Board removed effluent limits for iron from the  
4 Permit, because “iron concentrations are likely from soils that are naturally occurring and not  
5 related to past industrial activity that occurred at the site.” Ex. A at F-58. By the same logic,  
6 limits on aluminum never should have been added.

7 The Expert Panel’s report was released on October 31, 2023, and therefore was not  
8 available for the LA Regional Board to consider during the October 19, 2023 hearing. For that  
9 reason, one of the LA Regional Board-approved experts on the Panel, UCLA Professor, Dr.  
10 Michael Stenstrom, summarized the Panel’s conclusions in his October 19 testimony, including  
11 its conclusion that “stormwater concentrations in aluminum are at or below offsite background.”<sup>10</sup>  
12 Ex. E at 26:15-18.

13 The Expert Panel’s 2023 report is only the most recent study to conclude aluminum at  
14 SSFL is naturally occurring. In 2009, another member of the Expert Panel, Dr. Robert Pitt, a  
15 Ph.D. Environmental Engineer, and University of Alabama Professor, prepared a report to the LA  
16 Regional Board summarizing background conditions and sources of metals, including aluminum,  
17 in SSFL watersheds. Ex. S at 41. Dr. Pitt summarized previous analyses that concluded “there  
18 was no airborne dispersion and deposition of metal contaminants (including aluminum) from the  
19 SSFL property” in the area of study (areas not used for industrial activities), and that the metals  
20 data “was representative of ambient conditions (i.e., background) based on the overall consistency  
21 in the observed concentrations, and because the detected concentrations were within the range of  
22 concentrations observed for California soils.” *Id.*

23 The LA Regional Board has not set an effluent limit for aluminum in the prior WDRs,  
24 despite the extensive history of monitoring aluminum at SSFL. There is no basis for second-  
25 guessing these decisions. The LA Regional Board nonetheless set the new effluent limit for

---

26 <sup>10</sup> In addition to having been approved by the LA Regional Board for participation in the SSFL  
27 Surface Water Expert Panel, the LA Regional Board has separately retained Dr. Stenstrom as an  
28 expert on stormwater issues unrelated to Boeing or SSFL, due to his nationally recognized  
expertise in this subject. *See* Ex. E at 27:24-28:4.

1 aluminum, based on RPA, because “data collected during the current permit term shows that  
2 aluminum exceeded applicable water quality objective of 1 mg/l at all outfalls.” Ex. M at 9.<sup>11</sup>  
3 However, the stormwater data does **not** indicate the source of that aluminum in stormwater, and it  
4 provides no evidence that the source was “significant material” such as fuel or metal products  
5 remaining on the Site from Boeing’s industrial operations. The evidence in the record that  
6 addresses the sources of aluminum in stormwater strongly indicates that it is unrelated to  
7 Boeing’s industrial activity. See Ex. P at App’x C, 33-35; Ex. E at 26:8-20; Ex. S at 41; Ex. F at  
8 9.

9 The Ninth Circuit has admonished against “absurd” interpretations of “industrial activity”  
10 that could expand authority under the stormwater permitting program in improper ways. See  
11 *Ecological Rights Foundation v. Pacific Gas and Electric Co.*, 713 F.3d 502, 513 (9th Cir. 2013)  
12 (maintenance of utility poles at a site are not related to “industrial activity”). Other absurd  
13 interpretations of “industrial activity” include “playground equipment, bike racks, mailboxes,  
14 traffic lights, billboards, and street signs—**indeed, anything that might contaminate**  
15 **stormwater.**” *Id.* (emphasis added). Naturally occurring soils with site-specific background  
16 concentrations of aluminum belong on—indeed, at the top of—this list. Otherwise, any former  
17 industrial site could remain at risk of perpetual permit violation simply because of naturally  
18 occurring materials at background levels in soil that have nothing to do with any industrial  
19 activity. Here, the overwhelming weight of evidence in the record shows that Boeing’s former  
20 industrial activities did not cause or contribute to the naturally occurring aluminum in stormwater.

21 Moreover, even if Boeing’s industrial operations contributed *some* aluminum to that  
22 soil—which is not supported by the record—that residual material is not significant, because it is  
23 at or below site-specific background levels and is not causing or contributing to stormwater  
24 exceedances. In other contexts, the State Board and LA Regional Board have set policies to  
25

---

26 <sup>11</sup> Although the Fact Sheet states the aluminum effluent limits were added based on RPA (Exhibit  
27 A at F-29), that analysis was omitted from Exhibit H of the WDR, which provides staff’s  
28 reasonable potential analyses (aluminum not included). Ex. A. at H1 – H48. The WDR therefore  
does not adequately explain the basis for the LA Regional Board’s decision to set an effluent limit  
for aluminum.

1 promote achievement of background water quality. Ex. W at 6 (setting policy to “ensure the  
2 cleanup and abatement of discharges in a manner that promotes *attainment of* either *background*  
3 *water quality* or the best water quality reasonably attainable if background levels of water quality  
4 cannot be restored”); Ex. X at 5-23. Extensive data and analyses show that SSFL naturally has  
5 high levels of aluminum in soil; that 99.9% of soil samples at SSFL (out of 6,496) contain  
6 aluminum concentrations at background or less; and that those background concentrations of  
7 aluminum likely were the cause of the recent concentrations (during the prior permit term) in  
8 excess of the new effluent limits for aluminum. Ex. P at App’x, p. 33. Whatever aluminum  
9 Boeing’s operations allegedly contributed to the Site necessarily must have been below those  
10 background concentrations, and therefore were not causing or contributing to concentrations in  
11 excess of the new effluent limits, because natural conditions were doing that anyway. Setting  
12 effluent limits on aluminum under these circumstances will risk subjecting Boeing to perpetual  
13 violations of its permit *due to natural conditions*, because Boeing allegedly contributed trace  
14 amounts of aluminum to the Site. This result is absurd, *Ecological Rights Foundation*, 713 F.3d  
15 502, and should be rejected by the State Board.

16 Accordingly, the LA Regional Board acted improperly in setting an effluent limit for  
17 aluminum. Boeing requests that the State Board reissue the WDR without the aluminum limits,  
18 or remand and direct the LA Regional Board to do so. Remand for reconsideration is not  
19 appropriate, because the LA Regional Board lacks jurisdiction to set effluent limits on naturally  
20 occurring materials that are not residual “significant materials,” and the overwhelming weight of  
21 evidence is that aluminum in stormwater at the Site is naturally occurring and not a residual  
22 “significant material” from historical industrial operations at SSFL. Moreover, even if there are  
23 limited amounts of aluminum in soil from Boeing’s former operations, they are not  
24 distinguishable from background concentrations and therefore are not contributing to any  
25 potential exceedance of the new effluent limit.

1           **D. The Permit Requires A Groundwater Infiltration Study that is Outside the LA**  
2           **Regional Board’s Jurisdiction in this NPDES Permit Proceeding, Duplicative,**  
3           **and Unnecessary.**

4           Near the conclusion of the October 19 hearing, shortly before voting to adopt the WDR,  
5           the LA Regional Board added a new requirement for Boeing to perform groundwater infiltration  
6           and design feasibility studies for the Silvernale and R-1 ponds. This action was improper, for two  
7           reasons.

8           First, the Board acted in excess of its jurisdiction by relying on Water Code § 13267,  
9           which authorizes site investigations to protect “waters of the state,” including groundwater. This  
10          code section does not apply to stormwater permits. *See In the Matter of City of Oceanside*, Files  
11          A-2688, A-2689, 2021 WL 9699498, at \*6 (February 16, 2021); *In the Matter of WDR for*  
12          *Municipal Separate Storm Sewer System (MS4) Discharges within the Coastal Watersheds of Los*  
13          *Angeles County*, Files A-2236 (a)-(kk), 2015 WL 4071332 at \*42 (June 16, 2015); *see also* Ex. M  
14          (Response to Comments) at 10 (“Monitoring and reporting requirements in NPDES permits are  
15          not imposed based on the authority in California Water Code section 13267.”)

