



PEER

PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY • PACIFIC

February 7, 2022

Attorney General's Office
California Department of Justice
Division of Law Enforcement
Attn: Bureau of Investigation
P.O. Box 944255
Sacramento, CA 94244-2550

Via Mail & Email

RE: Request for Investigation into Potential Public Integrity Violations

This request for investigation of apparent criminal actions and civil infractions is submitted on behalf of Public Employees for Environmental Responsibility (PEER).

Summary

Irma R. Munoz has served as a member the Los Angeles Regional Water Quality Control Board (LARWQCB) since 2011 and was its Chair from 2015 until November 2019. She is also the founder, president, and a principal salaried employee of a small non-profit named Mujeres de la Tierra.

During calendar years 2016 through 2018, Mujeres de la Tierra received at least \$71,500 from the Boeing Corporation, which held and still holds an LARWQCB water pollution discharge (National Pollutant Discharge Elimination System or NPDES) permit for its highly-contaminated property at the Santa Susana Field Laboratory in Ventura County. This represented a substantial portion of the overall income of Mujeres de la Tierra and of her salary received from it.

During her tenure as Chair in 2019, she played a role in the waiver of \$128,500 in assessed fines to Boeing for numerous water pollution violations in the months following the mammoth November 2018 Woolsey Fire, which started at Santa Susana.

In addition, she improperly served on the LARWQCB, and additionally was illegally reappointed to that body in 2019, in violation of Section 13388 of the California Water Code which provides in pertinent part:

“...a person shall not be a member of the state board or a regional board if that person receives, or has received during the previous two years, a significant portion of his or her income directly or indirectly from any person subject to waste discharge requirements or applicants for waste discharge requirements pursuant to this chapter.” (Subsection a)

Ms. Munoz thus appears to have served on the Board for years illegally, in violation of Water Code Section 13388, and serves illegally to this day because her most recent reappointment was also in violation of Section 13388.

Boeing Payments

The IRS Form 990 filed by Mujeres de la Tierra for 2016 reflects that Ms. Munoz was paid \$60,000 in compensation for an average of 30 hours-per week. During that year, the form reflects that Boeing provided \$30,000 in “Program Service Revenue.” That year, the non-profit’s total revenue from all sources was \$161,922.

The IRS Form 990 filed by Mujeres de la Tierra for 2017 reflects the same compensation for Ms. Munoz and \$1,500 from Boeing out of total revenue of \$175,726.

The IRS Form 990 filed by Mujeres de la Tierra for 2018 again reflects the same compensation for Ms. Munoz but with \$40,000 from Boeing out of total revenue of \$267,737.

The IRS defines program service revenue as including income received by the organization for an “activity of an organization that accomplishes its exempt purpose.”ⁱ That definition, however, does not explain for what, if anything, Boeing was providing money to Ms. Munoz’s small organization.

Program service revenue is separate from donations, grants, and other contributions. For all years, the 990s for Mujeres de la Tierra that are publicly available have the schedules of contributors redacted, so it is possible that in addition to providing “program service revenue,” sources of which are specified in the public 990s,ⁱⁱ Boeing may have also provided contributions or grants during those and/or other years, a matter which should be reviewed as part of the investigation we request.

To the best of our knowledge, Mujeres de la Tierra’s Form 990 for 2020 is not presently publicly available.ⁱⁱⁱ To the best of our knowledge, the organization’s 990 for 2021 has not yet been filed.

The funds that Boeing has been disclosed as providing in 2016-2018 to Mujeres de la Tierra, which employs Ms. Munoz, appear to represent more than 10% of her salary (and, for that matter, of the organization itself) during that period, and thus appear to exceed the 10% prohibition established by 23 CCF§644.6 for determining a “significant portion” of income.

It is important to note that Water Code §13388 defines that as including income received both “directly and indirectly.” Even if Ms. Munoz’s organization received no Boeing funds in 2019 (and we do not know that because contributions have not been publicly disclosed) she would also have been disqualified from serving on the Board then as well, because of the prohibition of receiving significant income from a discharger during the prior two years. For this reason it appears to be a violation of Section 13388 of the California Water Code, meaning that she should have been prohibited from serving on the Board, for at least the period 2016-2019. If there were contributions from Boeing during other times as well, service on the Board for those other periods, plus a year thereafter, would also have been illegal.

