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U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION X

1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101



REPLY TO
ATTN OF:

Mail Stop 514

RECEIVED

APR 5 1977

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Mr. Armand Labbe
Plant Manager
ASARCO, Inc.
P. O. Box 1677
Tacoma, Washington 98401

ASARCO TACOMA

Dear Mr. Labbe:

Pursuant to Section 113(a)(1) of the Clean Air Act [42 USC § 1857c-8(a)(1)] you are hereby notified that the ASARCO, Inc. Tacoma smelter is found to be in violation of certain sections of the Washington Administrative Code and PSAPCA Regulations related to control of air pollution, all of which are part of the federally-approved implementation plan for the State of Washington. The enclosed formal Notice sets forth in full the nature of the violations and the obligations of ASARCO in response to the findings.

As you may know, EPA is obligated by statute to issue a Notice of Violation whenever it obtains information that the provisions of a federally-approved state implementation plan are being violated. Once such information is obtained, issuance of a Notice is non-discretionary.

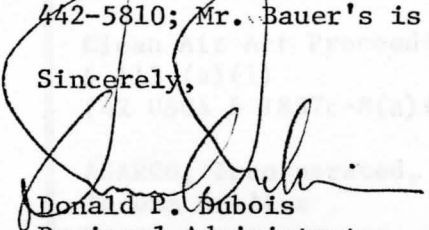
Several events have necessitated issuance of this Notice. First, well over a year has expired since the federally-approved PSAPCA variance relating to SO₂ control ended. Second, resolution in state proceedings of the legal dispute relating to the recently vacated PSAPCA variance and eventual submission of some form of variance to EPA appears to be distant. Third, we now have recent reports from EPA contractors (H. E. Cramer, T. Browder and PEDCO) which have concluded that the PSAPCA SO₂ emission standards are technically attainable and represent approximately what must be required ultimately to attain National Ambient Air Quality Standards without the use of supplementary of intermittent sulfur dioxide controls.

The enclosed Notice commences the federal administrative enforcement process, which is designed to address and assist in the resolution of the issues of what particulate and SO₂ control requirements must be met by the Tacoma smelter in order to satisfy the State plan and

§ 110(a)(2)(B) of the Clean Air Act. That process will involve both a consideration of the technical aspects of compliance and a specific evaluation of the financial ability of ASARCO to sustain necessary permanent SO₂ and particulate control expenditures. As one preliminary step in developing a financial analysis, EPA funded an existing study (as yet uncompleted) by Arthur D. Little, Inc. As you know, we have also sent to you an additional and quite comprehensive Request for Information under § 114 of the Act concerning financial data and documents, a full and complete response to which is essential to EPA's approval of any emission control plan or provision calling for less than full permanent controls installed currently. It is our hope that the continued cooperation of ASARCO, Inc. will be forthcoming so that a sound resolution of these complex issues may be effected.

Should you have any questions regarding this Notice, or wish to request a conference, please get in touch with me or have your staff or attorneys contact Ralph R. Bauer, Chief, Air Compliance Branch, EPA Region X, 1200 6th Avenue, Seattle, Washington 98101. My telephone number is (206) 442-5810; Mr. Bauer's is (206) 442-1387.

Sincerely,



Donald P. Dubois
Regional Administrator

Enclosures

cc: Ralph L. Hennebach
Washington Operations Office, EPA
Department of Ecology
PSAPCA
Clean Air Coalition: Michael Nelson and Deborah Shore

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6 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

7 Region X
8 1200 Sixth Avenue
9 Seattle, Washington

10 IN THE MATTER OF:)

11 Clean Air Act Proceeding,)
12 § 113 (a)(1))
13 [42 USCA § 1857c-8(a)(1)])

NO. X76-12-11-113

NOTICE OF VIOLATION

14 ASARCO, Incorporated, in re)
15 Tacoma Smelter)

Respondent.)

16 TO: ASARCO, Incorporated
17 120 Broadway
18 New York, New York 10005
and Ralph L. Hennebach, President

19 and

20 ASARCO Tacoma Smelter
21 P. O. Box 1677
22 Tacoma, Washington 98401
and Armand L. Labbe
Plant Manager

23 PURSUANT TO SECTION 113(a) of the Clean Air Act, as amended, 42 USCA
24 § 1857c-8(a)(1), (hereinafter referred to as the Act), you are hereby
25 notified that:

26 1. The Tacoma smelter, a facility owned by ASARCO Incorporated,
27 Respondent, is subject to the Washington Air Quality Implementation Plan
28 (AQIP).

