

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

LAWRENCE O’CONNOR, et al.,)	Civil Action No. 97-1554 ABC (RCx)
)	
Plaintiffs,)	<u>CLASS ACTION</u>
)	
v.)	
)	
BOEING NORTH AMERICAN, INC., et al.,)	NOTICE OF PENDENCY
)	OF CLASS ACTION
Defendants.)	
)	

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

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

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

PERSONS TO WHOM THIS NOTICE APPLIES

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

- (1) All persons: (a) who presently reside or work within the boundaries of the Class Area depicted in the map attached to this Notice or who, at any time since 1946, have resided or worked in the Class Area; and (b) who have not been diagnosed with:
 - (i) a cancer which is advanced to a degree that it cannot be surgically cured;
 - (ii) an autoimmune disease which is diagnosed based upon the criteria used by the American Rheumatology Association;
 - (iii) a clinically significant neurologic disease which interferes with the affairs of daily living;
 - (iv) a clinically significant and poorly controlled endocrine disorder; or
 - (v) a birth defect.
- (2) All persons who own real property located within the Class Area.
- (3) All persons who presently reside or work in the Class Area and/or who own real property located within the Class Area.

YOU MAY BE A CLASS MEMBER

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

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

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

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

PERSONS NOT ELIGIBLE FOR MEMBERSHIP

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

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

ACTIONS TO BE TAKEN BY CLASS MEMBERS

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

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

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

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

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

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

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

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

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

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

BOUNDARIES OF THE CLASS AREA

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

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

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

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

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

PARTIES TO THE CLASS ACTION

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

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

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

DESCRIPTION OF THE CLASS ACTION

The original complaint in this class action was filed on March 10, 1997. The operative Fourth Amended Complaint in this class action was filed on March 28, 1998.

In the Fourth Amended Complaint, plaintiffs allege that, beginning in approximately 1946, the Defendants researched, developed, manufactured and tested various missile and rocket engines, as well as propellants, lasers and nuclear reactors, at four facilities located in the greater Simi Valley and San Fernando Valley area. Those four facilities, referred to as “the Rocketdyne Facilities”, were located at the following sites: (1) the Santa Susana Field Laboratory, or **Santa Susana** facility, located at the top of Woolsey Canyon Road and near the crest of the Simi Hills at the western border of the San Fernando Valley; (2) the **Canoga** facility located at or about 6633 Canoga Avenue and near the corner(s) of Canoga Avenue and Victory Boulevard in Canoga Park; (3) the **DeSoto** facility located at or about 8900 DeSoto Avenue and near the corner(s) of DeSoto Avenue and Nordoff Street in the San Fernando Valley; and (4) the **Hughes** facility located at or about 8433 Fallbrook Avenue and near the northwest corner of Fallbrook Avenue and Roscoe Boulevard in the San Fernando Valley.

Plaintiffs allege that the activities of the Defendants at the Rocketdyne Facilities involved the use and release of certain chemicals, including, among others, trichloroethene (TCE) and hexavalent chromium, as well as the use, storage, generation and disposal of certain radioactive materials. Plaintiffs allege that they were personally exposed to and/or that their properties were contaminated by certain radioactive and/or chemical substances which were released from one or more of the Rocketdyne Facilities and which were dispersed through the Class Area by means of air currents, surface water runoff and/or subsurface groundwater.

Plaintiffs allege that their exposure to these substances has placed them at an increased risk of developing cancer or some other serious illness or disease. As a result, plaintiffs seek the implementation of a court-supervised program of medical monitoring designed to detect early signs of such illness or disease.

Plaintiffs also allege that the Defendants’ releases of these substances has resulted in the contamination of their property and has diminished the value of their property. Plaintiffs further allege that they have incurred certain necessary expenses in response to the alleged contamination of their property (including, for example, cleaning up their property) for which they seek reimbursement under federal law.

