

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Lewis and Clark Co.
Air Pollution
Control Program

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the Matter of the Application
of the Department of Environmental
Quality for Revision of the
Montana State Air Quality Control
Implementation Plan Relating to
Control of Lead Emissions in the
East Helena Nonattainment Area,
Affecting the Following Industries:
Asarco, Inc.

STIPULATION OF
DEPARTMENT AND
ASARCO

STIPULATION

The Department of Environmental Quality ("Department") and Asarco Incorporated ("ASARCO") hereby stipulate to the following Paragraphs 1-18, including Exhibit A and Attachments as referenced below, in regard to the above-captioned matter and present the same for consideration and adoption by the Board of Environmental Review ("Board"):

1. The purpose of this Stipulation is to allow ASARCO additional operational flexibility, while still assuring attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) for lead. The requirements of this Stipulation, Exhibit A, and Attachments shall supersede the existing East Helena lead control plan for ASARCO contained in the July 17, 1995, and March 13, 1996 Stipulations between the Department and ASARCO, and shall supersede any less stringent corresponding conditions in any existing permit currently issued to ASARCO.

2. On October 5, 1978, the United States Environmental Protection Agency ("EPA") promulgated NAAQS for lead. The NAAQS were set at a level of 1.5 micrograms of lead per cubic meter of air averaged over a calendar Quarter. These standards were promulgated by EPA pursuant to Section 109 of the Federal Clean Air Act, 42 U.S.C. 7401 et seq. ("Act").

3. The Act requires each state to submit an implementation plan for the control of each air pollutant for which a national ambient air quality standard has been promulgated (42 U.S.C. § 7410). Since a national standard has been promulgated for lead, the State of

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- 1 Montana is required to submit a lead implementation plan for East Helena to EPA.
- 2 4. On September 16, 1983, the Department and ASARCO stipulated to a plan
- 3 for the control of lead emissions from the East Helena facility. The plan was approved by
- 4 the Board on September 16, 1983. On September 29, 1983, the Governor of Montana
- 5 submitted the plan to EPA as part of the Montana State Implementation Plan for lead
- 6 ("1983 lead SIP").
- 7 5. On July 17, 1995, the Department and ASARCO stipulated to a revised plan
- 8 for the control of lead emissions from the city of East Helena and the ASARCO East
- 9 Helena facility ("1995 Stipulation"). The 1995 Stipulation, which superseded the 1983 lead
- 10 SIP, was approved by the Board on August 4, 1995. On August 16, 1995, the Governor of
- 11 Montana submitted the 1995 Stipulation to EPA as a revision to the Montana State
- 12 Implementation Plan for lead ("1995 lead SIP").
- 13 6. On March 13, 1996, the Department and ASARCO stipulated to certain
- 14 modifications to the 1995 lead SIP. The purpose of the modifications to the 1995 lead SIP
- 15 was to allow ASARCO additional operational flexibility, while still assuring attainment and
- 16 maintenance of the NAAQS for lead. The 1996 modifications to the 1995 lead SIP were
- 17 approved by the Board on April 12, 1996.
- 18 7. On February 8, 1996, ASARCO met with the Department and expressed
- 19 concern regarding the handling of furnace lead and the development and implementation of
- 20 the new lead granulation technology contained in the 1995 lead SIP. These concerns were
- 21 based on both safety and engineering aspects regarding the development of this technology.
- 22 The Department agreed to work with ASARCO in finding a solution to the problem
- 23 presented. ASARCO again met with the Department on March 8, 1996, and presented a
- 24 revised method for handling furnace lead. The Department agreed in concept, and agreed
- 25 to work with ASARCO to revise the 1995 lead SIP.
- 26 8. It is expected that the new method for handling furnace lead will not increase
- 27 lead emissions above that already expected in the modeling performed for the 1995 lead

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1 SIP, as amended. Therefore, no additional modeling is necessary to show compliance with
2 the lead NAAQS.

3 9. Exhibit A, which is attached to this Stipulation and incorporated herein by
4 reference, contains emission limitations and other conditions which will assure attainment
5 and maintenance of the lead NAAQS in the East Helena nonattainment area. ASARCO
6 shall comply with the terms of this Stipulation, the emission limitations and other conditions
7 of Exhibit A, and the terms and conditions of all supplemental documents incorporated by
8 reference in this Stipulation or Exhibit A.

9 10. The following supplemental documents are attached to Exhibit A and are
10 incorporated therein and in this Stipulation by reference:

- 11 Attachment #1: Sampling and Analysis of Paved Road Dust Samples
12 in East Helena, May 1995;
- 13 Attachment #2: Compliance Plan for Process Weight and Time of Day
14 Restrictions, July 1995;
- 15 Attachment #3: East Helena Lead SIP Road Dust Control Analytical
16 Quality Assurance Plan, May 1995;
- 17 Attachment #4: ASARCO East Helena Compliance Modeling - Legal
18 Description and Map of the Boundaries Between
19 Ambient Air and Areas of Restricted Public Access,
20 July 1995; and
- 21 Attachment #5: Compilation of Air Pollutant Emission Factors (AP-
22 42), Appendix D.2 (July 1993), Appendix D.3 (July
23 1993), Appendix E.1 (July 1993), Appendix E.2 (July
24 1993), and Appendix E.3 (July 1993).
- 25 Attachment #6: Quality Assurance/ Quality Control (QA/QC) and
26 Standard Operating Procedures (SOP) for Continuous
27 Opacity Monitoring Systems; and

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Attachment #7: Baghouse Maintenance Plan.

