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THE BOEING COMPANY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

PHYSICIANS FOR SOCIAL RESPONSIBILITY-LOS ANGELES, a non-profit corporation; SOUTHERN CALIFORNIA FEDERATION OF SCIENTISTS, a non-profit corporation; COMMITTEE TO BRIDGE THE GAP, a non-profit corporation; and CONSUMER WATCHDOG, a non-profit corporation,

Petitioners,

vs.

DEPARTMENT OF TOXIC SUBSTANCES CONTROL; DEPARTMENT OF PUBLIC HEALTH; and DOES 1 to 100,

Respondents.

THE BOEING COMPANY, a corporation; ROES 1-to 100

Real Party In Interest.

CASE NO. 34-2013-80001589

REAL PARTY IN INTEREST THE BOEING COMPANY'S NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT, OR IN THE ALTERNATIVE, SUMMARY ADJUDICATION

Date: TBD
Time: TBD
Dept: 42
Judge: Hon. Allen Sumner

Action Filed: August 6, 2013
Trial Date: TBD

NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on a date to be determined by the Court pursuant to The Boeing Company's separate Motion to Set Hearing Date, or as soon thereafter as the matter may be heard, in Department 42 of the above court, the Honorable Allen Sumner presiding, located at 720 9th Street, Sacramento, California, Real Party in Interest The Boeing Company ("Boeing"), will and hereby does move this Court for an order granting summary judgment in favor of Respondents and Boeing and against Petitioners, or alternatively for summary adjudication. This motion is brought pursuant to California Code of Civil Procedure Sections 437c(a), 437(f)(1), and 437(f)(2), and based on the doctrines of mootness and ripeness, on the grounds that Boeing has no pending building demolition notifications for Respondents to review or approve pertaining to Area IV of the Santa Susana Field Laboratory ("Santa Susana"), Boeing has withdrawn all notices upon which Petitioners' claims were predicated, and Boeing has advised the Department of Toxic Substances Control ("DTSC") in writing that it will neither seek nor wait for DTSC approval before commencing future demolition activities. Petitioners' claims thus are moot and/or unripe because there is nothing before DTSC to approve that Petitioners claim would trigger CEQA analysis, and because Boeing has confirmed that it will not seek DTSC approval for future demolition activities. Petitioners' Administrative Procedure Act claims are similarly moot and unripe because there are no pending approval actions, or future approval actions, that will result in consideration or reliance on the documents challenged by Petitioners. Because Petitioners' underlying claims are moot and unripe, Petitioners' claims for declaratory and injunctive relief are also moot and unripe as a matter of law. As there are no triable issues of material fact as to any of Petitioners' causes of action, Boeing is entitled to summary judgment on all causes of action. Alternatively, Boeing moves for summary adjudication in its favor as to each of Petitioners' causes of action, including: (1) Violation of CEQA; (2) Violation of Prior Writ of Mandate; (3) Unlawful Underground Rulemaking in Violation of the Administrative Procedures Act ("APA"); (4) Declaratory Relief; and (5) Injunctive Relief.

Boeing requests for the sake of judicial efficiency that the Court resolve this Motion prior to any hearing on the merits. It is appropriate for the Court to do so, because this Motion is "directed at resolving issues preliminary to and distinct from the issues related to the merits of the petition." (Superior Court of Sacramento County, Guide to the Procedures for Prosecuting Petitions for Prerogative Writs at 6.) This Motion will not require the parties or the Court to rely on the administrative record or undertake extensive briefing on the merits. If this Motion is not resolved prior to a hearing on the merits, the parties will be forced to expend significant time and resources unnecessarily briefing and preparing for the merits hearing.

Pursuant to Local Rules for the Superior Court of California, County of Sacramento, Local Rule 1.06, the court may make a tentative ruling on this matter by 2:00 p.m., the court day before the hearing. You can access any tentative ruling on the court's Web site at www.saccourt.ca.gov or obtain the tentative ruling from the clerk of Department 42. If the Court issues a tentative ruling and you do not call the court and the opposing party by 4:00 p.m. the court day before the hearing date to request a hearing, no hearing will be held.

This motion will be based on this Notice of Motion and Motion, the Memorandum of Points and Authorities, the Separate Statement of Undisputed Material Facts, the Declarations of David W. Dassler and Peter C. Meier and the evidence attached thereto, the Request for Judicial Notice and the evidence attached thereto, and all pleadings and papers already on file with the Court, and such other written and oral argument or evidence as may be presented to the Court at or before the hearing on this motion.

DATED: May 23, 2014

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By: _____
PETER C. MEIER

Attorneys for Real Party In Interest
THE BOEING COMPANY