Furthermore, Ms. Munoz’s reappointment to the Board in 2019, at a time when over the previous two years a significant portion of her income had come from Boeing, would appear to have been contrary to law, and thus her current service on the Board would also be prohibited, as the reappointment occurred within two years of receiving the income from Boeing.

Additionally, we note that 23 CCR§644.6 prescribes penalty of perjury if a Regional Board member fails to disclose *any* income from a person subject to waste discharge requirements.

Moreover, it would appear that the Boeing revenue to Ms. Munoz's organization was a "financial interest" with "material financial effect," within the meaning of California Government Code Section 87103 which further defines this interest to include:

"(c) Any source of income...aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made." [and]

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made..."

The Boeing revenue in excess of \$70,000 over three years directed to a small non-profit when Ms. Munoz was the president, and apparently the principal employee, appears to constitute a conflict of interest, within the meaning of Government Code Section 87100, triggering a legal duty to disclose that interest and recuse oneself from any official action involving that interest, as specified in Section 87105.

There are thus three separate but related issues: (1) whether Ms. Munoz fully disclosed the Boeing income, (2) whether she should have recused herself, and should in the future recuse herself, from all matters related to Boeing, (3) and whether her very presence on the Board from at least 2016 through the present is barred by statute due to her income from Boeing and her reappointment within two years of that income.

These issues take on added importance because, as detailed below, Ms. Munoz appears to have acted to benefit Boeing within one year of receiving substantial income from that source.

Woolsey Fire

The devastating Woolsey Fire began on November 8, 2018, at the Santa Susana Field Laboratory (SSFL), a contaminated former nuclear reactor and rocket testing facility in Ventura County, bordering Los Angeles. SSFL sits atop a range of hills between the San Fernando and Simi Valleys located about 30 miles northwest of downtown Los Angeles. More than 700,000 people living within ten miles of the site, and it is the headwaters of the Los Angeles River.

SSFL consists of approximately 2,850 acres of land, which is almost entirely owned by the Boeing Corporation, with the exception of 451.2 acres, which is owned by the National Aeronautics and Space Administration.

The fire appears to have begun about a thousand yards from the site of the partial nuclear meltdown that had occurred at SSFL in 1959. It was not put out quickly and instead spread all the way to the ocean, burning nearly 97,000 acres and destroying more than 1600 homes and other structures while killing four people.

The fire caused release of radioactive and toxic chemical contamination from the burning of so much of the polluted field lab. In addition, stormwater runoff in the months following the fire flushed heavy metals such as lead and arsenic, toxic chemicals such as dioxins and cyanide, as well as radionuclides off the site and into the neighboring communities and waterways. Altogether, there were 57 exceedances of the water pollution health and environmental limits in the discharge permit issued to Boeing by the LARWQCB.^{iv}

Questionable Waiver of Fines

By letter dated April 15, 2019, Boeing requested the Board waive the penalty fines associated with violations of the permit limits.^v The request was not made public by the Board, and no opportunity for public comment on the request was provided.^{vi}

On May 9, 2019, the Board held a regular monthly meeting, at which on the agenda was an “Informational Update on the 2018-2019 Storm Season Data from Boeing Santa Susana Field Laboratory: Woolsey Fire Impacts and Water Quality Data.” The hearing was chaired by Ms. Munoz, at that time the Chair of the Board. Ms. Munoz introduced the SSFL section of the hearing by saying it was being held because of community concern and to show that the Board was responsive to the community’s concerns. Board staff made a presentation on SSFL, followed by a presentation by Boeing’s consultants.^{vii} Community members then spoke about their concerns about SSFL, Boeing, and the fact that a Regional Board member, Charles Stringer, also served as a lobbyist for Boeing on SSFL. Stringer had recused himself from the SSFL agenda item.

Despite the community concerns expressed about Board Member Stringer’s ties to Boeing, Chair Munoz did not disclose her own ties. Nor did she recuse herself from the Boeing agenda item.