16          Nothing in the NPDES stormwater permit program, or California’s implementation  
17          thereof, authorizes the LA Regional Board to require infiltration and design feasibility studies to  
18          protect groundwater. *See* Cal. Water Code § 13383 (authorizing monitoring and reporting with  
19          regards to “navigable waters,” as defined in the Clean Water Act). During the October 19  
20          hearing, LA Regional Board members repeatedly acknowledged that groundwater is outside the  
21          Board’s jurisdiction when acting on the WDR. Ex. E at 42:11-13; 46:23-24; 63:20-23. It was  
22          improper for the LA Regional Board to seek to expand its NPDES permitting authority by  
23          looking to independent state law programs that this Board and the LA Regional Board have  
24          specifically said do not apply.

25          Second, the LA Regional Board’s action was duplicative and unnecessary. During the  
26          October 19 hearing, Dr. Stenstrom summarized the Expert Panel’s report, by testifying that  
27          infiltration is “essentially zero” at Silvernale Pond and that the contaminants of concern at the  
28          ponds are particulates, which do not migrate to groundwater. Ex. E at 27:6-8. The Expert Panel’s

1 report, released on October 31, 2023, provides further support for this conclusion.<sup>12</sup> The Expert  
2 Panel considered multiple lines of evidence, and concluded “that stormwater infiltration in the  
3 ponds is very low at SSFL.” Ex. P at 40. That evidence included measurements of water levels  
4 in the ponds, studies of groundwater recharge rates, and consideration of the composition of  
5 subsurface materials. One of the studies it considered was performed by the SSFL Groundwater  
6 Advisory Panel, which concluded that an average of only 3.8% of precipitation at *the entire SSFL*  
7 *site* infiltrated to groundwater. *Id.*; *see also* Ex. T. The Surface Water Expert Panel concluded  
8 that infiltration at Silvernale and R-1 ponds is lower than this, due to site specific conditions. Ex.  
9 P at App’x E, 5-6. Based on all of this evidence, it concluded that Silvernale Pond “is sealed and  
10 infiltration is negligible,” and infiltration at the R-1 and other ponds also is “very small.” *Id.*

11 Consistent with Dr. Stenstrom’s testimony, the Expert Panel also concluded that while  
12 little to no groundwater infiltration occurs, the particular constituents of concern at these ponds  
13 are predominantly particulates that do not migrate to groundwater through sediment and soil. Ex.  
14 P at 39-40.<sup>13</sup> Finally, it concluded that influent monitoring (i.e., stormwater entering the ponds)  
15 in 2022/2023 did not detect any analytes in concentrations above California’s primary drinking  
16 water maximum contaminant limits. *Id.* In light of this overwhelming evidence, and with no  
17 controverting evidence in the record, there is no reasonable basis for requiring Boeing to prepare  
18 an ***additional*** infiltration study or design feasibility study.<sup>14</sup>

19 Third, the Board’s action risks interfering with the DTSC-supervised soil and groundwater  
20 cleanup at SSFL. As the LA Regional Board has acknowledged, DTSC is the lead agency for  
21

---

22 <sup>12</sup> Geosyntec Consultants, which supports the Expert Panel in its work, provided a memorandum  
23 summarizing these conclusions to the LA Regional Board on October 18, 2023, one day before  
24 the October 19, 2023 hearing. That memorandum is attached to the Expert Panel’s report. See  
25 Ex. P at Appendix E.

24 <sup>13</sup> This conclusion by the Expert Panel is based on a well-established scientific principal. *See*,  
25 e.g., Exhibit R at 7 (explaining how concentrations of some materials in water, such as iron and  
aluminum, decrease as water moves from soil to groundwater).

26 <sup>14</sup> Boeing acknowledges that the WDR provides that, Boeing “may utilize already available  
27 information that is currently being collected by the surface or groundwater expert panel or other  
28 federal, state, or local agencies to support or augment this study.” Exhibit A at E-29. However,  
allowing existing work to “support or augment” the duplicative, unnecessary, and *ultra vires* new  
requirements does not cure the impropriety of the LA Regional Board’s action in requiring those  
studies in the first place.

1 groundwater cleanup at SSFL. Ex. D at 226:2-4; Ex. V at 1 (“The Los Angeles Water Board  
2 acknowledges that DTSC is the lead agency overseeing the cleanup of contaminated soil and  
3 groundwater at SSFL.”) During the October 19 hearing, a representative of DTSC testified that  
4 the Silvernale and R-1 ponds “will be cleaned up as part of the Sitewide cleanup,” which likely  
5 would include excavation of contaminated soil. Ex. E at 36:9-12; 37:6-12. Staff testified on  
6 September 28 that “staff do not recommend a renewed Groundwater Infiltration Study at this  
7 time,” based on the Expert Panel’s work and DTSC’s action at the ponds. Ex. D at 241:3-6. As  
8 staff testified, “an investigation of groundwater contamination is ongoing and disturbing  
9 sediments will interfere with DTSC’s investigation and could exacerbate conditions further.” *Id*  
10 at 240:25 - 241:3; *see also* Ex. M at 30.<sup>15</sup>

11 For these reasons, Boeing requests that the State Board reissue the WDR without the  
12 requirements for infiltration and design feasibility studies at the ponds, or direct the LA Regional  
13 Board to do so. Here, too, remand for reconsideration is not appropriate, because the LA  
14 Regional Board lacks jurisdiction to issue stormwater permit conditions to address groundwater  
15 quality, and the Expert Panel report demonstrates that no further action is needed to address  
16 infiltration at the ponds.

17 **E. The LA Regional Board Improperly is Requiring Monitoring of PCBs Using an**  
18 **Unapproved, Unreliable, and Unnecessary Method.**

19 Under the Clean Water Act, compliance with effluent limits may be measured only using  
20 testing methods approved by U.S. EPA. 40 C.F.R. § 136.1(a). Prior WDRs for SSFL have long  
21 required monitoring for PCBs using U.S. EPA-approved Method 608. But because there is no  
22 reasonable potential for PCBs to cause or contribute to water quality violations, the LA Regional  
23 Board has not established effluent limits for PCBs in the WDR. Ex. D at 240:3-8; *see also* Ex. M  
24 at 24. Indeed, in more than 1,750 samples since 1998, many of which were collected from  
25

26 <sup>15</sup> In its 1990 Memorandum of Understanding with DTSC regarding the coordination of site  
27 cleanup actions, the State Board agreed that “It is a basic aim of this MOU and the policy of the  
28 parties that duplication of effort in the site cleanup program be avoided. Public health and the  
environment are best served by each party minimizing duplication of effort on the greatest  
number of sites possible.” Exhibit U at 3.



1 stormwater that was not treated by the onsite treatment system, *PCBs have never detected in*  
2 *stormwater at SSFL*. Ex. E at 29:14-17.

3 In the initial version of the Tentative WDR, released on December 8, 2021, staff added an  
4 *option* for Boeing to use the unapproved Method 1668C to monitor for PCBs as congeners. Ex.  
5 H. at E-15. Method 1668C is significantly more sensitive than Method 608 and can detect PCBs  
6 at lower concentrations than other available methods, as low as one part-per-quadrillion.  
7 However, there are significant problems with the reliability, necessity, cost, and availability of  
8 Method 1668C. For these reasons, EPA repeatedly has declined to approve use of this method for  
9 compliance testing, most recently on August 29, 2023.<sup>16</sup>

10 In the revised Tentative WDR issued on July 21, 2023 (before EPA's decision again to not  
11 approve Method 1668C), staff changed the Tentative WDR to *require* use of Method 1668C in  
12 addition to Method 608. Ex. K at E-13 - E-14. No explanation was provided for this change until  
13 the Response to Comments, on September 25, 2023, where staff rejected requests to set effluent  
14 limits for PCBs because it was not supported by RPA, but noted that additional PCB monitoring  
15 using Method 1668C would be required for informational purposes. Ex. M at 24-25. The final  
16 WDR requires monitoring for PCBs using both Methods 608 and 1668C. Ex. A at E-14.

