

## TRANSPORTATION AND ROAD AGREEMENT

THIS TRANSPORTATION AND ROAD AGREEMENT (the “Agreement”) is made by and between the National Aeronautics and Space Administration (“NASA”), the Department of Energy (“DOE”) and The Boeing Company (“Boeing”) (each a “Party” and collectively, the “Parties”).

### RECITALS:

A. WHEREAS, Boeing and the United States (“US”), under the administrative jurisdiction of NASA, own the approximately 2,850 acres of real property located in Ventura County, California known as the Former Santa Susana Field Laboratory (“Site”).

B. WHEREAS, the Site is divided into four (4) administrative areas and two undeveloped areas. Boeing owns the portions of Site commonly referred to as “Area I” (excluding a 41.61-acre parcel owned by the US), “Area III”, “Area IV”, and the “Undeveloped Land” (the “Boeing Property”). NASA administers portions of the Site owned by the US commonly referred to as “Area II” (former U.S.A.F. Plant 57) (409.42 acres) and the former Liquid Oxygen Plant (“LOX”) (former U.S.A.F. Plant 64), the 41.61-acre parcel in Area I (Area II and the LOX parcel are collectively referred to as the “NASA Property”). DOE and its predecessor agencies historically leased and operated a 90 acre portion of Area IV and other parts of Area IV (the “DOE Area”).

C. WHEREAS, Boeing, NASA and DOE each are performing site closure and environmental investigation and remediation activities at the Site. The Parties anticipate that site closure and remediation activities will involve the use of a significant number of trucks to transport large volumes of equipment, building/structural debris, soil and other materials to or from the Site over a period of years.

D. Rights and obligations of the Parties relating to access to the Boeing Property, the NASA Property and the DOE Area are governed by several documents: the Access Agreement by and between Boeing and DOE dated December 20, 2013, as it may be amended from time to time (“DOE-Boeing Access Agreement”), the Access Agreement by and between NASA and Boeing dated October 17, 2014, as it may be amended from time to time (“NASA-Boeing Access Agreement”), and certain non-exclusive right of way easements as described in a December 3, 1958 grant deed recorded in Ventura County starting at Book 1688, Page 212 on December 31, 1958.

E. The Site is accessed primarily by a privately owned road, Woolsey Canyon Road (“Woolsey Canyon Road”), which is currently the only serviceable means by which trucks can enter and exit the Site and travel toward freeways. A drawing indicating the owners of Woolsey Canyon Road is included as Exhibit A.

F. The Parties seek in this Agreement to define (i) the methods used to control truck traffic on and to/from the Site by tractor-trailers or a combination of a straight truck and trailer, supporting day-to-day operations, such as storm water, groundwater, soil remediation, or demolition activities on behalf of any Party, or their respective contractors or subcontractors; and (ii) the responsibilities of the Parties related to road maintenance and repair.

G. The Site, including the four administrative areas and all existing, primary roads, is shown on Exhibit B.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the Parties agree as follows:

1. Definitions. The following terms have the meanings defined below for purposes of this Agreement:
  - a. "Trucks" means semi-tractor trailers or a combination of a straight truck and trailer or any Class 7 (GVWR from 26,001 to 33,000 lbs) or Class 8 vehicle (GVWR above 33,000 lbs). It does not apply to other types of vehicles.
  - b. "Trucking Contractor" means any company working on behalf of NASA, DOE or Boeing to transport any material to or from the Site in a Truck (as defined in Paragraph 1(a) above).
  - c. "Loaded Trucks" means Trucks hauling fill material to the Site and Trucks hauling remediation or demolition debris from the Site.
  
2. Traffic Control Procedures. In order to optimize the number of Trucks departing the Site, while still taking into account the needs of the surrounding community, the Parties agree to the following:
  - a. Access onto and from the Site will be controlled at the front gate.
  - b. Trucks will be dispatched from Site between 6 am and 7 pm Pacific Time, Monday through Friday.
  - c. Trucks are anticipated to be dispatched from the Site at a 10-minute interval, but will not be dispatched at less than 5-minute intervals;
  - d. Truck traffic will be staggered to allow a maximum of 96 truckloads departing the Site per day;
  - e. If needed, the Parties shall work cooperatively to address any issues that may arise in connection with Truck ingress to the Site;
  - f. The Parties shall work together to coordinate each Party's Trucking needs.
    - i. Each Party shall designate an individual to serve as the point of contact for Truck traffic at the Site;
    - ii. If one Party does not need its total number of Trucks that day, the other Parties are allowed to use those trips; and
  - g. The Parties will use their best efforts, respectively, to inform the other Parties about Truck activity on the Site as early as possible. The Parties will meet

monthly to review Truck traffic control to evaluate whether daily Truck trips and/or time of operations may increase or decrease in order to support Site activities. Any changes will be agreed to in writing as an amendment to this Agreement.

