

# Everett Smelter Site



## **Additional public comment sought on draft prospective purchaser consent decree for the Fenced Area; cleanup work starting**

The Washington State Department of Ecology (Ecology) has prepared this fact sheet to invite additional public comment on the draft Prospective Purchaser Consent Decree for the Fenced Area of the Everett Smelter site and to update you on cleanup activities.

### **Current Activity**

ASARCO, Incorporated is beginning cleanup of the most contaminated soil in the area (more than 3,000 parts per million [ppm] arsenic) as required by an Ecology Enforcement Order issued in June 2002 and an Agreed Judgment entered in Snohomish County Superior Court in 2003. This soil is located within the fenced-off area of the site, or "Fenced Area," where the old arsenic processing facilities were located. The Fenced Area is located just south of State Route 529 and between Hawthorne and East Marine View Drive (see figure on page 3). Asarco's contractor mobilized to the site in late May.

The Everett Housing Authority (EHA) plans to purchase the property within the Fenced Area from Asarco after the most contaminated soil is removed. EHA will then complete the cleanup of the Fenced Area by removing the less contaminated soils, below 3,000 ppm arsenic, to allow the Fenced Area be used for residential purposes. EHA is entering into a Prospective Purchaser Consent Decree with Ecology that specifies and limits the environmental liability for known contamination at the Everett Smelter Site that EHA

would otherwise acquire upon purchasing the Fenced Area.

EHA also plans to purchase 15 Asarco-owned houses outside of the Fenced Area and is entering into a similar Prospective Purchaser Consent Decree with Ecology for these properties. Under a separate agreement between EHA and Asarco, Asarco will clean up contaminated yards at an additional 22 homes in the area that are not owned by Asarco. Both consent decrees underwent public comment from April 22 through May 21, 2004. There were no substantive changes to the consent decree for the 15 Asarco-owned houses outside of the Fenced Area, and it will be filed with the court in the near future.

There was one substantive change to the consent decree for the Fenced Area. The change further limits EHA's environmental liability by providing that EHA will not be liable for required soil, ground water, and surface water monitoring, or additional cleanup that may be required as a result of that monitoring, for areas outside of the Fenced Area.

In practical terms, this means that once EHA has cleaned up soil in the Fenced Area so that it may be used for residential purposes, EHA will not be liable for environmental monitoring which is to occur outside of the Fenced Area at the Everett Smelter site. This monitoring includes ground water monitoring downhill from the Fenced Area in order to evaluate whether soil

## **June 2004**

### **Public Comment Period: June 16–July 15, 2004**

### **Technical questions and written comments:**

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Toxics Cleanup Program  
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Bellevue, WA 98008  
(425) 649-7200  
E-mail: dsou461@ecy.wa.gov

### **To update the mailing list:**

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### **Documents can be reviewed at the following locations:**

Everett Public Library  
2702 Hoyt Avenue, Everett  
(425) 257-8000

Asarco Information Center  
545 Hawthorne Street, Everett  
Call for hours: (425) 259-0822

WA Department of Ecology  
Northwest Regional Office  
3190 160th Avenue SE  
Bellevue, WA 98008  
(425) 649-7190  
(Call for an appointment)

Ecology's Web Site:  
[http://www.ecy.wa.gov/programs/tcp/sites/asarco/es\\_mail.html](http://www.ecy.wa.gov/programs/tcp/sites/asarco/es_mail.html)

removal in the Fenced Area reduces contamination in ground water in the flats along the Snohomish River, storm water, and storm drain sediments. Ground water, storm water, and storm drain sediments are expected to meet state cleanup levels as a result of cleanup activities at the site.

Asarco will remain liable for cleanup activities outside the Fenced Area at the Everett Smelter site, including conducting environmental monitoring and further cleanup activities if necessary.

Substantive changes made to the draft Fenced Area Prospective Purchaser Consent Decree that went out to public comment in April are visible in the new draft. Where additional text has been added it is underlined, and deleted text is crossed out. Several non-substantive changes also have been made in order to clarify the language in the agreement and most if not all of these changes are also tracked.

For more information about cleanup plans and impacts to the neighborhood, please see the April 2004 fact sheet.

### **Site Background**

This approximately 600-acre site is located in northeast Everett, Snohomish County, Washington, and is contaminated by arsenic, lead, and other metals. The contamination was caused by emissions from the Everett Smelter between 1894 and 1912, and by material left behind when the smelter was demolished between 1912 and 1915. Asarco purchased the Everett Smelter in 1904 and assumed operations at that time. The property was sold in various parcels between 1915 and 1936, and homes were built on many of the parcels.