17 The LA Regional Board's decision to mandate PCB monitoring using Method 1668C is  
18 improper for several reasons. First, the method is unreliable, particularly when used to evaluate  
19 sources of contamination. The Supreme Court of Washington has expressed the problem as  
20 follows (summarizing and endorsing the position of the Washington Department of Ecology):

21 Method 1668C is unreliable because that test does not allow [the agency] to  
22 determine whether any of the PCBs detected come from the discharger, the test  
23 container itself, or the ambient air. This means that the test would detect the  
24 presence of PCBs but would not identify the source. Any polluter subject to an  
25 enforcement action stemming from [the agency's] use of such method of detection  
26 would predictably be able to challenge the validity [of] the agency's actions  
27 because of the inability to identify the source of the pollution. Method 608, in  
28 contrast, can accurately identify the source.

<sup>16</sup> U.S. EPA's decision was published in the Federal Register after the comment period on the WDR closed, but the LA Regional Board improperly refused to consider Boeing's subsequent submission of EPA's decision, as discussed in section IV.G, below.

1 *Puget Soundkeeper All. v. State, Dep't of Ecology*, 424 P.3d 1173, 1178 (2018). U.S. EPA  
2 declined to approve Method 1668C in part because of similar concerns from stakeholders, who  
3 commented that because of its extremely low detection limits, the method could be confounded  
4 by laboratory background contamination more frequently than other methods. *See* Ex. Y at  
5 59669.

6 Apparently in recognition of these limitations, the WDR limits use of Method 1668C to  
7 “informational purposes” only. But this does not cure the severe and undue prejudice of requiring  
8 Boeing to use this method. Boeing understands the LA Regional Board’s reference to  
9 “informational purposes” to mean it agrees with the Washington Department of Ecology that the  
10 method is not suitable for use in enforcement. But it would be equally inappropriate to consider  
11 the data from this method in connection with new permit conditions, or other requirements  
12 imposed in a separate order, since there is significant heightened risk that detections of PCBs  
13 from laboratory contamination or other sources would result in unwarranted new permit  
14 requirements. And there is no other appropriate basis for using this data “for informational  
15 purposes” in connection with an NPDES permit. *See* 40 C.F.R. § 122.44(i) (authorizing  
16 monitoring “to assure compliance with permit limitations”); Water Code § 13376 (authorizing  
17 monitoring when exercising authority under the Clean Water Act).

18 Second, the method is costly and impractical. EPA declined to approve Method 1668C in  
19 part because of concerns about its high cost, limited availability of labs that can perform it, and  
20 long wait times for results, as compared with other available methods. *See* Ex. Y at 59669. The  
21 LA Regional Board was required to consider such factors when setting a monitoring program and  
22 choosing between available test methods, but failed to do so. *See City of Oceanside*, 2021 WL  
23 9699498, at \*6 (“The regional boards should regularly assess the need for monitoring and  
24 reporting, consider reducing the frequency of sampling where long-term compliance has been  
25 established, and eliminate unnecessary reports or overlapping requirements... [and] consider ...  
26 whether the necessary monitoring and reporting may be accomplished with less expense.”)

1 Third, Method 1668C is unnecessary, and there are superior alternatives. EPA declined to  
2 approve Method 1668C in part because it was persuaded by commenters that the method was not  
3 needed, and that alternative, less problematic methods are available. *See* Ex. Y at 59669. The  
4 LA Regional Board has provided no explanation for its selection of Method 1668C over the  
5 available alternatives that do not suffer the same reliability, cost, and availability issues.

6 Mandatory use of unapproved Method 1668C is particularly problematic for the uses  
7 proposed by the LA Regional Board. The Regional Board previously retained Dr. Stenstrom to  
8 perform a study of the sources of PCBs in the LA River, in a separate engagement from his work  
9 on the Expert Panel for SSFL. Dr. Stenstrom concluded that there are thousands of sources of  
10 PCBs in the LA River. Ex. E at 27:24-28:4. The sheer number of potential sources to the LA  
11 River makes source attribution a daunting task. It is critically important that the methods used for  
12 further investigation are reliable and capable of supporting accurate source attributions. Boeing  
13 does not object to continued monitoring of stormwater for PCBs at SSFL using a reliable method,  
14 as has happened for years, but it strongly objects to mandatory use of an unreliable and  
15 unapproved method that is likely to obscure, rather than clarify, source attributions for PCBs in  
16 the LA River.

17 Boeing therefore requests that the State Board reissue the WDR without the requirement  
18 for PCB monitoring using Method 1668C, or remand and direct the LA Regional Board to do so.  
19 Reconsideration is not appropriate, because, due to the problems with this method, and the fact  
20 that PCBs have never been detected at SSFL in the more than 1,750 samples collected over the  
21 past 25 years, there is no basis for requiring it in the WDR.

22 **F. The LA Regional Board Improperly Set New Monitoring Requirements**  
23 **Without Evidentiary Support in the Record.**

24 The LA Regional Board adopted sweeping new requirements to monitor 200 new  
25 constituents, against the evidence in the record, solely because those constituents are *discussed* in  
26 a report as having been detected at some point, in some concentrations, at SSFL. Many of the  
27 constituents discussed in that report have been detected only infrequently or at low  
28

1 concentrations, or are unlikely to be found in stormwater due to their chemical structures. The  
2 LA Regional Board's decision to issue a catchall new monitoring requirement, without  
3 considering evidence regarding the particular constituents covered by the catchall requirement,  
4 was inappropriate and improper.

5 Boeing submitted an updated Standardized Risk Assessment Methodology, Revision 2  
6 Addendum ("SRAM") to DTSC on December 19, 2022. DTSC accepted it on February 10, 2023.  
7 *See* Ex. Q.<sup>17</sup> The purpose of the SRAM is to provide a consistent methodology for risk  
8 assessments that will inform the development of a final remediation plan at SSFL. Ex. Q at 1-1 –  
9 1-3. The SRAM includes a list of 342 constituents and the media, *if any*, in which they were  
10 detected at SSFL. Ex. Q App'x D, Attachment 1. The authors of the SRAM generated Risk-  
11 Based Screening Levels for each constituent that had been detected in any media at SSFL, for use  
12 in future risk assessment calculations. *Id.* at App'x F, Table 12-1. The SRAM is not itself a risk  
13 assessment for any of these constituents. The SRAM does not purport to identify hazardous  
14 conditions or health risks associated with these constituents at SSFL. Nor does it purport to  
15 identify constituents that require investigation, remediation, or other response action. Many of  
16 these constituents are naturally occurring at SSFL (such as aluminum), and the SRAM does not  
17 make any source attributions.

18 Of the 342 chemicals listed in Attachment 1 to Appendix D of the SRAM, 163 have not  
19 been detected in surface water.<sup>18</sup> Ex. Q at App'x D, Attachment 1; Ex. M at 17. As Board staff  
20 explained in the Response to Comments, "well over 100 of the contaminants listed in the  
21 attachment are volatile organic compounds (VOCs); these compounds are not generally abundant

22 <sup>17</sup> Boeing submitted the SRAM with its rebuttal submission on October 17, 2023, but the LA  
23 Regional Board improperly excluded it from the record during the October 19, 2023 hearing, as  
24 discussed in below in section V.G. Boeing respectfully requests that the State Board correct this  
25 error and admit the SRAM into the record. Alternatively, Boeing requests that the State Board  
26 admit the SRAM into the record under Cal. Water Code § 13320(b). The SRAM is relevant and  
27 should be considered in this proceeding because portions of it were expressly incorporated into  
28 the WDR on September 25, after the comment period closed, and the additional portions Boeing  
cites in this Petition are needed to understand what was incorporated into the WDR.

<sup>18</sup> The Response to Comments states that 351 chemicals are listed in Attachment 1, and that 190  
constituents are reported as having been detected in surface water. Boeing is uncertain of the  
source of Board staff's numbers, which could be an error or due to a different way of counting  
families of chemicals. Regardless, the precise counts are not material for Boeing's argument.

1 in surface water because they quickly evaporate, or volatilize, into the air in contrast to their  
2 persistence in groundwater and or soil.” Ex. M at 17. For the constituents that have been  
3 detected in surface water, staff performed reasonable potential analyses to determine if those  
4 constituents have the reasonable potential to cause or contribute to violations of the applicable  
5 water quality standards. Based on a technical analysis of more than 20,000 data points from  
6 SSFL stormwater monitoring, staff recommended (and the Board adopted) effluent limits on 42  
7 of those constituents. *Id.* The remaining constituents that have been detected in surface water are  
8 subject to “comprehensive monitoring and reporting requirements.” *Id.* Staff explained that other  
9 monitoring that is not constituent specific, including MBAS, TSS, toxicity, and total dissolved  
10 solids, provides further information on potential health and safety impacts. *Id.*

11 The LA Regional Board did not question this analysis by its staff. But it nonetheless is  
12 requiring monitoring requirements for *all* of the remaining constituents listed in the SRAM, for  
13 all media, that were not already being addressed in the Tentative WDR. This broad requirement  
14 to monitor all remaining constituents (200 of them) was improper, for several reasons.

