

FILED

OCT 20 2003

PAM L. DANIELS
COUNTY CLERK
SNOHOMISH CO, WASH

RECEIVED
OCT 23 2003
ATTORNEY GENERAL'S OFFICE
Ecology Division

STATE OF WASHINGTON
SNOHOMISH COUNTY SUPERIOR COURT

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiffs,

v.

ASARCO INCORPORATED, and
ASARCO CONSULTING,

Defendants.

NO. 03-2-08502-1

AGREED JUDGMENT GRANTING
INJUNCTIVE RELIEF TO
ENFORCE ORDER PURSUANT TO
RCW 70.105D.050

CLERK'S ACTION REQUIRED

This matter came on for consideration before the Court on Plaintiff's Complaint seeking to Enforce Order pursuant to RCW 70.105D.050. Having considered the Complaint and all supporting documents, all responsive pleadings, all other pleadings in this matter, and the Court's file, it is hereby

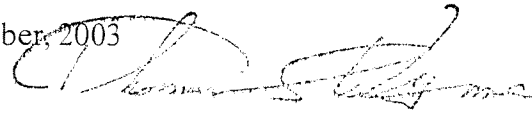
ORDERED that Plaintiff's request for an Injunction to Enforce Order Pursuant to RCW 70.105D.050 is hereby GRANTED. Defendant shall comply with the Enforcement Order in the manner described below. Therefore, Defendant is ORDERED to immediately come into compliance with the Department of Ecology's Enforcement Order No. 02TCPNR-4059. Compliance means that Defendant must comply with the schedule/timeline listed below that has been agreed upon by the parties:

AGREED JUDGMENT GRANTING
INJUNCTIVE RELIEF TO ENFORCE
ORDER PURSUANT TO RCW
70.105D.050

Task (milestone)	Date	Description
Submit Engineering Design Reports and associated plans to Ecology as well as necessary planning documents to City of Everett	January 30, 2004	This work is part of the approved scope of work for this year, and will be done as part of Trust/Cap funds authorized in 2003.
Procure Contractor – Contract	February 27, 2004	Asarco will have a contractor selected before this time. This milestone is for contract documents. Asarco will finalize the contract once the final design is completed that has all of the conditions the contractor needs to meet.
Approval of Final Design by Ecology	March 31, 2004	Required action by Ecology before Asarco mobilizes to the field.
Approval of associated planning documents by the City of Everett	April 30, 2004	Also required action. Asarco is not seeking permits, only the substantive compliance with local requirements. Therefore, the time periods for public review and process will be determined by Ecology.
Contractor Mobilization On-site	June 1, 2004	Mobilize on-site to establish surface water controls and prepare site for removal activities.
Substantial Completion of removal of material >3,000 ppm arsenic per Enforcement Order.	August 20, 2004	Substantial completion means that material >3,000 ppm arsenic has been excavated and transported off-site; re-grading and site stabilization, including surface water controls for winter season yet to be completed.
Final Completion of removal of material >3,000 ppm arsenic per Enforcement Order.	October 31, 2004	All material removed and site conditions stabilized, including surface water controls, for winter season.
Submit draft As-Built Report to Ecology	December 31, 2004	Draft report documenting what was done and current site conditions for Ecology review and approval.
Submit final As-Built Report to Ecology	30 days after receipt of Ecology comments	Final report documenting what was done and current site conditions.


1 Defendant Asarco, its officers, agents, servants and employees, and all other persons
2 in active concert and participation with Defendant Asarco who receive actual notice of this
3 Order are hereby ordered to comply with the Department of Ecology's Enforcement Order
4 No. 02TCPNR-4059 pursuant to the timeline agreed to above by the parties.
5


6 Pursuant to RCW 4.92.080 and CR 65(c), plaintiff is not required to post a bond. This
7 Order shall go into effect on October 20th, 2003, and shall remain in effect until the all of the
8 items on the above timeline have been completed by Defendant.

9 ORDERED this 20th day of October, 2003
10 
11 HONORABLE THOMAS J. WYNNE
12 Superior Court Judge

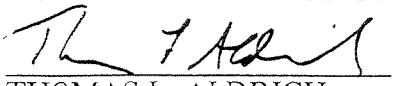
13 Presented by:

14 CHRISTINE O. GREGOIRE
15 Attorney General

16 
17 ELLIOTT FURST, WSBA #12026
18 Senior Counsel
19 (360) 586-3513

20 
21 KRISTIE CAREVICH, WSBA #28018
22 Assistant Attorney General
23 Attorneys for Plaintiff
24 State of Washington
25 Department of Ecology
26 (360) 586-6762

Approved for entry and notice of presentation waived:

ASARCO INCORPORATED
24 
25 THOMAS L. ALDRICH
26 Vice President for Environmental Affairs