Studies and interim cleanup activities were performed at the site from 1990 to 1999. A final cleanup action plan for the residential and commercial portion of the site, called the upland area, was issued in November 1999. The lowland portion of the site, adjacent to the Snohomish River, is still in the study phase.

In 1998, Asarco filed suit against Ecology challenging the constitutionality of most of its liability for the site. A superior court decision upheld Asarco's liability for some parts of the site and rejected it for others. Both Ecology and Asarco appealed to the Washington State Supreme Court. The State Supreme Court found that Asarco's appeal was not ready for review, and sent the suit to the superior court for further proceedings. Ecology and Asarco have agreed to put further litigation on hold while addressing the Fenced Area.

Ecology issued an Enforcement Order to Asarco in June 2002, requiring cleanup of the most contaminated material within the Everett Smelter site. The Order called for material with arsenic concentrations above 3,000 ppm to be excavated and disposed of off site. This material is primarily within the Fenced Area, with a small amount immediately adjacent to this area under East Marine View Drive.

Asarco prepared a plan for excavating the material with arsenic concentrations above 3,000 ppm as required by the Order. The plan also provides for cleaning up material with arsenic concentrations above 150 ppm in the Fenced Area and for cleaning up selected residential properties adjacent to the Fenced Area. Within the Fenced Area, two feet of clean fill are to be imported to cover any remaining soil with arsenic concentrations between the cleanup level (20ppm) and 150ppm. At the conclusion of the work, the entire area will be cleaned up to standards that will allow residential use. Contaminated soil will remain on the properties at depths where it is unlikely that people will come into contact with it. Institutional controls will be used (property owner notification, a marker cloth at the top of the contaminated soil) to help ensure that people are aware of where contaminated material may be encountered so they can take appropriate safety measures.

In December 2003, EHA signed an option with Asarco to purchase the Fenced Area and 15 adjacent residential properties owned by Asarco.

### **Public Comment on the Fenced Area Prospective Purchaser Consent Decree**

Ecology is holding a second public comment period from June 16 through July 15, 2004, during which you may provide additional comments on the draft Fenced Area Prospective Purchaser Consent Decree which includes a restrictive covenant and Public Participation Plan as exhibits. This consent decree is available at the information repositories listed on the first page of this fact sheet.

Once the public comment period ends, Ecology will review all comments received and will make recommendations for any suggested changes to the consent decrees. If no significant changes are made, the Prospective Purchaser Consent Decree will be considered final. If additional significant changes are made to the document, an additional public comment period will be held.

A public meeting is not planned for this public comment period. However, one will be held if 10 or more people so request.

# LEGEND

-  ASARCO-OWNED DEMOLISHED HOUSES IN THE FENCED AREA
-  HOUSES PREVIOUSLY REMEDIATED BY ECOLOGY
-  NON ASARCO-OWNED HOUSES TO BE REMEDIATED
-  ASARCO-OWNED HOUSES TO BE REMEDIATED
-  APPROXIMATE LOCATION OF HISTORICALLY OWNED ASARCO PROPERTY BOUNDARY
-  SECURITY FENCE
-  RIGHT OF WAY TO BE REMEDIATED



PROPERTY OWNERSHIP MAP  
 ASARCO INCORPORATED  
 EVERETT, WASHINGTON  
 04/09/04

FIGURE

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### **Everett Smelter Site**

Ecology Seeks Public Comment  
on Prospective Purchaser Consent  
Decrees & Announces 2004  
Cleanup Activities

Public Comment Period  
June 16 – July 15, 2004

#### **Ecology would like your input!**

You have an opportunity to review the draft Fenced Area Prospective Purchaser Consent Decree and to provide additional comments. Please send your comments before July 15, 2004, to Ecology's Site Manager, David L. South, at the address in the box on the first page of this fact sheet. Comments may be sent by mail or e-mail and should include "Everett Smelter" in the subject line.

For information about other Ecology public comment periods, meetings, hearings, workshops, and open houses, please visit Ecology's public events calendar at: <http://apps.ecy.wa.gov/pubcalendar/calendar.asp>. Read *Frequently Asked Questions about Effective Public Commenting* at this link to learn more about the public comment process.