15 First, most of the constituents at issue are VOCs which, as correctly explained in the  
16 Response to Comments, are unlikely to be encountered in surface water in significant amounts  
17 due to their chemical structure. Moreover, many of these constituents were not detected in  
18 surface water at SSFL, thus confirming what is to be expected based on the nature of the  
19 chemicals. Ex. Q at App’x D, Attachment 1; Ex. M at 17. Yet the LA Regional Board  
20 disregarded this uncontroverted evidence in the record, and staff’s recommendations, by requiring  
21 new monitoring of these constituents.

22 Second, many of these constituents are listed in the SRAM only due to low-frequency and  
23 low concentration detections, such that there is no reasonable basis for concluding they might  
24 impact stormwater. For example, the new catchall monitoring requirements apply to naturally  
25 occurring metals, including titanium and lithium, that are ubiquitous at the Site but have been  
26 detected *below* background in over 99% of samples (out of nearly 20,000). Ex. AB and AC.<sup>19</sup>

27 <sup>19</sup> The data source for the analyses presented in these Exhibits are the RCRA RFI Facility Reports  
28 referenced (with hyperlinks) in Boeing’s submission of comments and evidence on October 17,

1 The SRAM specifically removed titanium from consideration on its list of because it is a  
2 “naturally-occurring, low-toxicity chemical.” Ex. Q at App’x A, Attachment 2b (“Chemicals to  
3 be Eliminated from the Final Comprehensive List of Chemicals”). Yet the Regional Board did  
4 not consider the differences between titanium (low-toxicity) and lithium (toxic), or between those  
5 two metals (both naturally-occurring, pervasive at or below background with infrequent  
6 detections above background) and others that are identified constituents of concern at SSFL. The  
7 new catchall monitoring requirement also sweeps up chemicals that rarely have been detected  
8 onsite in any media, including 1,2-Dibromoethane (5 detects out of 6,376 samples analyzed) and  
9 2,4,5-Trichlorophenol (1 detection out of 5,790 samples analyzed).<sup>20</sup> The LA Regional Board’s  
10 indiscriminate requirement for new monitoring for these and many other constituents, along with  
11 “all additional chemicals” not already addressed by the permit, was improper and inappropriate.

12 Third, the LA Regional Board’s minimal explanations for adding these requirements to  
13 the WDR are improper and not supported by the evidence in the record. Commenters requested  
14 that the LA Regional Board set effluent limits for all constituents listed in the SRAM. Ex. M at  
15 18. The LA Regional Board declined, for the reasons discussed above; namely, these constituents  
16 have not been detected in surface water, and many are VOCs that do not persist in surface water.  
17 *Id.* Nonetheless, after providing a detailed explanation of why the requested action was not  
18 appropriate, the Board’s Response to Comments states it will nonetheless require additional  
19 monitoring “in recognition” of the concerns, without any explaining why this new requirement  
20 was appropriate or supported by evidence. *Id.*

21 Similarly, during the October 19 hearing, a member of the LA Regional Board expressed  
22 the desire to be “absolutely certain that the runoff from the site doesn’t contain any of these  
23 constituents of potential concern.” Ex. E at 58:22. Absolute certainty is not the applicable legal  
24 standard. As staff explained during the hearing, the State Board has directed the LA Regional  
25

---

26 2023. See Exhibit O. If permitted by the State Board, Boeing is prepared to offer oral testimony  
27 regarding this data summary pursuant to California Evidence Code § 1523(d) (testimony  
28 summarizing writings may be admitted if the writings “cannot be examined in court without great  
loss of time, and the evidence sought from them is only the general result of the whole”).

<sup>20</sup> See note 15.

1 Board to consider the cost and appropriateness of monitoring, and the monitoring program should  
2 be reasonably related to the Site.<sup>21</sup> Ex. E at 56:12-19; *see also City of Oceanside*, 2021 WL  
3 9699498, at \*6. For the reasons discussed above, this catchall requirement to monitor two  
4 hundred additional constituents, based solely on being listed in the SRAM, is not reasonably  
5 related to the Site.

6 **G. The LA Regional Board Improperly Excluded Boeing’s Submission of**  
7 **Rebuttal Evidence and Resubmission of References Listed in its August 21,**  
8 **2023 Comment Letter.**

9 The State Board’s hearing procedures provide that “rebuttal testimony generally will not  
10 be required to be submitted in writing, *nor will rebuttal testimony and exhibits be required to be*  
11 *submitted prior to the start of the hearing.*” 23 C.C.R. § 648.4(f) (emphasis added). This rule is  
12 mandatory, and the LA Regional Board has no discretion to deviate from it. *Malaga County*  
13 *Water District v. Central Valley Regional Water Quality Control Board* (2020), 58 Cal. App. 5th  
14 418 (holding that a LA Regional Board’s rule requiring advance submission of rebuttal evidence  
15 was an improper “shadow regulation”).

16 Despite this mandatory rule, the LA Regional Board improperly excluded from the record  
17 Boeing’s submission of rebuttal evidence. That submission was timely, and the evidence was  
18 proper rebuttal to public comments and testimony received by the LA Regional Board. The LA  
19 Regional Board erred by excluding it.

20 The LA Regional Board released its Response to Comments and a revised Tentative  
21 Permit, with major new requirements, on September 25, 2023, *one business day before*  
22 *presentation materials were due (9 am on September 26)*, and three business days before the  
23 September 28 hearing. During the September 28 hearing, the LA Regional Board heard  
24 testimony regarding those new requirements and other issues. Boeing submitted rebuttal  
25

26 <sup>21</sup> The Clean Water Act, and implementing federal regulations, authorizes monitoring “to assure  
27 compliance with permit limitations.” 40 C.F.R. § 122.44(i). Implementing state law authorizes  
28 monitoring to exercise that authority under the Clean Water Act. Water Code § 13376. Nothing  
in these provisions authorizes monitoring requirements that are unsupported by evidence in the  
record.

1 comments and exhibits on October 17, two days before the October 19, 2023 hearing, as allowed  
2 by section 648.4(f).

3 At the October 19 hearing, the LA Regional Board Chairperson offered two purported  
4 grounds for excluding Boeing's rebuttal evidence, each of which is erroneous. First, the  
5 Chairperson excluded the evidence because it was allegedly "surprise evidence" under 23 C.C.R.  
6 § 648.4(a). Ex. E at 11:2-6. That section states that "[i]t is the policy of the State and LA  
7 Regional Boards to discourage the introduction of surprise testimony and exhibits." But this rule,  
8 which does not define "surprise," must be read in light of subsection (f) (quoted above), which  
9 expressly allows the submission of rebuttal evidence before the hearing (as Boeing did).  
10 Moreover, there is no basis here for a finding of surprise, because all of the documents Boeing  
11 submitted are direct responses to the new requirements added to the September 25, 2023  
12 Tentative WDR and the September 25, 2023 Response to Comments, or rebuttal to the testimony  
13 and public comments received on September 28, 2023.<sup>22</sup> See Appendix 2, which explains the  
14 basis for admission of each document in Boeing's October 17, 2023 submission. There should be  
15 no surprise in Boeing's use of these exhibits for rebuttal purposes.

16 Second, the Chairperson incorrectly concluded that the LA Regional Board and public  
17 were prejudiced by the submission of rebuttal evidence two days before the hearing. Ex. E at  
18 13:16-21. She relied on 23 C.C.R. § 648.4(e), which states,

19 Where any of the provisions of this section have not been complied with, the  
20 presiding officer may refuse to admit the proposed testimony or the proposed  
21 exhibit into evidence, and shall refuse to do so where there is a showing of  
prejudice to any party or the Board. This rule may be modified where a party  
demonstrates that compliance would create severe hardship.

