TITLE V PERMIT TO OPERATE

Permit Number: TO-ROP 05-05

In accordance with the provisions of Title V of the Clean Air Act and 40 C.F.R. Part 71 and applicable rules and regulations, the portion of the following facility which is located in the San Xavier District of the reservation of the Tohono O'odham Nation:

ASARCO, LLC.
Mission Complex - San Xavier

is authorized to operate air emission units and to conduct other air pollutant emitting activities in accordance with the permit conditions listed in this permit. Terms and conditions not otherwise defined in this permit have the meaning assigned to them in the referenced regulations. All terms and conditions of the permit are enforceable by EPA and citizens under the Clean Air Act.

If all proposed control measures and/or equipment are not installed and properly operated and maintained, this will be considered a violation of the permit.

This permit is valid for a period of five (5) years and shall expire at midnight on the date 5 years after the date of issuance unless a timely and complete renewal application has been submitted at least 6 months but not more than 18 months prior to the date of expiration. The permit number cited above should be referenced in future correspondence regarding this facility.

_____ _____

Date

Deborah Jordan
Director, Air Division
EPA Region IX

Abbreviations and Acronyms

AFS	AIRS Facility Subsystem
AIRS	Aerometric Information Retrieval System
AR	Acid Rain
ARP	Acid Rain Program
CAA	Clean Air Act [42 U.S.C. Section 7401 et seq.]
CAM	Compliance Assurance Monitoring
CFR	Code of Federal Regulations
EIP	Economic Incentives Program
gal	gallon
HAP	Hazardous Air Pollutant
hr	hour
Id. No.	Identification Number
J	joule
kg	kilogram
lb	pound
MACT	Maximum Achievable Control Technology
MVAC	Motor Vehicle Air Conditioner
Mg	megagram
MMBtu	million British Thermal Units
mo	month
NESHAP	National Emission Standards for Hazardous Air Pollutants
NOx	Nitrogen Oxides
NSPS	New Source Performance Standards
NSR	New Source Review
PM	Particulate Matter
PM-10	Particulate matter less than 10 microns in diameter
ppm	parts per million
PSD	Prevention of Significant Deterioration
PTE	Potential to Emit
psia	pounds per square inch absolute
RMP	Risk Management Plan
SNAP	Significant New Alternatives Program
SO_2	Sulfur Dioxide
TSP	Total Suspended Particulate
US EPA	United States Environmental Protection Agency
VOC	Volatile Organic Compounds

TABLE OF CONTENTS

Cover Page
Abbreviations and Acronyms

I. Source Identification

II. Facility-wide or Generic Permit Conditions

A. Compliance Schedule

III. Title V Administrative Requirements

A. Fee Payment
B. Blanket Compliance Statement
C. Compliance Certifications
D. Duty to Provide and Supplement Information
E. Submissions
F. Severability Clause
G. Permit Actions
H. Reopening for Cause
I. Property Rights
J. Inspection and Entry
K. Emergency Provisions
L. Transfer of Ownership or Operation
M. Off Permit Changes
N. Permit Expiration and Renewal
O. Administrative Permit Amendments
P. Minor Permit Modifications
Q. Group Processing of Minor Permit Amendments
R. Significant Modifications
S. Operational Flexibility

I. Source Identification

Parent Company name: ASARCO, Inc.

Parent Company Mailing Address: P.O. Box 111

City: Sahuarita State: AZ Zip: 85629

Plant Name: Mission Complex - San Xavier

Plant Location: 4201 W. Pima Mine Road

City: Sahuarita State: AZ

County: Pima

EPA Region: 9

Reservation: San Xavier District Tribe: Tohono O'odham

Company Contact: Al Cooper Phone: (520) 648-4588

Plant Manager/Contact: same Phone: same

Responsible Official: Mark J. Kalmi Phone: (520) 648-2500

Tribal Contact: Lorinda Sam Phone: (520) 383-4350

SIC Code: 1021

AFS Plant Identification Number: 04-019-02026

Description of Process: The ASARCO Mission Complex mines and processes copper sulfide ore. Since this facility is located partially on Indian land, and partially on State land, only equipment and activities at this facility that are located on the reservation of the Tohono O'odham Nation are covered by this permit. Equipment and activities on the reservation include mining activities, such as drilling, hauling, and vehicle travel.