3. Transportation Routes.

- a. All Trucks transporting waste or other materials from the Site will use truck routes as defined by each of the responsible parties, to ensure truck traffic has as minimal impacts on the local neighborhoods, as possible.

4. Manifests for Liquid Wastes.

- a. Copies of waste manifests associated with the generation of liquid wastes shall be provided to Boeing, in order for Boeing to meet its obligations under the NPDES permit, within 10 calendar days of generation.

5. Truck Weight. Each Party will be responsible for recording the weight of their respective Loaded Trucks.

6. On-Site Road Maintenance and Repair.

- a. Within thirty (30) days of the Effective Date of this Agreement, Boeing and NASA will document and agree to the baseline condition of the Site road conditions (“Baseline Condition”). No less than thirty (30) days prior to the start of DOE’s demolition and remediation activities, Boeing, DOE and NASA will document and agree to the then-current condition of the Site road condition and whether any repairs are needed to bring the Site roads into the Baseline Condition.
- b. Boeing, NASA, and DOE will re-evaluate Site road conditions annually.
- c. The Parties will perform work necessary to maintain Site roads at the Baseline Condition, with costs to be allocated for such work pursuant to subparagraph (d) below.
- d. Maintenance and repair costs associated with Site roads will be determined using the map at Exhibit B:
  - i. Responsibility for certain roads will be 100% for a particular Party;
  - ii. For other roads, responsibility for maintenance and repair costs will be apportioned based on the aggregate weight of any and all Loaded Truck entering or exiting the Site for each Party transporting outgoing hazardous waste, non-hazardous waste, demolition debris, and incoming soil; and
  - iii. Roads not marked on Exhibit B are excluded from and not subject to this Agreement.
- e. Each Party shall maintain all Truck weight tickets and any other necessary records for Loaded Trucks to determine the cost sharing of road repairs and maintenance

pursuant to this Paragraph. These records will include specification of the route taken by each Truck to and from the Site gate.

- f. Each Party shall accurately input the information required on the form attached as Exhibit C on a monthly basis and email a copy of the completed form to all Parties by the 5<sup>th</sup> day of every month.
  - i. Exhibit C shall summarize, for each Truck, the date of the shipment, the Trucking Contractor name, the weight of the shipment, and the route taken; and
  - ii. The information on Exhibit C and the relevant underlying records will form the basis for apportioning the cost of the road maintenance under this Agreement, unless otherwise indicated herein.
- g. Each Party will establish a process by which they provide oversight to the Trucking Contractors and Trucks who access the Site on behalf of that Party, to ensure that their performance in no way results in damage to Site facilities, including without limitation, aboveground improvements such as water lines, fences and traffic signs.
- h. The Party responsible for the particular area of the Site will monitor the road conditions in that area and will notify and discuss with the other Parties any maintenance or repair work to be done for which apportionment of costs will be sought under Paragraph 6(d)(ii) above.

7. Repair of Woolsey Canyon Road

- a. If damage occurs to the roadway as a result of an accident or incident involving a Party's Trucking Contractor or Truck, that Party will promptly repair at its sole cost all damage associated with the accident or incident.