22 Here, too, "prejudice" under this section cannot include submission of rebuttal exhibits before the  
23 hearing, because that is expressly allowed by section 648(f). More fundamentally, this section  
24 authorizes exclusion of evidence *only* for non-compliance with the applicable rules. But Boeing's  
25

26 <sup>22</sup> Boeing received the revised Tentative WDR, with new requirements, and the Response to  
27 Comments 1 business day before its presentation for the September 28, 2023 hearing was due to  
28 be submitted to the LA Regional Board, thereby denying Boeing the opportunity to effectively  
prepare and include its responses and rebuttal in that presentation.



1 submission complied with the rules, and the Chairperson did not even suggest otherwise (beyond  
2 the erroneous invocation of § 684.4(a)).

3 Boeing requests that the State Board correct this error and admit Boeing’s rebuttal  
4 evidence into the record for this and any subsection actions on the WDR. Alternatively, Boeing  
5 requests that the State Board consider Boeing’s submission of rebuttal evidence when deciding  
6 this Petition under Water Code § 13320(b), because the evidence is relevant and should be  
7 considered to effectuate and implement the State’s water quality policies. Appendix 1 identifies  
8 the specific issue in this Petition that each exhibit in Boeing’s rebuttal submission relates to, and  
9 why it should be considered by the State Board.

10 Boeing’s October 17, 2023 submission also included a resubmission of references that  
11 were included in Boeing’s timely submitted comments on August 21, 2023. *See* Ex. O at  
12 Appendix 2. Boeing’s resubmission of those references added hyperlinks for ease of accessing  
13 the referenced documents. These documents include reports from the Surface Water Expert  
14 Panel, which are submitted annually to the LA Regional Board as required by the WDR (and thus  
15 already are in the file for this WDR). The resubmitted references also include RCRA facility  
16 investigation (“RFI”) reports submitted to DTSC in connection with the DTSC cleanup action.  
17 The Expert Panel reports and RCRA facility reports provide voluminous data underlying the  
18 summary evidence provided in Boeing’s testimony and presentation on September 28, 2023, its  
19 testimony on October 19, 2023, and its written submissions on August 21 and October 17, 2023.  
20 The rules of evidence permit submission of summary evidence without admission of the  
21 underlying data into evidence. Cal. Evid. Code § 1523(d) (testimony summarizing writings may  
22 be admitted if the writings “cannot be examined in court without great loss of time, and the  
23 evidence sought from them is only the general result of the whole”); *see also* Fed. R. Evid. 1006  
24 (summaries of voluminous writings are admissible evidence).

25 Boeing respectfully submits that it is in the interest of all stakeholders to this proceeding  
26 for the data sources underlying Boeing’s summary evidence to be reflected in the record in  
27 readily accessible format (with hyperlinks), and that there is no prejudice or undue surprise to the  
28

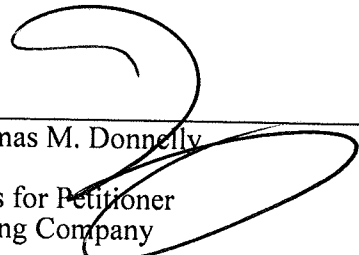
1 LA Regional Board or the public in admitting those updated references. Boeing therefore  
2 requests that the State Board also admit Boeing's resubmission of references to its August 21,  
3 2023 comment letter into the record as well.

4 **VI. Conclusion**

5 For the foregoing reasons, Boeing respectfully requests that the State Board grant this  
6 Petition for Review, modify and reissue the WDR as set forth above, and admit Boeing's  
7 submission of evidence into the record of these proceedings. Boeing further requests that the  
8 State Board grant Boeing's request for an order staying certain requirements in the WDR while  
9 this Petition for Review is pending, as set forth in the concurrently filed Petition for Stay.

10 Dated: November 20, 2023

JONES DAY

11  
12  
13 By:   
Thomas M. Donnelly

14 Attorneys for Petitioner  
15 The Boeing Company  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Petition for Review of Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2023-0359  
By The Boeing Company**

**Appendix 1**

**Index of Exhibits to Petition for Review;  
Basis for Consideration by the State Board**

<b>Exhibit</b>	<b>Document</b>	<b>Relevant Section in this Petition</b>	<b>Basis for Consideration by the State Board</b>
A	Waste Discharge Order No. R4-2023-0359, Regional Water Quality Control Board, Los Angeles Region, adopted October 19, 2023.	All	1. Part of the administrative record in this proceeding.
B	Site Map with Drainages, Drainage Areas, Outfall Locations, and Surface Water Bodies.	All	1. Part of the administrative record in this proceeding.
C	Order WQ 2006-0012, State Water Resources Control Board, December 13, 2006.	Petition § V.A.	1. Part of the administrative record in this proceeding, and discussed extensively in the submissions and testimony.
D	Excerpts of Transcript of Hearing on Waste Discharge Requirement Order No. R4-2023-0359, September 28, 2023	All	1. Part of the administrative record in this proceeding.
E	Excerpts of Transcript of Hearing on Waste Discharge Requirement Order No. R4-2023-0359, October 19, 2023	All	1. Part of the administrative record in this proceeding.
F	Boeing's Comments on Tentative National Pollutant Discharge Elimination System (NPDES) Permit, The Boeing Company, Santa Susana Field Laboratory, NPDES No. CA0001309, August 21, 2023	All	1. Part of the administrative record in this proceeding.

**Petition for Review of Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2023-0359**  
**By The Boeing Company**

<b>Exhibit</b>	<b>Document</b>	<b>Relevant Section in this Petition</b>	<b>Basis for Consideration by the State Board</b>
G	Presentation by Boeing to the Regional Water Quality Control Board, Tentative Water Quality Order Number R4-2023-XXXX, NPDES Permit No. CA0001309, Former Santa Susana Field Laboratory, September 28, 2023	All	1. Part of the administrative record in this proceeding.
H	Tentative Waste Discharge Order No. R4-2022-XXXX, Regional Water Quality Control Board, Los Angeles Region, December 8, 2023.	All	1. Part of the administrative record in this proceeding.
I	Tentative Waste Discharge Order No. R4-2022-XXXX, Regional Water Quality Control Board, Los Angeles Region, February 4, 2022.	All	1. Part of the administrative record in this proceeding.
J	Response to Comments, February 4, 2023	All	1. Part of the administrative record in this proceeding.
K	Revised Tentative Waste Discharge Order No. R4-2023-XXXX, Regional Water Quality Control Board, Los Angeles Region, July 21, 2023.	All	1. Part of the administrative record in this proceeding.
L	Revised Tentative Waste Discharge Order No. R4-2023-XXXX, Regional Water Quality Control Board, Los Angeles Region, September 25, 2023.	All	1. Part of the administrative record in this proceeding.
M	Response to Comments, September 25, 2023	All	1. Part of the administrative record in this proceeding.

**Petition for Review of Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2023-0359**  
**By The Boeing Company**

<b>Exhibit</b>	<b>Document</b>	<b>Relevant Section in this Petition</b>	<b>Basis for Consideration by the State Board</b>
N	U.S. Environmental Protection Agency, NPDES Permit Writers' Manual, Ch. 6 and 8, 2010. <sup>1</sup>	Petition § V.A.	<ol style="list-style-type: none"> <li>1. Part of the administrative record in this proceeding and incorporated by reference in the WDR.</li> <li>2. Boeing's submission of rebuttal evidence, which the LA Regional Board improperly excluded. 23 C.C.R. § 648.4(f).</li> <li>3. Water Code § 13320(b). See Exhibit O and Appendix 2 to this Petition.</li> </ol>
O	Boeing's October 17, 2023 Submission of Rebuttal Evidence and Resubmission of References to its August 21, 2023 Comment Letter	All	<ol style="list-style-type: none"> <li>1. Boeing's submission of rebuttal evidence, which the LA Regional Board improperly excluded. 23 C.C.R. § 648.4(f).</li> <li>2. Boeing's resubmission of hyperlinks to documents referenced in its timely submission of comments on August 21, 2023. LA Regional Board staff requested this resubmission on October 17, 2023, and Boeing provided it the same day.</li> <li>3. Water Code § 13320(b). See Appendix 2 to this Petition.</li> </ol>

---

<sup>1</sup> Available at [https://www.epa.gov/sites/default/files/2015-09/documents/pwm\\_chapt\\_08.pdf](https://www.epa.gov/sites/default/files/2015-09/documents/pwm_chapt_08.pdf).