Furthermore, despite Boeing having written the Board on April 15, requesting waiver of the fines for violations subsequent to the Woolsey Fire, and the Woolsey Fire and subsequent exceedances being an express agenda item at this meeting, neither Board Staff nor Chair Munoz disclosed to the public – or to the other Board Members – that there was a pending request for waiver of the fines.^{viii} Nor was there any opportunity for public input on the proposal. There was no discussion by other Board members and no provision to set the matter for a Board vote.

Almost all of the fines were dismissed in a June 27, 2019 letter signed by Hugh Marley, Assistant Executive Director of the LARWQCB on behalf of the “Board.” That letter summarily concluded that the permit violations were a consequence of the Woolsey fire and that the “effects could not have been prevented or avoided by the exercise of due care or foresight by Boeing.”^{ix} Had public comment been allowed on the matter, that conclusion would have been very difficult to defend, as discussed below.

Based upon that questionable claim, Boeing’s assessed fines were reduced from \$154,250 down to \$25,750, a reduction of \$128,500.^x

This action was taken without a hearing by the Board. According to news accounts, Board Members were not even informed of the action in advance of it being taken, with the exception of the Chair, Ms. Munoz, and the Vice-Chair.^{xi}

NBC4 News reported:

Board member Diamond, contacted by NBC4 by phone, said she did not know the fines were dropped. Why would the board do that, she asked, after so many years of closely monitoring Boeing?

The board's chairwoman, Irma Munoz, and vice chairman, Lawrence Yee, were notified of Marley's letter before it was sent, and board members later got copies of the letter, Froelich wrote in an email to NBC4.

Munoz did not respond to multiple calls from NBC4 requesting comment, and Yee could not be reached.

Thus, Ms. Munoz appeared to act or refrain from acting in her official capacity to directly benefit Boeing, a source of financial interest to her. The Board staff consulted with her before the letter was sent, on behalf of the Board, waiving the fines. She apparently could have raised an objection, which would have caused the staff, which works for the Board, to pull back. She apparently could have decided that the proposed waiving of the fines should be put before the Board for a vote, and that the public should be allowed to weigh in. She did none of these, but rather allowed Boeing to have \$128,500 in fines waived, even though she had within the prior two years received substantial income from Boeing.

In addition, the official determination and decision to waive the bulk of Boeings fines was hard to reconcile with the facts, such as –

- Had Boeing complied with the 2007 Consent Order for cleanup of SSFL, all of the contaminants would have been removed by the end of 2017, before the 2018 Woolsey Fire occurred, and those contaminants wouldn't have been available to migrate offsite. The legally binding Consent Order requires soil cleanup to be completed by 2017, yet the soil cleanup required by the Order has not even begun.^{xii}
- The Regional Board letter waiving the fines states that Boeing bore no responsibility for the spread of the fire or the toxic and radioactive releases thereafter, because “Boeing has a fire station onsite that immediately responded when the Woolsey Fire began.” However, the facts are that the longstanding, well-equipped onsite fire station—which had been located just a few hundred yards from where the fire began--had been torn down a few years earlier, as had been nearby fire hydrants and water piping, and the water tanks that fed them.^{xiii} All that remained onsite was a single ancient fire engine that Boeing stationed far away, near the entrance – and the *Los Angeles Times* reported that it broke down before even reaching the fire.^{xiv}
- Moreover, the Board chose to absolve Boeing from all responsibility for the cause and spread of the Woolsey Fire while the matter of Boeing's responsibility is currently before the courts in litigation brought by local residents against Southern California Edison and Boeing alleging their negligence was responsible for the fire. These suits were filed prior to the Board finding absolving Boeing of all negligence in the matter.^{xv} To our knowledge, these lawsuits, that litigation remains unresolved.

Nonetheless, the action by the LARWQCB to, without any public notice or hearing, and without prior knowledge of the majority of the Board and with no vote by them, to make a complex factual determination appears hasty and questionable. Significantly, Ms. Munoz appeared to play a direct role in an official action that favored her financial benefactor.

Disqualification and Illegal Appointment

Ms. Munoz is in apparent violation the Water Code Section 13388 by serving as a member of a regional board having received a significant portion of his or her income indirectly from Boeing, a water discharge permit holder, during the previous two years.