8. Miscellaneous.

- a. Term. The term of this Agreement is from date that all Parties have signed this Agreement until one year following the completion of demolition and soil cleanup at the Site. The Parties may extend the term of this Agreement in a written amendment pursuant to Paragraph 8(f). The Party's obligations to fund repair, maintenance or improvement costs under this Agreement shall survive the expiration or earlier termination of this Agreement.
- b. Dispute Resolution.
  - i. Within thirty (30) days after any action which leads to or generates a dispute, any Party may invoke informal dispute resolution.
  - ii. All Parties to this Agreement shall make reasonable efforts to informally resolve disputes at the Project Manager or immediate supervisor level before invoking the formal dispute resolution procedures set forth below. During this informal dispute resolution process, the Parties shall meet as

many times as necessary to discuss and attempt resolution of the dispute. Following determination by any Party that the dispute cannot be informally resolved, and after notification to the other Parties, any Party may invoke formal dispute resolution as provided for in Subsection (b)(iii) of this Paragraph.

iii. If the dispute cannot be settled through informal negotiation, the Parties agree first to try in good faith to settle the dispute by mediation administered by the Civilian Board of Contract Appeals (CBCA) or the Armed Services Board of Contract Appeals (ASBCA), and if not accepted for mediation by the CBCA or ASBCA, then mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before filing an action under the Contract Disputes Act (41 USC CHAPTER 71) to the Board of Contract Appeals or to the Court of Federal Claims. Any costs awarded to Boeing by a mediator or court may be submitted for reimbursement pursuant to Contract Number DE-AC03-99SF21530 and/or Contract Number NNM15AA03C, as applicable.

c. Party Representatives; Notice. Except for informal exchange of information in connection, any notice, demand, request or other communication which any Party may be required or may desire to give under this Agreement shall be in writing and shall be deemed to have been properly given if (a) hand delivered (effective upon delivery) (b) sent by a nationally recognized overnight delivery service (effective one (1) business day after delivery to such courier), or (c) sent by email (effective upon delivery), in each case, addressed as follows:

If to Boeing            The Boeing Company  
                                  Attn: David W. Dassler  
                                  Santa Susana Field Laboratory  
                                  Environment Health & Safety  
                                  5800 Woolsey Canyon Road  
                                  MC 055-T487  
                                  Canoga Park, CA 91304-1148  
                                  [david.w.dassler@boeing.com](mailto:david.w.dassler@boeing.com)

With a copy to        The Boeing Company  
                                  Attn: Allison B. Edgar, Esq.  
                                  Senior Counsel  
                                  2201 Seal Beach Boulevard  
                                  MC 110-SB33  
                                  P.O. Box 2515  
                                  Seal Beach, CA 90740-1515  
                                  [allison.b.edgar@boeing.com](mailto:allison.b.edgar@boeing.com)

With a copy to      The Boeing Company  
Attn: Sharyn Garnett  
Senior Contract Administrator  
5301 Bolsa Avenue  
MC H017-D537  
Huntington Beach, CA 92647  
[sharyn.p.garnett@boeing.com](mailto:sharyn.p.garnett@boeing.com)

If to NASA            Allen Elliott  
NASA SSFL Program Director  
Marshall Space Flight Center, AL 35812  
Mail Code AS01  
[allen.elliott@nasa.gov](mailto:allen.elliott@nasa.gov)

With a copy to      Sherry Fenn  
Marshall Space Flight Center, AL 35812  
Mail Code PS33  
[sherry.k.fenn@nasa.gov](mailto:sherry.k.fenn@nasa.gov)

If to DOE             DOE Federal Project Director  
John Jones  
4100 Guardian Street  
Suite 160  
Simi Valley, CA 93063  
[john.jones@emcbc.doe.gov](mailto:john.jones@emcbc.doe.gov)

With a copy to      Simon Lipstein, General Attorney  
EM Consolidated Business Center  
Denver Federal Center Building 55  
6<sup>th</sup> Avenue & Kipling Street  
Lakewood, CO 80225  
[simon.lipstein@emcbc.doe.gov](mailto:simon.lipstein@emcbc.doe.gov)

With a copy to      DOE Contracting Officer  
John Blecher  
EM Consolidated Business Center  
250 E. 5th Street, Suite 500  
Cincinnati, OH 45202  
[john.blecher@emcbc.doe.gov](mailto:john.blecher@emcbc.doe.gov)

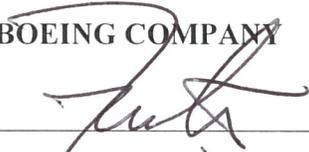
Any Party may change the above designations by written notice to the other Party given in accordance with this Paragraph 8(c), and each Party may rely on such designation until notified as required herein of a change in such designation.