II. Facility-wide Conditions:

II.A. Compliance Schedule [40 CFR § 71.5(c)(8)(iii) and § 71.6(c)(3)]

1. For applicable requirements with which the source is in compliance, the source will continue to comply with such requirements.

2. For applicable requirements that will become effective during the permit term, the source shall meet such requirements on a timely basis.

III. Title V Administrative Requirements

III.A. Fee Payment [40 CFR §71.6(a)(7) and 40 CFR §71.9]

1. The permittee shall pay an annual permit fee in accordance with the procedures outlined below. [See § 71.9(a).]

2. The permittee shall pay the annual permit fee by April 1 of each year.

3. The fee payment shall be in United States currency and shall be paid by money order, bank draft, certified check, corporate check, or electronic funds transfer payable to the order of the U.S. Environmental Protection Agency.

4. The permittee shall send fee payment and a completed fee filing form to

   Mellon Bank
   U.S. EPA -- Region 9
   P.O. Box 360863M
   Pittsburgh, PA 15251

5. The permittee shall send an updated fee calculation worksheet form and a photocopy of each fee payment check (or other confirmation of actual fee paid) submitted annually by the same deadline as required for fee payment to the address listed in Section III.E of this permit. [Permittees should note that an annual emissions report, required at the same time as the fee calculation worksheet by § 71.9(h), has been incorporated into the fee calculation worksheet form as a convenience.]

6. Basis for calculating annual fee:

   a. The annual emissions fee shall be calculated by multiplying the total tons of actual emissions of all “regulated pollutants (for fee calculation)” emitted from the source by the presumptive emissions fee (in dollars/ton) in effect at the time of calculation.

(1) "Actual emissions" means the actual rate of emissions in tpy of any regulated pollutant (for fee calculation) emitted from a part 71 source over the preceding calendar year. Actual emissions shall be calculated using each emissions unit's actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year. [See § 71.9(c)(6).]

(2) Actual emissions shall be computed using methods required by the permit for determining compliance, such as monitoring or source testing data. [See § 71.9(h)(3).]

(3) If actual emissions cannot be determined using the compliance methods in the permit, the permittee shall use other federally recognized procedures. § 71.9(e)(2).

(4) The term "regulated pollutant (for fee calculation)" is defined in § 71.2.

(5) The permittee should note that the presumptive fee amount is revised each calendar year to account for inflation, and it is available from EPA prior to the start of each calendar year.

b. The permittee shall exclude the following emissions from the calculation of fees:

(1) The amount of actual emissions of each regulated pollutant (for fee calculation) that the source emits in excess of 4,000 tons per year. See § 71.9(c)(5)(i);

(2) Actual emissions of any regulated pollutant (for fee calculation) already included in the fee calculation, see § 71.9(c)(5)(ii); and

(3) The quantity of actual emissions (for fee calculation) of insignificant activities [defined in § 71.5(c)(11)(i)] or of insignificant emissions levels from emissions units identified in the permittee's application [pursuant to § 71.5(c)(11)(ii)]. [See § 71.9(c)(5)(iii).]

7. Fee calculation worksheets shall be certified as to truth, accuracy, and completeness by a responsible official. [Permittees should note that the fee calculation worksheet form already incorporates a section to help you meet this responsibility.]

8. The permittee shall retain fee calculation worksheets and other emissions-related data used to determine fee payment for 5 years following submittal of fee

payment. Emission-related data include, for example, emissions-related forms provided by EPA and used by the permittee for fee calculation purposes, emissions-related spreadsheets, and emissions-related data, such as records of emissions monitoring data and related support information required to be kept in accordance with § 71.6(a)(3)(ii). [See § 71.9(i).]

9. Failure of the permittee to pay fees in a timely manner shall subject the permittee to assessment of penalties and interest in accordance with § 71.9(l).

10. When notified by EPA of underpayment of fees, the permittee shall remit full payment within 30 days of receipt of notification. [See § 71.9(j)(1) and (2).]

11. A permittee who thinks an EPA assessed fee is in error and who wishes to challenge such fee, shall provide a written explanation of the alleged error to EPA along with full payment of the EPA assessed fee. [See § 71.9(j)(3).]