**Petition for Review of Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2023-0359  
By The Boeing Company**

<b>Exhibit</b>	<b>Document</b>	<b>Relevant Section in this Petition</b>	<b>Basis for Consideration by the State Board</b>
P	Santa Susana Field Laboratory, Site-Wide Stormwater Annual Report, 2022/23 Reporting Year; The Surface Water Expert Panel and Geosyntec Consultants; October 2023	Petition §§ V.C, V.D	<p>1. Water Code § 13320(b).</p> <p>This report was issued on October 31, 2023, after the Regional Board adopted the WDR. This report was the subject of extensive testimony during the September 28 and October 19, 2023 hearings, and is relevant to the issues raised in the Petition.</p>
Q	Standardized Risk Assessment Methodology, Revision 2 Addendum, Santa Susana Field Laboratory, Ventura County, California, Dec. 2022. <sup>2</sup>	Petition § V.F	<p>1. Boeing's submission of rebuttal evidence, which the LA Regional Board improperly excluded. 23 C.C.R. § 648.4(f).</p> <p>2. Water Code § 13320(b). See Exhibit O and Appendix 2 to this Petition.</p>
R	The Geochemistry of Natural Waters, Drever, James I., 1998, 2d. ed., Prentice Hall, Inc. <sup>3</sup>	Petition §§ V.C, V.D	<p>1. Boeing's submission of rebuttal evidence, which the LA Regional Board improperly excluded. 23 C.C.R. § 648.4(f).</p> <p>2. Water Code § 13320(b). See Exhibit O and Appendix 2 to this Petition.</p>

<sup>2</sup> Available at [https://www.dtsc-ssfl.com/files/lib\\_risk\\_assess/sram/sram/2023.02.07\\_SRAM\\_Rev\\_2\\_Addendum\\_%202022\\_revised\\_final.pdf](https://www.dtsc-ssfl.com/files/lib_risk_assess/sram/sram/2023.02.07_SRAM_Rev_2_Addendum_%202022_revised_final.pdf).

<sup>3</sup> Available at <https://gw-project.org/books/the-geochemistry-of-natural-waters-surface-and-groundwater-environments/>.

**Petition for Review of Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2023-0359**  
**By The Boeing Company**

<b>Exhibit</b>	<b>Document</b>	<b>Relevant Section in this Petition</b>	<b>Basis for Consideration by the State Board</b>
S	Boeing SSFL Metals Background Report, Sources of Metals in SSFL Watersheds; R. Pitt, November 21, 2009	Petition § V.C	<ol style="list-style-type: none"> <li>1. Boeing's resubmission of hyperlinks to documents referenced in its timely submission of comments on August 21, 2023. LA Regional Board staff requested this resubmission on October 17, 2023, and Boeing provided it the same day.</li> <li>2. Water Code § 13320(b).</li> </ol> <p>This report is relevant to the distribution naturally occurring metals, including aluminum, at SSFL. It is discussed in the Expert Panel's October 2023 Report (Exhibit P), which was not issued until after the Regional Board adopted the WDR..</p>

**Petition for Review of Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2023-0359  
By The Boeing Company**

<b>Exhibit</b>	<b>Document</b>	<b>Relevant Section in this Petition</b>	<b>Basis for Consideration by the State Board</b>
T	F. Manna, J.A. Cherry, D.B. McWhorter, B.L. Parker, Groundwater Recharge Assessment in an Upland Sandstone Aquifer of Southern California, Journal of Hydrology 541 (2016) 787–799. <sup>4</sup>	Petition § V.D.	<ol style="list-style-type: none"> <li>1. Boeing’s submission of rebuttal evidence, which the LA Regional Board improperly excluded. 23 C.C.R. § 648.4(f).</li> <li>2. Boeing’s resubmission of hyperlinks to documents referenced in its timely submission of comments on August 21, 2023. LA Regional Board staff requested this resubmission on October 17, 2023, and Boeing provided it the same day.</li> <li>3. Water Code § 13320(b). See Exhibit O and Appendix 2.</li> </ol>
U	Memorandum of Understanding Between the Department of Health Services and the State Water Resources Control Board and the Regional Water Quality Control Boards for the Cleanup of Hazardous Waste Sites, August 1, 1990	Petition § V.D	<ol style="list-style-type: none"> <li>1. Water Code § 13320(b).</li> </ol> <p>This memorandum is relevant to the division of responsibilities for environmental response actions at SSFL between the LA Regional Board and DTSC.</p>

---

<sup>4</sup> Available at: <https://www.sciencedirect.com/science/article/pii/S0022169416304693>.



**Petition for Review of Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2023-0359**  
**By The Boeing Company**

<b>Exhibit</b>	<b>Document</b>	<b>Relevant Section in this Petition</b>	<b>Basis for Consideration by the State Board</b>
V	Letter to Meredith Williams, Director of the Department of Toxic Substances Control, from Renee Purdy, Executive Director of the Regional Water Quality Control Board, LA Region, May 9, 2022.	Petition § V.D	1. Water Code § 13320(b).  This letter is relevant to the division of responsibilities for environmental response actions at SSFL between the LA Regional Board and DTSC.
W	State Water Resources Control Board, Resolution No. 96-079, Adoption of Containment Zone Policy; Amendment to Resolution No. 92-49: Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304.	Petition § V.C.	1. Water Code § 13320(b).  This Resolution establishes State Board policies that are relevant to this Petition.
X	Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties, Regional Water Quality Control Board, Los Angeles Region, Chapter 5, Plans and Policies. <sup>5</sup>	Petition § V.C.	1. Water Code § 13320(b).  The Basin Plan establishes LA Regional Board policies that are relevant to this Petition.

---

<sup>5</sup> The full Basin Plan is available at [https://www.waterboards.ca.gov/losangeles/water\\_issues/programs/basin\\_plan/basin\\_plan\\_documentation.html](https://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/basin_plan_documentation.html).

**Petition for Review of Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2023-0359  
By The Boeing Company**

<b>Exhibit</b>	<b>Document</b>	<b>Relevant Section in this Petition</b>	<b>Basis for Consideration by the State Board</b>
Y	Excerpts, Alternate PCB Extraction Methods and Amendments to PCB Cleanup and Disposal Regulations, 88 Fed. Reg. 59662, 59668-69 (Aug. 29, 2023). <sup>6</sup>	Petition § V.E.	<ol style="list-style-type: none"> <li>1. Boeing's submission of rebuttal evidence, which the LA Regional Board improperly excluded. 23 C.C.R. § 648.4(f).</li> <li>2. Water Code § 13320(b). See Exhibit O and Appendix 2.</li> </ol>
Z	Order WQ 2006-0002, State Water Resources Control Board, April 7, 2006.	Petition for Stay.	<ol style="list-style-type: none"> <li>1. Part of the administrative record of this proceeding.</li> </ol>

---

<sup>6</sup> Full document available at <https://www.federalregister.gov/documents/2023/08/29/2023-17708/alternate-pcb-extraction-methods-and-amendments-to-pcb-cleanup-and-disposal-regulations>.