29 2. With regard to sulfur dioxide (SO₂) emissions, the Federally-
30 approved Washington AQIP contains two categories of regulations to which
31 Respondent's Tacoma smelter is subject and which are made the subject
32 of this Notice:

1 a. Input sulfur emission limitation

2 b. SO₂ concentration emission limitations

3 3. These requirements are contained in the regulations of the
4 Puget Sound Air Pollution Control Agency (PSAPCA) and The Washington
5 Department of Ecology (DOE), all of which are a part of the Federally-
6 approved Washington AQIP 40 CFR section 52.2470. Where two regulations
7 exist relating to the same requirement for the smelter, by Washington
8 State law the more stringent prevails.

9 4. The Washington AQIP governs the emissions of sulfur dioxide
10 from the ASARCO Tacoma smelter and requires as follows:

11 a. Input Sulfur Emission Limitation:

12 PSAPCA Regulation I, Section 9.07(c) applicable to the ASARCO Tacoma
13 smelter requires sources emitting greater than forty (40) pounds per
14 hour of sulfur dioxide to limit emissions to ten percent (10%) of the
15 sulfur contained in the process weight per hour. A copy of this regu-
16 lation is attached hereto as Exhibit A.

17 b. SO₂ Concentration Emission Limitations:

18 1. DOE:

19 Section 18-04-040(6)(b) and (c) of the Washington Administrative Code
20 (WAC) contains the DOE SO₂ concentration emission limitation and
21 measurement standard applicable to the ASARCO Tacoma smelter. That
22 section limits the concentration of SO₂ emissions to one thousand parts
23 per million (1000 ppm) unless a demonstration of infeasibility of
24 reaching such limits has been made and approved by the Director of the
25 DOE. A copy of this section is attached hereto as Exhibit B.

26 2. PSAPCA:

27 Regulation I, Section 9.07(b) contains the PSAPCA SO₂ concentration
28 emission limitation and measurement standards applicable to the ASARCO
29 Tacoma smelter. That Section limits the concentration of SO₂ emissions
30 to two thousand parts per million (2000 ppm) in flue gas. A copy of
31 this section is attached hereto as Exhibit C.

1 3. Governing Standard:

2 Because ASARCO has not established entitlement to relief from the 1000
3 ppm DOE standard, the applicable SO₂ concentration emission limitation
4 is 1000 ppm. If ASARCO were to establish its entitlement to relief from
5 the DOE 1000 ppm standard, the PSAPCA 2000 ppm concentration limitation
6 would be the governing standard.

7 5. With regard to emissions of particulate matter, the Federally-
8 approved Washington AQIP sets forth the Department of Ecology opacity
9 regulation to which Respondent's Tacoma smelter is subject: WAC Section
10 18-04-040-(1)(b) provides generally that emissions of air contaminants
11 shall not exceed an opacity of twenty percent (20%) for more than three
12 (3) minutes in any one (1) hour. A copy of this Section is attached
13 hereto as Exhibit D.

14 6. Based upon information available to the Administrator of the
15 Environmental Protection Agency, it is determined that Respondent has
16 violated applicable portions of the Washington AQIP as follows:

17 a. SO₂ Violations:

18 1. Sulfur Input Emission Limitation:

19 Respondent has violated and is continuing to violate PSAPCA Regulation I,
20 Section 9.07(c) by causing or permitting equipment, used in a manufactur-
21 ing process, to wit, roasters, reverberatory furnaces and converters used
22 in copper smelting, to emit to the atmosphere more than forty (40) pounds
23 per hour of sulfur dioxide and more than ten percent (10%) of the sulfur
24 contained in process weight per hour. The information upon which the
25 Agency is relying in making this finding are the sulfur balance sheets
26 for the months of June through December 1976, supplied to EPA in response
27 to a Request for Information under § 114 of the Act, and which are
28 attached hereto as Exhibit E. The nature of existing sulfur dioxide
29 emission control equipment in use at the ASARCO Tacoma smelter and
30 ASARCO's variance application to PSAPCA, dated December 5, 1975, are also
31 relied upon.