III.B. Blanket Compliance Statement [40 CFR § 71.6(a)(6)(i) and (ii), and sections 113(a) and 113(e)(1) of the Act, and § 51.212, § 52.12, § 52.33]

1. The permittee must comply with all conditions of this Part 71 permit. Any permit noncompliance, including, but not limited to, violation of any applicable requirement; any permit term or condition; any fee or filing requirement; any duty to allow or carry out inspection, entry, or monitoring activities; or any regulation or order issued by the permitting authority pursuant to this part constitutes a violation of the Clean Air Act and is grounds for enforcement action; permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. [71.6(a)(6)(i),(ii)]

2. Determinations of deviations, continuous or intermittent compliance status, or violations of this permit, are not limited to the applicable testing or monitoring methods required by the underlying regulations or this permit; other credible evidence (including any evidence admissible under the Federal Rules of Evidence) must be considered in such determinations. [Section 113(a) and 113(e)(1) of the Act, § 51.212, § 52.12, § 52.33]

III.C. Compliance Certifications [40 CFR § 71.6(c)(5)]

1. The permittee shall submit to EPA Region 9 a certification of compliance with permit terms and conditions, including emission limitations, standards, or work practices, postmarked by January 30 of each year and covering the previous calendar year, with the following exception:

a. The first certification following the issuance of this permit shall cover the period from November 22, 2005 through December 31, 2005, and shall be postmarked by January 30, 2005.

The compliance certification shall be certified as to truth, accuracy, and completeness by a responsible official consistent with Section III.E. of this permit and section 114(a)(3) of the Clean Air Act.

2. The certification shall include the following:

a. Identification of each permit term or condition that is the basis of the certification.

b. Identification of the method(s) or other means used for determining the compliance status of each term and condition during the certification period. If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with section 113(c)(2) of the Clean Air Act, which prohibits knowingly making a false certification or omitting material information.

c. The compliance status of each term and condition of the permit for the period covered by the certification based on the method or means designated above. The certification shall identify each deviation and take it into account in the compliance certification.

d. Whether compliance with each permit term was continuous or intermittent.

III.D. Duty to Provide and Supplement Information [40 CFR §71.6(a)(6)(v), §71.5(b)]

The permittee shall furnish to EPA, within a reasonable time, any information that EPA may request in writing to determine whether cause exists for modifying, revoking, and reissuing, or terminating the permit, or to determine compliance with the permit. Upon request, the permittee shall also furnish to the EPA copies of records that are required to be kept pursuant to the terms of the permit, including information claimed to be confidential. Information claimed to be confidential should be accompanied by a claim of confidentiality according to the provisions of 40 CFR part 2, subpart B. The permittee, upon becoming aware that any relevant facts were omitted or incorrect information was submitted in the permit application, shall promptly submit such supplementary facts or corrected information.

III.E. Submissions [40 CFR §71.5(d), §71.6 and §71.9]

Any document required to be submitted with this permit shall be certified by a responsible official as to truth, accuracy, and completeness. Such certifications shall state that based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. All documents required to be submitted, including

reports, test data, monitoring data, notifications, compliance certifications, fee calculation worksheets, and applications for renewals and permit modifications shall be submitted to:

EPA Region IX (Attn: AIR-1)
75 Hawthorne Street
San Francisco, CA 94105

III.F. Severability Clause [40 CFR §71.6(a)(5)]

The provisions of this permit are severable, and in the event of any challenge to any portion of this permit, or if any portion is held invalid, the remaining permit conditions shall remain valid and in force.

III.G. Permit Actions [40 CFR §71.6(a)(6)(iii)]

This permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

III.H. Reopening for Cause [40 CFR §71.7(f)]

1. EPA shall reopen and revise the permit prior to expiration under any of the following circumstances:

    a. Additional applicable requirements under the Act become applicable to a major part 71 source with a remaining permit term of 3 or more years.

    b. Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

    c. EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.

    d. EPA determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

III.I. Property Rights [40 CFR §71.6(a)(6)(iv)]

This permit does not convey any property rights of any sort, or any exclusive privilege.