**Petition for Review of Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2023-0359**  
**By The Boeing Company**

<b>Exhibit</b>	<b>Document</b>	<b>Relevant Section in this Petition</b>	<b>Basis for Consideration by the State Board</b>
AA	Distribution of Titanium in Soil Samples	Petition § V.C.	<p>1. Water Code § 13320(b).</p> <p>Summary of data regarding titanium, one of the SRAM constituents subject to new monitoring requirements. If permitted by the State Board, Boeing is prepared to offer oral testimony regarding this data summary pursuant to California Evidence Code § 1523(d) (testimony summarizing writings may be admitted if the writings “cannot be examined in court without great loss of time, and the evidence sought from them is only the general result of the whole”).</p>
AB	Distribution of Lithium in Soil Samples	Petition § V.C.	<p>2. Water Code § 13320(b).</p> <p>Summary of data regarding lithium, one of the SRAM constituents subject to new monitoring requirements. If permitted by the State Board, Boeing is prepared to offer oral testimony regarding this data summary pursuant to California Evidence Code § 1523(d) (testimony summarizing writings may be admitted if the writings “cannot be examined in court without great loss of time, and the evidence sought from them is only the general result of the whole”).</p>

**Petition for Review of Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2023-0359  
By The Boeing Company**

<b>Exhibit</b>	<b>Document</b>	<b>Relevant Section in this Petition</b>	<b>Basis for Consideration by the State Board</b>
AC	U.S. Environmental Protection Agency, PCB Congeners by Low-Resolution GC-MS – Method 1628 (Not yet approved). <sup>7</sup>	Petition § V.E.	<ol style="list-style-type: none"> <li>1. Boeing’s submission of rebuttal evidence, which the LA Regional Board improperly excluded. 23 C.C.R. § 648.4(f).</li> <li>2. Water Code § 13320(b). See Exhibit O and Appendix 2.</li> </ol>
AD	Distribution of Manganese in Soil Samples	Petition § V.C.	<ol style="list-style-type: none"> <li>1. Boeing’s submission of rebuttal evidence, which the LA Regional Board improperly excluded. 23 C.C.R. § 648.4(f).</li> <li>2. Water Code § 13320(b). See Exhibit O and Appendix 2.</li> </ol>
AE	Distribution of Sulfate in Soil Samples	Petition § V.C.	<ol style="list-style-type: none"> <li>1. Boeing’s submission of rebuttal evidence, which the LA Regional Board improperly excluded. 23 C.C.R. § 648.4(f).</li> <li>2. Water Code § 13320(b). See Exhibit O and Appendix 2.</li> </ol>

---

<sup>7</sup> Available at <https://www.epa.gov/cwa-methods/pcb-congeners-low-resolution-gc-ms-method-1628-not-yet-approved>.

**Petition for Review of Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2023-0359  
By the Boeing Company**

**Appendix 2**

**Boeing's October 17, 2023 Submission of Rebuttal Evidence and Resubmission of References Cited in August 21, 2023  
Comment Letter (All Documents Included in Exhibit O)**

<b>Evidence Submitted by Boeing</b>	<b>Rebuttal to testimony on September 28, 2023 regarding the following subjects:</b>	<b>Relevant Section in this Petition</b>	<b>Basis for Admission Under Cal. Water Code § 13320(b).</b>
Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act; Analysis and Sampling Procedures, 77 Fed. Reg. 29758, 29763 (May 18, 2012). <sup>1</sup>	Monitoring for PCBs using unapproved Method 1668C.	Petition § V.E.	Federal Register record of U.S. EPA rulemaking, in which EPA declined to adopt Method 1668C.
Alternate PCB Extraction Methods and Amendments to PCB Cleanup and Disposal Regulations, 88 Fed. Reg. 59662, 59668-69 (Aug. 29, 2023). <sup>2</sup>	Monitoring for PCBs using unapproved Method 1668C.	Petition § V.E.	Federal Register record of U.S. EPA rulemaking, in which EPA declined to adopt Method 1668C.

---

<sup>1</sup> Available at [www.federalregister.gov/documents/2012/05/18/2012-10210/guidelines-establishing-test-procedures-for-the-analysis-of-pollutants-under-the-clean-water-act](https://www.federalregister.gov/documents/2012/05/18/2012-10210/guidelines-establishing-test-procedures-for-the-analysis-of-pollutants-under-the-clean-water-act).

<sup>2</sup> Available at <https://www.federalregister.gov/documents/2023/08/29/2023-17708/alternate-pcb-extraction-methods-and-amendments-to-pcb-cleanup-and-disposal-regulations>.

**Petition for Review of Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2023-0359**  
**By the Boeing Company**

<b>Evidence Submitted by Boeing</b>	<b>Rebuttal to testimony on September 28, 2023 regarding the following subjects:</b>	<b>Relevant Section in this Petition</b>	<b>Basis for Admission Under Cal. Water Code § 13320(b).</b>
U.S. Environmental Protection Agency, PCB Congeners by Low-Resolution GC-MS – Method 1628 (Not yet approved). <sup>3</sup>	Monitoring for PCBs using unapproved Method 1668C.	Petition § V.E.	Alternate method for PCB congener testing.
Annual NPDES Discharge Monitoring Reports. Full list of reports provided in Exhibit O. <sup>4</sup>	Monitoring for PCBs using unapproved Method 1668C.	Petition § V.E.	Data source for rebuttal testimony by Boeing during the October 19, 2023 hearing, and anticipated testimony at the requested hearing on this Petition, which testimony is admissible under Evidence Code § 1523(d).
F. Manna, J.A. Cherry, D.B. McWhorter, B.L. Parker, Groundwater Recharge Assessment in an Upland Sandstone Aquifer of Southern California, Journal of Hydrology 541 (2016) 787–799. <sup>5</sup>	Infiltration of stormwater to groundwater at Silvernale and R-1 ponds.	Petition § V.D.	Report of expert study on groundwater recharge at SSFL.
Boeing Final Groundwater RCRA Facility Investigation Report, Santa Susana Field Laboratory, Ventura County, California, Oct. 5, 2021. <sup>6</sup>	Infiltration of stormwater to groundwater at Silvernale and R-1 ponds.	Petition § V.D.	Data source for rebuttal testimony by Boeing during the October 19, 2023 hearing, and anticipated testimony at the requested hearing on this Petition, which testimony is admissible under Evidence Code § 1523(d).

<sup>3</sup> Available at <https://www.epa.gov/cwa-methods/pcb-congeners-low-resolution-gc-ms-method-1628-not-yet-approved>.

<sup>4</sup> Available at <https://www.boeing.com/principles/environment/santa-susana/monitoring-reports.page>.

<sup>5</sup> Available at: <https://www.sciencedirect.com/science/article/pii/S0022169416304693>.

<sup>6</sup> Available at: [https://www.dtsc-ssfl.com/files/lib\\_rcra\\_groundwater/rfi\\_reports/rfireports/boeing\\_final\\_gw\\_rfi\\_rpt\\_20211005\\_Text\\_Tables\\_Figures.pdf](https://www.dtsc-ssfl.com/files/lib_rcra_groundwater/rfi_reports/rfireports/boeing_final_gw_rfi_rpt_20211005_Text_Tables_Figures.pdf).

**Petition for Review of Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2023-0359**  
**By the Boeing Company**

<b>Evidence Submitted by Boeing</b>	<b>Rebuttal to testimony on September 28, 2023 regarding the following subjects:</b>	<b>Relevant Section in this Petition</b>	<b>Basis for Admission Under Cal. Water Code § 13320(b).</b>
CH2M HILL, Inc. (CH2M). 2020b. RCRA Facility Investigation, Data Summary and Findings Report, Silvernale RFI Site, Boeing RFI Subarea 5/9 North, Santa Susana Field Laboratory, Ventura County, California. February 2020. <sup>7</sup>	Infiltration of stormwater to groundwater at Silvernale and R-1 ponds.	Petition § V.D.	Data source for rebuttal testimony by Boeing during the October 19, 2023 hearing, and anticipated testimony at the requested hearing on this Petition, which testimony is admissible under Evidence Code § 1523(d).
The Geochemistry of Natural Waters, Drever, James I., 1998, 2d. ed., Prentice Hall, Inc. <sup>8</sup>	<p>Infiltration of stormwater to groundwater at Silvernale and R-1 ponds.</p> <p>Effluent limits on aluminum and other naturally occurring constituents at site-specific background levels.</p>	<p>Petition § V.D.</p> <p>Petition § V.C.</p>	Scientific principles regarding groundwater infiltration.

---

<sup>7</sup> Available at: [https://www.dtsc-ssfl.com/files/lib\\_rcra\\_soils/BoeingSubarea5\\_9N/final\\_rfi\\_rpts/2021.04.02\\_3\\_59N\\_DSFR\\_Silvernale\\_2021\\_forCD.pdf](https://www.dtsc-ssfl.com/files/lib_rcra_soils/BoeingSubarea5_9N/final_rfi_rpts/2021.04.02_3_59N_DSFR_Silvernale_2021_forCD.pdf).