- d. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the United States of America (“Federal Law”). To the extent that any claim or issue is not addressed by Federal Law, the laws of the State of California shall govern.
- e. Nothing in this Agreement shall at any time be so construed as to create a relationship of employer and employee, partnership, principal and agent, or joint venture between Boeing, DOE and NASA, or any of their contractors or subcontractors.
- f. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. This Agreement may be amended or modified only by an instrument in writing executed by each of the Parties hereto.
- g. The Parties acknowledge and understand that certain work at the Site is subject to review under the National Environmental Policy Act and/or the California Environmental Quality Act, and that modifications to some terms of this Agreement may be necessary depending on the results of those pending processes.
- h. This Agreement in itself shall not obligate DOE and NASA monetarily. Any costs which DOE is responsible under this Agreement shall be processed and billed according to Contract Number DE-AC03-99SF21530. Any costs which NASA is responsible under this Agreement shall be processed and billed according to Contract Number NNM15AA03C.
- i. No Waiver of Legal Claims or Rights. By entering into, or acknowledging or agreeing to this Agreement, neither Party releases, waives or limits any legal claim or defense available to any Party against the other Party or any other party at law or in equity.
- j. This Agreement is expressly not intended for the benefit of any third party (including future property owners) and is expressly not enforceable by, or against, any third party.
- k. If any term, covenant, condition or provision of this Agreement is determined by a court of competent jurisdiction to be invalid or otherwise unenforceable, such term, covenant, condition or provision shall be fully severable, and this Agreement shall be construed and enforced as if such invalid or unenforceable term, covenant, condition or provision never comprised a part hereof; and all remaining provisions of the Agreement shall remain in full force and effect.

- l. This Agreement contains the entire understanding of the Parties with respect to the matters contemplated by this Agreement, and it supersedes any and all prior agreements and understandings, written or oral, between the Parties.
- m. The recitals are incorporated by reference into this Agreement.
- n. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one fully-executed agreement. This Agreement may be executed and delivered via facsimile or PDF with the same force and effect, and if so executed and delivered shall be effective, as if an original of this Agreement were executed and delivered.
- o. Each Party hereto warrants and represents that such party has full and complete authority to enter into this Agreement and each person executing this Agreement on behalf of a Party warrants and represents that he has been fully authorized to execute this Agreement on behalf of such Party and that such Party is bound by the signature of such representative.

**IN WITNESS WHEREOF**, the undersigned have duly executed this Agreement on the dates indicated below.

**THE BOEING COMPANY**

  
\_\_\_\_\_

By: FRANK DISPALATRO

Title: AUTHORIZED SIGNATORY

Date: SEPT. 3, 2015

**THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

\_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

- l. This Agreement contains the entire understanding of the Parties with respect to the matters contemplated by this Agreement, and it supersedes any and all prior agreements and understandings, written or oral, between the Parties.
- m. The recitals are incorporated by reference into this Agreement.
- n. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one fully-executed agreement. This Agreement may be executed and delivered via facsimile or PDF with the same force and effect, and if so executed and delivered shall be effective, as if an original of this Agreement were executed and delivered.
- o. Each Party hereto warrants and represents that such party has full and complete authority to enter into this Agreement and each person executing this Agreement on behalf of a Party warrants and represents that he has been fully authorized to execute this Agreement on behalf of such Party and that such Party is bound by the signature of such representative.