III.J. Inspection and Entry [40 CFR §71.6(c)(2)]

Upon presentation of credentials and other documents as may be required by law, the permittee shall allow authorized representatives from EPA to perform the following:

1. Enter upon the permittee's premises where a Part 71 source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

4. As authorized by the Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

III.K. Emergency Provisions [40 CFR §71.6(g)]

1. In addition to any emergency or upset provision contained in any applicable requirement, the permittee may seek to establish that noncompliance with a technology-based emission limitation under this permit was due to an emergency. To do so, the permittee shall demonstrate the affirmative defense of emergency through properly signed, contemporaneous operating logs, or other relevant evidence that:

    a. an emergency occurred and that the permittee can identify the cause(s) of the emergency;

    b. the permitted facility was at the time being properly operated;

    c. during the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emissions standards, or other requirements in this permit; and

    d. the permittee submitted notice of the emergency to EPA within 2 working days of the time when emission limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

    e. In any enforcement proceeding the permittee attempting to establish the occurrence of an emergency has the burden of proof.

2. An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God,

which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

III.L. Transfer of Ownership or Operation [40 CFR §71.7(d)(1)(iv)]

A change in ownership or operational control of this facility may be treated as an administrative permit amendment if the EPA determines no other change in this permit is necessary and provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to EPA.

III.M. Off Permit Changes [40 CFR §71.6(a)(12)]

The permittee is allowed to make certain changes without a permit revision, provided that the following requirements are met:

1. Each change is not addressed or prohibited by this permit.

2. Each change must comply with all applicable requirements and may not violate any existing permit term or condition;

3. Changes under this provision may not include changes or activities subject to any requirement under Title IV or that are modifications under any provision of Title I of the Clean Air Act;

4. The permittee must provide contemporaneous written notice to EPA of each change, except for changes that qualify as insignificant activities under §71.5(c)(11). The written notice must describe each change, the date of the change, any change in emissions, pollutants emitted, and any applicable requirements that would apply as a result of the change.

5. The permit shield does not apply to changes made under this provision;

6. The permittee must keep a record describing all changes that result in emissions of any regulated air pollutant subject to any applicable requirement not otherwise regulated under this permit, and the emissions resulting from those changes.

III.N. Permit Expiration and Renewal [40 CFR §71.5(a)(1)(iii), §71.6(a)(11), §71.7(b), §71.7(c)(1)(i) and (ii), §71.8(d)]

1. This permit shall expire upon the earlier occurrence of the following events:

    a. five (5) years elapses from the date of issuance; or

b. the source is issued a part 70 permit by an EPA-approved permitting authority.

2. Expiration of this permit terminates the permittee's right to operate unless a timely and complete permit renewal application has been submitted on or before a date 6 months, but not more than 18 months, prior to the date of expiration of this permit.

3. If the permittee submits a timely and complete permit application for renewal, consistent with § 71.5(a)(2), but the permitting authority has failed to issue or deny the renewal permit, then the permit shall not expire until the renewal permit has been issued or denied and any permit shield granted pursuant to § 71.6(f) may extend beyond the original permit term until renewal.

4. The permittee's failure to have a Part 71 permit is not a violation of this part until EPA takes final action on the permit renewal application. This protection shall cease to apply if, subsequent to the completeness determination, the permittee fails to submit any additional information identified as being needed to process the application by the deadline specified in writing by EPA.

5. Renewal of this permit is subject to the same procedural requirements that apply to initial permit issuance, including those for public participation, affected State, and tribal review.

6. The application for renewal shall include the current permit number, description of permit revisions and off-permit changes that occurred during the permit term, any applicable requirements that were promulgated and not incorporated into the permit during the permit term, and other information required by the application form.

III.O. Administrative Permit Amendments [40 C.F.R. § 71.7(d)]

1. The permittee may request the use of administrative permit amendment procedures for a permit revision that:

   a. Corrects typographical errors.

   b. Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source.

   c. Requires more frequent monitoring or reporting by the permittee.

   d. Allows for a change in ownership or operational control of a source where the EPA determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the EPA.

e. Incorporates into the part 71 permit the requirements from preconstruction review permits authorized under an EPA-approved program, provided that such a program meets procedural requirements substantially equivalent to the requirements of §§ 71.7 and 71.8 that would be applicable to the change if it were subject to review as a permit modification, and compliance requirements substantially equivalent to those contained in§ 71.6.

f. Incorporates any other type of change which EPA has determined to be similar to those listed above in subparagraphs (a) through (e).