32 2. Sulfur Dioxide Concentration Emission Limitations:

 a. DOE:

1 Respondent has violated, and is continuing to violate, Section 18-04-040
2 (6)(b) of the Washington Administrative Code by emitting sulfur dioxide
3 from the main stack of the ASARCO Tacoma smelter in concentrations in
4 excess of one thousand parts per million (1000 wpm). The information
5 upon which the Agency relied in making this finding are the main stack
6 sulfur emission concentrations a representative sampling of which are
7 attached hereto as Exhibit F, which were supplied by ASARCO to EPA for
8 the months of July, 1976 through December 1976 pursuant to an EPA Request
9 for Information pursuant to Section 114 of the Clean Air Act. The Agency
10 further relied upon the nature of existing sulfur dioxide control equip-
11 ment in use at the Tacoma smelter and ASARCO's variance application No.
12 157 to PSAPCA dated December 5, 1975.

13 b. PSAPCA:

14 In the event the PSAPCA 2000 ppm concentration standard governs,
15 Respondent has violated and is continuing to violate Regulation I,
16 Section 9.07(d) by emitting sulfur dioxide from the main stack of the
17 Tacoma smelter in concentrations in excess of two thousand parts per
18 million (2000 ppm). The information upon which the Administrator relied
19 in making this determination is contained in Exhibit F and upon the
20 nature of existing sulfur dioxide control equipment in use at the Tacoma
21 smelter, and ASARCO's variance application No. 157 to PSAPCA dated
22 December 5, 1975.

23 b. Particulate Violations - DOE:

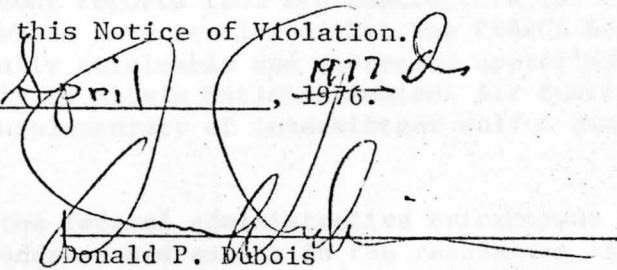
24 Respondent has violated and is continuing to violate, WAC Section
25 18-04-040(1)(b) by emitting air contaminants from the Respondent's
26 Tacoma smelter main stack, converters, roaster, casting furnace, reverber-
27 atory furnace and North and South anode furnaces which are of greater
28 than twenty percent (20%) opacity for more than three (3) minutes in one
29 (1) hour. The information upon which the Agency bases this finding are
30 the inspection reports and opacity notices of violation prepared and
31 issued by PSAPCA, attached hereto as Exhibit G. In addition, this
32 finding is based upon the existing particulate control equipment installed
at Respondent's smelter and ASARCO's variance application No. 157 to
PSAPCA dated December 5, 1975.

1 Section 113 of the Act provides that if the noted violations
2 continue beyond the 30th day after the date of this Notice, the
3 Environmental Protection Agency may issue an Order requiring compliance
4 with the requirements of the Implementation Plan or other appropriate
5 actions or may commence judicial action for injunctive or other
6 appropriate relief.

7 In accordance with Section 113(a)(4) of the Act, the Respondent
8 is hereby offered an opportunity for a conference to discuss the viola-
9 tions which are the subject of this Notice. The conference will provide
10 an opportunity to present information bearing on these findings of
11 violation, on the nature and seriousness of the violations, on any
12 efforts taken to achieve compliance, and on the steps proposed to
13 alleviate the problem. At such a conference Respondent has a right to
14 be represented by counsel, and a record may be made of the conference.

15 Please contact Mr. William T. Christian, Attorney, Legal Support
16 Branch, Mail Stop 514, Region X, EPA, 1200 Sixth Avenue, Seattle,
17 Washington 98101, (206) 442-1275, to request a conference. Such request
18 should be made as soon as possible, but in any event, no later than ten
19 (10) days after the receipt of this Notice of Violation.

20 DATED this 5th day of April, 1977
~~1976~~

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Donald P. Dubois
Regional Administrator