11. The parties to this Stipulation agree that the Board Order approving and adopting this Stipulation and Exhibit A shall also approve and adopt all Attachments to Exhibit A.

12. To the extent allowed under federal requirements, minor and clerical corrections may be made to this Stipulation, Exhibit A, or Attachments, by mutual agreement of the parties, without the necessity for a Board Order or formal revision of the East Helena lead SIP.

13. The parties agree that the requirements of this Stipulation, Exhibit A, and Attachments will become effective upon the issuance of an Order by the Board in this proceeding, except as otherwise provided in Exhibit A or the Attachments. All current lead emission monitoring and reporting requirements and emission limitations and conditions shall remain in effect until such effective dates. Prior to the effective date of a requirement specified herein, ASARCO must obtain all permits necessary to implement that requirement. Nothing herein shall be construed as in any way impairing or otherwise affecting the existing obligations of ASARCO to conduct ambient monitoring in the East Helena area.

14. It is the intent of the parties that, after adoption and incorporation by Board Order, this Stipulation together with Exhibit A and Attachments shall be submitted to EPA for review and approval as part of the revised lead SIP for the East Helena area.

~~15. The requirements of this Stipulation, Exhibit A, and Attachments may be subject to modification when sufficient grounds exist. Sufficient grounds include, but are not limited to, the following:~~

~~(a) An EPA determination that the submitted plan is incomplete;~~

~~(b) An EPA disapproval, either partial or complete, of the submitted plan;~~

~~(c) An EPA conditional approval of the submitted plan;~~

~~(d) A determination by EPA that this plan has failed to achieve or maintain the NAAQS, or~~

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1 ~~(e) A demonstration by ASARCO, utilizing Department and EPA approved~~
2 ~~dispersion modeling techniques, that the NAAQS can be achieved and maintained by~~
3 ~~implementing an alternative control plan.~~
4 ~~The requirements of this Stipulation may also be modified by equivalent alternative~~
5 ~~requirements implemented through the state operating permit program under authorization~~
6 ~~of Title V of the Federal Clean Air Act. The procedures for implementing equivalent~~
7 ~~alternative requirements must meet federal requirements for modification of SIPs through~~
8 ~~state operating permits. Equivalent alternative requirements may be adopted only after a~~
9 ~~demonstration that their adoption will assure attainment and maintenance of the NAAQS.~~
10 ~~Modifications of the requirements of this Stipulation or Exhibit A that necessitate a~~
11 ~~modification of the State Implementation Plan (SIP) shall not be effective except upon~~
12 ~~issuance of a Board Order adopting the modifications, after proper notice and public~~
13 ~~hearing, and approval by EPA.~~
14 ~~ASARCO does not waive and expressly reserves its right to contest any~~
15 ~~Department, Board, or federal action which, without ASARCO's written consent, modifies~~
16 ~~the requirements of this Stipulation, Exhibit A, or Attachments.~~
17 ~~16. Attachments may be revised by mutual agreement of ASARCO and the~~
18 ~~Department. Agreed revision shall not require action by the Board modifying the Board~~
19 ~~Order approving and adopting this Stipulation, Exhibit A and Attachments, provided that~~
20 ~~the Department certifies in writing that such revisions have been agreed upon and meet all~~
21 ~~applicable requirements of Exhibit A. Upon such certification, any revision to an~~
22 ~~Attachment shall be deemed incorporated in Exhibit A and this Stipulation and shall~~
23 ~~supersede the prior version of the Attachment.~~
24 17. If a dispute arises regarding a proposed revision to an Attachment, either
25 ASARCO or the Department may petition the Board to resolve the dispute. Board and
26 judicial review of such disputes shall be in accordance with the contested case provisions of
27 the Montana Administrative Procedure Act, Title 2, Chapter 4, Part 6, MCA. Upon

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1 resolution of a dispute pursuant to this Paragraph, the revised Attachment shall be deemed
2 incorporated in Exhibit A and this Stipulation and shall supersede the prior version of the
3 Attachment. This Paragraph shall not be construed to preclude the Department from
4 directly seeking judicial enforcement of Attachments or of any other provisions of this
5 Stipulation or Exhibit A.

6 18. Accordingly, the parties agree that the Board may issue an Order adopting
7 the requirements of this Stipulation, Exhibit A, and Attachments. Upon adoption in a
8 Board Order, such requirements shall be enforceable by the Department, subject to the
9 effective dates set forth in Exhibit A and the Attachments.

10
11 ASARCO Incorporated

Montana Department of
Environmental Quality

12
13
14 By [Signature]

By [Signature]
Mark A. Simonich
Director

15
16
17 By [Signature]
Attorney

By [Signature]
Attorney

18
19 Date 6/5/96

Date 6/11/96

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