<sup>8</sup> Available at <https://gw-project.org/books/the-geochemistry-of-natural-waters-surface-and-groundwater-environments/>.

**Petition for Review of Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2023-0359**  
**By the Boeing Company**

<b>Evidence Submitted by Boeing</b>	<b>Rebuttal to testimony on September 28, 2023 regarding the following subjects:</b>	<b>Relevant Section in this Petition</b>	<b>Basis for Admission Under Cal. Water Code § 13320(b).</b>
Final Risk Assessment Report, Boeing RFI Subarea 1B Southwest, Santa Susana Field Laboratory, Ventura County, California dated May 26, 2023; Department of Toxic Substances Control, Approval of the Final Risk Assessment Report, Boeing RFI Subarea 1B Southwest, July 7, 2023. <sup>9</sup>	Effluent limits at paired Outfalls 001 and 011, and paired Outfalls 002 and 018.	Petition § V.A.	Data source for rebuttal testimony by Boeing during the October 19, 2023 hearing, and anticipated testimony at the requested hearing on this Petition, which testimony is admissible under Evidence Code § 1523(d).
Final Risk Assessment Report, Boeing RFI Subarea 5/9 South, Santa Susana Field Laboratory, Ventura County, California dated Sep. 6, 2023; Department of Toxic Substances Control, Approval of the Final Risk Assessment Report, Boeing RFI Subarea 5/9 South, Oct. 11, 2023. <sup>10</sup>	Effluent limits at paired Outfalls 001 and 011, and paired Outfalls 002 and 018.	Petition § V.A.	Data source for rebuttal testimony by Boeing during the October 19, 2023 hearing, and anticipated testimony at the requested hearing on this Petition, which testimony is admissible under Evidence Code § 1523(d).

<sup>9</sup> Available at [https://www.dtsc-ssfl.com/files/lib\\_risk\\_assess/reports/70083\\_1BSW\\_Final\\_RiskAssessmentReport\\_20230525\\_\(1\).pdf](https://www.dtsc-ssfl.com/files/lib_risk_assess/reports/70083_1BSW_Final_RiskAssessmentReport_20230525_(1).pdf) and [https://www.dtsc-ssfl.com/files/lib\\_risk\\_assess/reports/70072\\_2023.07.07\\_DTSC\\_Approval\\_Letter\\_for\\_1B\\_SW\\_RA.pdf](https://www.dtsc-ssfl.com/files/lib_risk_assess/reports/70072_2023.07.07_DTSC_Approval_Letter_for_1B_SW_RA.pdf).

<sup>10</sup> Available at [https://www.dtsc-ssfl.com/files/lib\\_risk\\_assess/reports/2023.09.06\\_Subarea\\_59\\_South\\_Final\\_Risk\\_Assessment\\_Report.pdf](https://www.dtsc-ssfl.com/files/lib_risk_assess/reports/2023.09.06_Subarea_59_South_Final_Risk_Assessment_Report.pdf) and [https://www.dtsc-ssfl.com/files/lib\\_risk\\_assess/reports/70208\\_2023.10.11\\_DTSC\\_Approval\\_Letter\\_59\\_South\\_Final\\_RA.pdf](https://www.dtsc-ssfl.com/files/lib_risk_assess/reports/70208_2023.10.11_DTSC_Approval_Letter_59_South_Final_RA.pdf).



**Petition for Review of Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2023-0359**  
**By the Boeing Company**

<b>Evidence Submitted by Boeing</b>	<b>Rebuttal to testimony on September 28, 2023 regarding the following subjects:</b>	<b>Relevant Section in this Petition</b>	<b>Basis for Admission Under Cal. Water Code § 13320(b).</b>
U.S. Environmental Protection Agency, Guidance Manual for the Preparation of NPDES Permit Applications for Storm Water Discharges Associated with Industrial Activity, EPA-505/8-91-002, Sec. 5, April 1991. <sup>11</sup>	Effluent limits at paired Outfalls 001 and 011, and paired Outfalls 002 and 018.	Petition § V.A.	U.S. EPA guidance on discharge locations for effluent limits.
U.S. Environmental Protection Agency, NPDES Permit Writers' Manual, Ch. 8, 2010. <sup>12</sup>	Effluent limits at paired Outfalls 001 and 011, and paired Outfalls 002 and 018.	Petition § V.A.	U.S. EPA guidance on discharge locations for effluent limits.
RCRA Facility Investigation Reports. Full list of reports is provided in Exhibit O. <sup>13</sup>	Effluent limits at paired Outfalls 001 and 011, and paired Outfalls 002 and 018.  Monitoring of Additional SRAM Constituents.	Petition § V.A.  Petition § V.F	Data source for rebuttal testimony by Boeing during the October 19, 2023 hearing, and anticipated testimony at the requested hearing on this Petition, which testimony is admissible under Evidence Code § 1523(d).
Distribution of Manganese in Soil Samples	Effluent limits on aluminum and other naturally occurring constituents at site-specific background levels.	Petition § V.C.	Distribution of naturally occurring constituent at SSFL.

<sup>11</sup> Available at <https://www3.epa.gov/npdes/pubs/owm0241.pdf>.

<sup>12</sup> Available at [https://www.epa.gov/sites/default/files/2015-09/documents/pwm\\_chapt\\_08.pdf](https://www.epa.gov/sites/default/files/2015-09/documents/pwm_chapt_08.pdf).

<sup>13</sup> Available at [https://dtsc.ca.gov/santa\\_susana\\_field\\_lab/ssfl\\_document\\_library/](https://dtsc.ca.gov/santa_susana_field_lab/ssfl_document_library/) by selecting the “RCRA Facility Investigation – Soils” for soil reports and “RCRA Facility Investigation – Groundwater” for the groundwater reports from the left-hand column.

**Petition for Review of Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2023-0359**  
**By the Boeing Company**

<b>Evidence Submitted by Boeing</b>	<b>Rebuttal to testimony on September 28, 2023 regarding the following subjects:</b>	<b>Relevant Section in this Petition</b>	<b>Basis for Admission Under Cal. Water Code § 13320(b).</b>
Distribution of Sulfate in Soil Samples	Effluent limits on aluminum and other naturally occurring constituents at site-specific background levels.	Petition § V.C.	Distribution of naturally occurring constituent at SSFL.
DTSC Final Results Report, Chemical Soil Background Study, December 28, 2012. <sup>14</sup>	Effluent limits on aluminum and other naturally occurring constituents at site-specific background levels.  Monitoring of Additional SRAM Constituents.	Petition § V.C.  Petition § V.F	Data source for rebuttal testimony by Boeing during the October 19, 2023 hearing, and anticipated testimony at the requested hearing on this Petition, which testimony is admissible under Evidence Code § 1523(d).
Standardized Risk Assessment Methodology, Revision 2 Addendum, Santa Susana Field Laboratory, Ventura County, California, Dec. 2022. <sup>15</sup>	Monitoring of Additional SRAM Constituents.	Petition § V.F	Incorporated by reference into Waste Discharge Requirements Order No. R4-2023-0359 and discussed extensively during the proceedings before the LA Regional Board.
SSFL Surface Water Expert Panel Reports. Full list of reports with hyperlinks is provided in Exhibit O.	--	Petition §§ V.A - F	Data source for testimony by Boeing during the September 28, 2023 hearing, and anticipated testimony at the requested hearing on this Petition, which testimony is admissible under Evidence Code § 1523(d).

<sup>14</sup> Available at [https://www.dtsc-ssfl.com/files/lib\\_cbs/results\\_report/csbs\\_report/65788\\_Final\\_Chemical\\_Soil\\_Background\\_Study\\_Report.pdf](https://www.dtsc-ssfl.com/files/lib_cbs/results_report/csbs_report/65788_Final_Chemical_Soil_Background_Study_Report.pdf).

<sup>15</sup> Available at [https://www.dtsc-ssfl.com/files/lib\\_risk\\_assess/sram/sram/2023.02.07\\_SRAM\\_Rev\\_2\\_Addendum\\_%202022\\_revised\\_final.pdf](https://www.dtsc-ssfl.com/files/lib_risk_assess/sram/sram/2023.02.07_SRAM_Rev_2_Addendum_%202022_revised_final.pdf).