The Defendants maintain that plaintiffs have not been exposed to any substances released from the Rocketdyne Facilities that place them at an increased risk of illness or disease. The Defendants also maintain that plaintiffs’ properties are not contaminated by any releases from the Rocketdyne Facilities and that, consequently, plaintiffs are not entitled to recover damages for any harm caused to their properties. The Defendants deny all allegations of damage to plaintiffs and contest the merits of plaintiffs’ claims.

TYPE OF RELIEF SOUGHT

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

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

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

CLAIMS FOR PERSONAL INJURY OR WRONGFUL DEATH

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

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

CLASS CERTIFICATION

On July 13, 1998, after a hearing before the Honorable Audrey B. Collins, the District Court conditionally certified this action as a class action to be maintained by plaintiffs on behalf of the members of **Class I, Class II** and/or **Class III** as defined in this Notice. The Court appointed A. Barry Cappello, Esq. and J. Paul Gignac, Esq. of Cappello & McCann LLP, as Lead Class Counsel, and Tina B. Nieves, Esq. and Hector G. Gancedo, Esq. of Gancedo & Nieves LLP, as Class Counsel.

Communications with Class Counsel should be in writing and directed to:

J. Paul Gignac, Esq.
CAPPELLO & MCCANN LLP
831 State Street
Santa Barbara, California 93101

or

Tina B. Nieves, Esq.
GANCEDO & NIEVES LLP
119 E. Union Street, Suite G
Pasadena, California 91103

(English only)

(Si se habla español)

EFFECT OF CLASS CERTIFICATION

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

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

RECOVERY BY CLASS MEMBERS

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

RESPONSIBILITY FOR ATTORNEYS’ FEES AND EXPENSES

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

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

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

RIGHT TO APPEAR IN THE CLASS ACTION

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

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

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

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

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

RIGHT TO INTERVENE IN THE CLASS ACTION

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

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

J. Paul Gignac, Esq.
Cappello & McCann LLP
831 State Street

John A. Reding, Esq.
Paul, Hastings, Janofsky & Walker LLP
345 California Street

Santa Barbara, CA 93101

San Francisco, CA 94104-2635

POSTING A COPY OF THIS NOTICE

If you are a business entity, you are required to post a copy of this Notice in a conspicuous location (e.g. bulletin board) where it may be easily viewed by your employees.

ADDITIONAL COPIES OF THIS NOTICE

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

1-800-700-1195

ADDITIONAL INFORMATION

The matters identified and described in this Notice do not purport to be comprehensive and should not be considered as such. Therefore, if you desire further information, you may wish to review the pleadings and other records on file with the District Court. The documents publicly filed in this class action are available for inspection and copying during regular business hours at the office of the Clerk of the District Court located at 312 N. Spring Street, Los Angeles, California 90012.

Please do not telephone the District Court or the Office of the Clerk for information regarding this class action.

Dated: February 5, 1999

Clerk of the United States District Court

REQUEST FOR EXCLUSION

Please read the Notice carefully before filling out this form.

I have read the Notice and wish to exclude myself or another person or entity for whom I am the legal representative (e.g. guardian or corporate officer) from one or more of the classes certified in the case of *Lawrence O'Connor, et al. v. Boeing North American, Inc., et al. CV No. 97-1554 ABC (RCx)*.

My name, address and telephone number are as follows:

Name: _____

Address: _____

Telephone: () _____

I request exclusion from the following class(es):

Class II: ___ (Please check one or both)
Class III: ___

I am completing this form on behalf of:

Myself ___ (Please check one only)
Another Person
Or Entity ___

Answer only if completing this form on behalf of another person or entity:

I am completing this form on behalf of _____ in my capacity as
_____ of such person or entity. (name)
(legal relationship)

Dated: _____
(Date)

By: _____
(Signature)

PLEASE NOTE: A separate form must be completed for each person or entity requesting to be excluded from any of the class(es).