In addition, it appears that her 2019 reappointment, less than two years after her small non-profit received \$40,000 from Boeing, was contrary to law. If her reappointment was invalid, presumably so would her continued presence on the Board be unauthorized.

Moreover, this situation casts a legal cloud over all Board decisions in which Ms. Munoz participated during the period she was legally barred from serving. Any such legal challenges would fall to the Civil Division of your own department of Justice to defend.

In addition, there is the question of Ms. Munoz receiving per diem or other compensation during periods in which she was not authorized to serve and whether those funds should be reimbursed.

Finally, Boeing is now applying for a renewal of that permit, with no known recusal from Ms. Munoz. That renewal hearing before the LARWQCB is scheduled for February 10, 2022.

Conclusion

Violators of California's conflict of interest laws may be found guilty of a misdemeanor and/or fined \$10,000.^{xvi} The Office of the Attorney General is responsible for enforcing the criminal provisions of this title with respect to state agencies.^{xvii}

Beyond the misdemeanor conflict of interest penalties, however, there remains the distinct possibility that the Boeing payments to the non-profit run by Ms. Munoz was part of a deliberate scheme to curry official favor from the Board. If that were to be the case, that would constitute bribery, a felony offense punishable by a jail or prison term of up to 4 years.^{xviii}

In short, we are referring this matter for your immediate attention as it raises serious matters affecting the public trust and faithful execution of the laws.

Should you require additional information or clarification about any aspect of this request, please do not hesitate to contact me as (510) 213-7028 or via email at jruch@peer.org

Sincerely,



Jeff Ruch
PEER Pacific Director

ⁱ See <https://www.irs.gov/pub/irs-pdf/i990.pdf>

ⁱⁱ The California Department of Justice Registry of Charitable Trusts has the unexpurgated Form 990s on file through July 1, 2021.

ⁱⁱⁱ Although the California Attorney General's Registry of Charitable Trusts should have a copy, as it is required to be filed with the RRF-1 form.

^{iv} [MigrationOfContaminants.pdf \(committeetobridgethegap.org\)](#)

^v The Boeing letter appears to have not been made publicly available; it does not appear on the Board's website.

^{vi} Heal the Bay, Los Angeles Waterkeeper, Wishtoyo Chumash Foundation, and Surfrider Foundation have objected to the failure to issue a public notice of and provide opportunity for public comment on the proposed waiver of the Boeing fines. See letter to Regional Board of January 18, 2022, p. 11.

^{vii} The Boeing consultants described themselves as "independent," then immediately thereafter said they were being paid by Boeing.

^{viii} News reports indicate that Chair Munoz and Vice Chair Yee were informed of the request for the fee waiver and the staff's proposal to grant it, although when they were so notified is unclear, as is whether they were informed first of the fee waiver request and then subsequently of the staff proposed action of granting it.

^{ix} [Partial Approval of the Request for Relief Pursuant to Water Code 1338599\(j\)\(1\)\(B\)-The Boeing Company Santa Susana Field Lab CI-6027.pdf](#)

^x The fines that remained were associated with dioxin (TCDD) releases, and the June 27, 2019, letter indicates that the Board was prohibited by the court-approved Consent Decree from waiving fines associated with dioxins.

^{xi} [Woolsey Fire Crippled Boeing Water Safety System at Toxics Site – NBC Los Angeles](#)

^{xii} See letter of October 14, 2021, to CalEPA Secretary Blumenfeld from 5 members of Congress calling for completion of SSFL cleanup.

^{xiii} [CouldTheFireSpreadHaveBeenPrevented.pdf](#)

^{xiv} Jaclyn Cosgrove, "First Engine Broke Down en Route to Woolsey Fire, Sources Say. Blaze Grew at a Terrifying Rate," *Los Angeles Times*, November 11, 2019.

^{xv} See *Leo LaPlante, et al. vs Southern California Edison Company, et al.* (Case number 19STCV03419) Filed 02/05/2019 in Los Angeles Superior Court and *Andrew Von Oeyen, et al. vs Southern California Edison Company, et al.* (Case number 19STCV04409) Filed 02/08/2019.

^{xvi} Government Code Section 91000

^{xvii} Government Code Section 91001

^{xviii} Penal Code Section 68