**IN WITNESS WHEREOF**, the undersigned have duly executed this Agreement on the dates indicated below.

**THE BOEING COMPANY**

\_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

 \_\_\_\_\_

By: Patrick E. Scheuermann

Title: Director

Date: 8/31/15

THE DEPARTMENT OF ENERGY

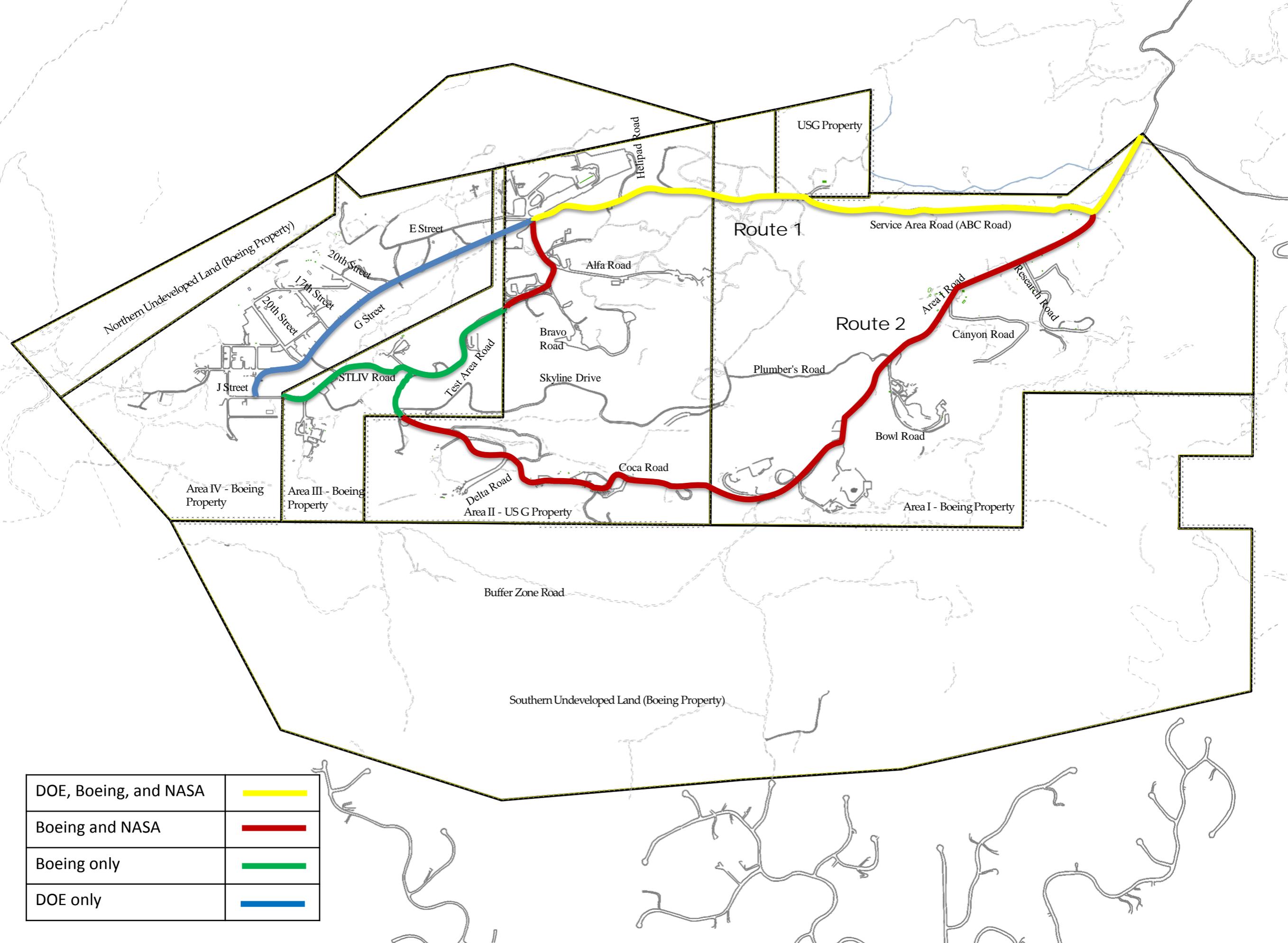


By: JOHN B JONES

Title: DOE/ETEC DIRECTOR

Date: 10/8/15





DOE, Boeing, and NASA	
Boeing and NASA	
Boeing only	
DOE only	

### Exhibit C. Monthly Remediation Truck Loads

Year		Month	
------	--	-------	--

No.	Truck No.	Contractor	Date	Responsible Party	Gross Weight (tons)	Route Taken*
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						
24						
25						
26						
27						
28						
29						
30						
<b>Total</b>					0.00	

*Route Options		RP
A	Area IV to Gate via Area II Road	DOE or Boeing
B	Area IV to Gate via Area I Road	DOE or Boeing
C	Area II to Gate via Area II Road	NASA
D	Area II to Gate via Area I Road	NASA
E	Area I to Gate via Area II Road	Boeing
F	Area I to Gate via Area I Road	Boeing