III.P. Minor Permit Modifications [40 C.F.R. § 71.7(e)(1)]

1. The permittee may request the use of minor permit modification procedures only for those modifications that:

   a. Do not violate any applicable requirement.

   b. Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit.

   c. Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis.

   d. Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:

      (1) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of title I; and

      (2) An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the Clean Air Act.

   e. Are not modifications under any provision of title I of the Clean Air Act.

   f. Are not required to be processed as a significant modification.

2. Notwithstanding the list of changes eligible for minor permit modification procedures in condition III.P above, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by EPA.

3. An application requesting the use of minor permit modification procedures shall meet the requirements of § 71.5(c) and shall include the following:

   (i) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

   (ii) The source's suggested draft permit;

   (iii) Certification by a responsible official, consistent with § 71.5(d), that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and

   (iv) Completed forms for the permitting authority to use to notify affected States as required under § 71.8.

4. The source may make the change proposed in its minor permit modification application immediately after it files such application. After the source makes the change allowed by the preceding sentence, and until the permitting authority takes any of the actions authorized by § 71.7(e)(1)(iv)(A) through (C), the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

5. The permit shield under § 71.6(f) may not extend to minor permit modifications. [See § 71.7(e)(1)(vi)].

III.Q. Group Processing of Minor Permit Amendments [40 C.F.R. § 71.7(e)(2)]

1. Group processing of modifications by EPA may be used only for those permit modifications:

   (i) That meet the criteria for minor permit modification procedures under paragraphs III.P.1. of this permit; and

   (ii) That collectively are below the threshold level of 10 percent of the emissions allowed by the permit for the emissions unit for which the change is requested, 20 percent of the applicable definition of major source in § 71.2, or 5 tons per year, whichever is least.

2. An application requesting the use of group processing procedures shall be submitted to EPA, shall meet the requirements of § 71.5(c), and shall include the following:

   (i) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs.

(ii) The source's suggested draft permit.

(iii) Certification by a responsible official, consistent with § 71.5(d), that the proposed modification meets the criteria for use of group processing procedures and a request that such procedures be used.

(iv) A list of the source's other pending applications awaiting group processing, and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold set condition III.Q.1.(ii) above.

(vi) Completed forms for the permitting authority to use to notify affected States as required under § 71.8.

(vii) The source may make the change proposed in its minor permit modification application immediately after it files such application. After the source makes the change allowed by the preceding sentence, and until the permitting authority takes any of the actions authorized by § 71.7(e)(1)(iv)(A) through (C), the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

3. The permit shield under § 71.6(f) may not extend to group processing of minor permit modifications. [See § 71.7(e)(1)(vi)].

III.R. Significant Modifications [40 C.F.R. § 71.7(e)(3)]

1. The permittee must request the use of significant permit modification procedures for those modifications that:

(i) Do not qualify as minor permit modifications or as administrative amendments.

(ii) Are significant changes in existing monitoring permit terms or conditions.

(iii) Are relaxations of reporting or recordkeeping permit terms or conditions.

2. Nothing herein shall be construed to preclude the permittee from making changes consistent with part 71 that would render existing permit compliance terms and conditions irrelevant.

3. Permittees must meet all requirements of part 71 for applications for significant permit modifications. For the application to be determined complete, the permittee must supply

all information that is required by § 71.5(c) for permit issuance and renewal, but only that information that is related to the proposed change. [See § 71.7(e)(3)(ii) and § 71.5(a)(2).]

III.S. Operational Flexibility

1. 502(b)(10) Changes [40 C.F.R. § 71.6(a)(13)(i)]

   (a) The permittee is allowed to make a limited class of changes under Section 502(b)(10) of the Clean Air Act within this permitted facility that contravene the specific terms of this permit without applying for a permit revision, provided the changes do not exceed the emissions allowable under this permit (whether expressed therein as a rate of emissions or in terms of total emissions) and are not Title I modifications. This class of changes does not include:

      (i) Changes that would violate applicable requirements; or

      (ii) Changes that would contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

   (b) The permittee is required to send a notice to EPA at least 7 days in advance of any change made under this provision. The notice must describe the change, when it will occur and any change in emissions, and identify any permit terms or conditions made inapplicable as a result of the change. The permittee shall attach each notice to its copy of this permit.

   (c) Any permit shield provided in this permit does not apply to changes made under this provision.