



United States  
Department of  
Agriculture

Forest  
Service

Pacific  
Northwest  
Region

333 SW First Avenue  
PO Box 3623  
Portland, OR 97208-3623  
503-808-2468

File Code: 2160

Date: SEP 17 2004

Douglas E. McAllister  
Vice President, General Counsel & Secretary  
ASARCO Incorporated  
2575 E. Camelback Road  
Phoenix, AZ 85016-4240

**CERTIFIED MAIL - RETURN  
RECEIPT REQUESTED  
NUMBER:**

7000-1670-0007-7683-7892

Dear Mr. McAllister:

The USDA Forest Service is investigating the release of hazardous substances associated with the inactive Azurite Mine and Mill Site (Site) located on National Forest System land in north-central Washington. The Site is located in Whatcom County, section 30, T37N, R17E. The Forest Service is conducting its investigation under its authorities under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601-9675. The Washington Department of Ecology (DOE) has expressed concern about conditions at the Site and will likely be an active participant in any response actions needed at the Site.

In August 2002, the Washington Department of Natural Resources prepared an open file report summarizing known conditions at the Site, including sampling data. A copy of the report is enclosed. Site features include tailings deposited on a steep hillside adjacent to Mill Creek and waste rock that is eroding into Mill Creek. Mill Creek contains habitat for Bull Trout, a listed species under the Endangered Species Act. Soil sampling results indicate arsenic concentrations up to 3,800 parts per million (ppm) and copper concentrations up to 1,200 ppm. These concentrations far exceed any applicable standard. A Forest Service contractor has recently completed a more comprehensive sampling program to better characterize the nature and extent of hazardous substances at the Site. We will share that data with you when it becomes available. However, it is clear that a CERCLA response action is needed at the Site. Upon completion of the pending Site Inspection Report (SI), it will be necessary to prepare an Engineering Evaluation/Cost Analysis (EE/CA) to identify and evaluate CERCLA response alternatives.

ASARCO leased and operated the Azurite Mine and Mill Site from 1934-1940. During that time, ASARCO created the Site features, which now require a CERCLA response. Operations outside the period of ASARCO's lease were relatively minor. These facts lead us to conclude that ASARCO is a liable party under CERCLA for the release and threatened release of hazardous substances from the waste rock and mill tailings at the Site.

The Forest Service requests that ASARCO conduct the EE/CA needed to select an appropriate response at the Site. This can be accomplished through an Administrative Order on Consent (AOC). Upon ASARCO's confirmation that it is interested in conducting the EE/CA, we will prepare an AOC for your consideration.



If you have any questions or would like to meet to discuss this Site, please contact the Forest Service On-Scene Coordinator, Cheryl Woodall. Your counsel may contact James Alexander, the USDA attorney assigned to the matter. Contact information for Ms. Woodall and Mr. Alexander as follows:

Cheryl Woodall  
On-Scene Coordinator  
10600 NE 51<sup>st</sup> Circle  
Vancouver, WA 98682  
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PS Form 3800, May 2000	See Reverse for Instr

We look forward to your response to this letter and to working with you on the Azurite Mine and Mill Site cleanup. Thank you for your cooperation in this matter.

Sincerely,

  
LINDA GOODMAN  
Regional Forester

cc: James Boynton, Dick Sawaya, Robert W Fujimoto, Cheryl A Woodall, Rodney T Lenz  
Rick Roeder, Washington Department of Ecology  
Andy Fitz, Washington Attorney General Office  
James Alexander, OGC - Portland  
Holly Flinnar, USDA