

Response To Public Comment Regarding
Consent Decree in United States v.
ASARCO Inc., Civ. No. C94-5714 JB (W.D. Wash.)

March 10, 1995

The purpose of this document is to summarize and respond to the public comment that the United States received regarding the proposed Consent Decree in United States v. Asarco Inc., Civil Action No. C94-5714 RJB (W.D. Wash.).

This Consent Decree and its attachments provide for the cleanup by ASARCO Inc. (Asarco) of the Ruston/North Tacoma Study Area (Study Area), which is an operable unit of the Commencement Bay Nearshore/Tideflats (CB N/T) Superfund Site. The CB N/T Site was included in the first National Priorities list published by EPA in September 1983. The Study Area, approximately 950 acres in area, comprises the property that falls within a arc of approximately one mile radius surrounding the Asarco Tacoma smelter, and includes the Town of Ruston and a northern portion of the City of Tacoma. EPA and the Washington State Department of Ecology identified the Study Area as the primary focus for conducting a Remedial Investigation/Feasibility Study (RI/FS) for the cleanup of properties contaminated from operations at the Asarco smelter.

EPA believes that current conditions in the Study Area pose unacceptable risks over the long-term to its current and future residents, and that cleanup actions are therefore necessary. EPA's goal is to reduce potential exposures to arsenic and lead by physically removing contaminated soil to the extent practicable. Removal of contaminated soil will also reduce the contaminants that are transported into homes or other buildings. Based on EPA's remediation criteria, Asarco now estimates that up to 273 acres of land including approximately 1,000 residential lots will require cleanup due to the presence of lead and/or arsenic contaminated soil and slag. The remedy selected in the Record of Decision (ROD) for the Study Area includes the sampling of individual properties to determine if soil exceeds the action levels (230 parts per million arsenic and 500 parts per million lead); excavation of contaminated soil and slag; replacement of excavated soil and slag with clean soil and gravel; asphalt capping or soil removal and replacement with gravel of contaminated dirt alleys and parking areas; fencing and planting low lying shrubs in steep areas; and the development and implementation of community protection measures to help residents avoid contact with contaminated soil and materials.

The remedy selected in the ROD applies to those properties or areas located within the Study Area, as well as the three areas located directly to the south of the Study Area where soil sample results from the Remedial Investigation and a 1988 Feasibility Investigation Report showed that soils contained arsenic and lead exceeding the action levels.

Summary of Comment

The United States received only one comment on the proposed consent decree. The commenter, Mr. Bruce Arneklev, stated that Asarco recently provided him with the results of soil sampling conducted on vacant parcels of property that he owns adjacent to his residence. The sample results showed arsenic and lead contamination above EPA's action levels for cleanup on certain subunits of the commenter's property. The commenter notes that his property on which this sampling was performed is nearly two miles from the Asarco smelter site, which is outside the boundary of the Study Area within which cleanup will generally be performed under the Consent Decree. The commenter also notes that, as a member of the committee that developed the Community Protection Measures Program, he helped develop a form which can be filled out by residents of the Study Area that allows residents to request early sampling of their property. However, he states that that form does not "address the need for associated cleanup procedures by ASARCO or assumption of liability for that clean-up by EPA." The commenter hopes that provisions are made in the consent decree or amendments to enforce timely cleanup requirements for areas such as his.

EPA's Response to the Comment

The proposed consent decree lodged with the Court provides that properties within the Study Area that exceed action levels will be cleaned up by Asarco. The decree further provides that three specific properties located south of the Study Area are also part of the cleanup (previous investigations had indicated elevated contamination levels at these properties). The property owned by the commenter is one of the three properties located outside the Study Area that Asarco is required to clean up under the decree. Therefore, no amendments to the consent decree are necessary for EPA to require Asarco to cleanup the commenter's property.

It is possible that other properties beyond the Study Area (i.e., in addition to the three mentioned above), particularly to the south-southwest, may have soils exceeding the action levels. At this time, EPA has not made any decisions about the need for further sampling and appropriate cleanup activities outside of the Study Area and the three nearby properties.

The commenter requests that provisions be made in the consent decree to enforce timely cleanup requirements. In response, although procedures have been developed for "early" or "out-of-sequence" sampling, EPA has determined that the most efficient way to clean up an estimated 1,000 properties with the least disruption to the community is to divide the Study Area into four zones, and to proceed with the cleanup one zone at a

time. Cleanups generally will be performed block-by-block and within each zone in order to reduce inefficiencies caused by excessive movement of equipment and workers, and to ensure that unsafe conditions are not created by using too many trucks and other heavy equipment at one time in this relatively small community. Within each zone, however, priority sites may be remediated ahead of the normal block sequence. Priority may be given to schools, parks, playgrounds, daycare centers, or other sites which meet the criteria for out-of-sequence sampling. Those criteria include property on which extensive soil movement is planned under a building or grading permit, residences where a child under six who has high levels of arsenic or lead in his body lives, or properties where infrastructure work is to be performed. Based on experience at a similar site, it has been agreed that up to 20 priority properties could be cleaned up out of the normal block sequence within any zone without severely impacting the project schedule or construction progress. EPA estimates that it will take 7 to 8 years to complete cleanups of properties in all four zones. The commenter's property is in Zone 4, the last zone scheduled for cleanup.

It should be noted, however, that EPA has worked with Asarco and members of the community to develop information to be distributed to the Study Area residents on how to reduce their exposure to contaminants in soil until their property is cleaned up. Also, Asarco is conducting a small quantity soil collection and disposal program for owners of properties requiring cleanup. Under this program, Asarco will collect small quantities of soil that are generated prior to the final cleanup of their property. EPA believes that these measures will be effective in protecting the Study Area residents while they wait for their properties to be cleaned up.

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