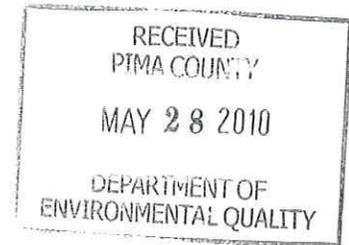




Mission Complex



**Hand Delivered**

May 28, 2010

Mr. P. Scott Porter  
Enforcement Manager  
Pima County Department of Environmental Quality  
33 N. Stone Ave., Suite 700  
Tucson, Arizona 85701-1429

Re: Response to "Final Compliance Determination" dated April 27, 2010  
Notices of Violation Nos. 0911-061 and 0912-067  
ASARCO LLC—Mission Complex, Permit No. 2026

Dear Mr. Porter:

ASARCO LLC ("Asarco" or "Company"), which operates the Mission Complex, has received the "Final Compliance Determination for Notices of Violation 0911-061 and 0912-067," in a letter dated April 27, 2010 from the Pima County Department of Environmental Quality ("PDEQ" or "Agency"). While Asarco is always committed to working with its regulators and to improving the environmental performance of its operations, we do not and will not agree with PDEQ's contention that Asarco failed to take reasonable precautions to control fugitive dust emissions. Asarco also disagrees with PDEQ's myopic focus on Asarco's "windy day" supplemental measures, which are a very small component of the Company's overall pro-active fugitive dust control strategy.

Asarco is troubled by PDEQ's assertion that its "enforcement history" warrants "escalated enforcement." Asarco has a 99.74% compliance rate, with the standards concerning opacity and diffusion of visible emissions across the property line, from January 1, 2005 to April 30, 2010.

As noted in Asarco's response to the Notices of Violation (NOVs) the two days i.e., November 12, 2009 and December 22, 2009 when the dust events occurred were extremely windy. Regional gusty winds and corresponding higher particulate levels were documented in an Air Quality Advisory issued by PDEQ on December 22, 2009. On that date, it is clear that gusty winds were causing a problem throughout large portions of Pima County and the state, including fatalities on I-10 near Casa Grande and not solely near Asarco's Mission Complex.

Also as stated in its response to the NOVs, Asarco regrets that the blowing dust affected our neighbors, and we have worked diligently with them since to clean-up their residences. From January to April 2010, Asarco's Karen Pickett coordinated the Company's clean-up of residences in Rancho Resort that were impacted by blowing tailings from Mission Complex Tailings Dam # 8 during the dust events in November and December last year. She worked with the residents to determine their needs and to get their homes cleaned. As of April 16, 2010, out of 358 houses in Rancho Resort, 251 homeowners have requested exterior cleaning; 38 homeowners have requested cleaning of their air conditioner units; fourteen homeowners have requested carpet and interior cleaning and one homeowner has requested swimming pool cleaning. The majority of the clean-up work is now complete.

Asarco will respond to PDEQ's comments on each of the alleged violations as set forth in the Agency's letter of April 27, 2010.

#### **Violation #1: Exceeding the 20% Opacity Standard**

Asarco has acknowledged that there was at least one six-minute period on November 12, 2009 and one such period on December 22, 2009, where visible emissions from Tailings Dam #8 exceeded the 20% opacity standard. However, Asarco has in no way conceded that it failed to take reasonable precautions throughout the period leading up to, and including, December 22, 2009.

PDEQ's states that its issuance of NOVs for violation of Pima County Code (PCC) 17.16.050.B is based on its "belief" that Asarco failed to take measures "commensurate with the size and scope of the emission source" and to employ "all necessary control measures." This basis for enforcement action is erroneous, as explained below. Moreover, PDEQ's conclusion that "immediately employing all necessary control measures to reduce emissions where the wind generates visible emissions is not a precautionary, but rather a reactive response," is a selective representation of the facts in the case.

First, there is nothing in Permit 2026, Part "B," Condition I.C.2, PCC 17.16.040 or PCC 17.16.050.B that addresses whether measures must be "commensurate with the size and scope of the emission source." PDEQ is confusing the requirements of Conditions I.C.2 and I.C.3. As PDEQ has recognized, the presence of an opacity exceedance does not necessarily mean that reasonable precautions (as required by Condition I.C.3) were not present. *See* Condition II.H ("precautions that seek to diminish, but may not necessarily eliminate, visible emissions at the property line").

Second, PDEQ misstates the applicable legal standard. There is no requirement in Condition I.C or PCC 17.16.040, .050, .060, .090, .100, .110, or .120 that requires Asarco to apply all measures, and PDEQ's insistence on this standard is not supported by the permit and code requirements. In fact, Condition I.C.11 requires Asarco to apply "at

least one” of a list of measures and specifically states that this requirement fulfills the requirement of Condition I.C.3.a. Therefore, independently of whether the wind speed exceeded 25 mph, and it did, which Asarco can document in PDEQ’s own records, Asarco fully fulfilled its permit and code requirements by implementing multiple controls prior to, on, and after the two days in question. The “commensurate” limitation, which is the foundation of PDEQ’s complaint, applies only if Asarco seeks to apply the exception for wind speeds exceeding 25 miles per hour. Because Asarco was implementing “at least one” control measure (it was actually implementing many measures), PDEQ should withdraw its NOV.

### **Violation #2: Diffusion of Visible Emissions Across Property Line**

This alleged violation is based on PDEQ’s assumption that Asarco did not take reasonably necessary and feasible precautions to control the diffusion of visible emissions across the property line. Asarco disagrees with this assumption. The fact that dust diffused across the property line on the two days in question does not, in itself, establish a permit violation.

PDEQ’s case, as stated in its April 27, 2010 letter, is as follows: (1) “[L]arge areas in the middle of the tailings dam were the source of the excess emissions during windy days”; (2) Truck tracks present on December 22, 2009 demonstrate that Asarco could have treated the area earlier; (3) Asarco did not take “all” possible measures; and (4) Asarco hired an outside contractor in 2006, but not in 2009, implying it must not have been doing enough in 2009. As we will demonstrate, the facts support none of PDEQ’s assertions.

It is important to be clear about what the permit requires Asarco to do.

Permit 2026, Part “B”, Condition I.C.3 requires:

No person shall cause, suffer, allow, or permit diffusion of visible emissions, including fugitive dust, beyond the property boundary line within which the emissions become airborne, without taking reasonably necessary and feasible precautions to control generation of airborne particulate matter. Sources may be required to cease temporarily the activity or operation which is causing or contributing to the emissions until reasonably necessary and feasible precautions are taken.

- a. Sources required to obtain an air quality permit under ARS § 49-426, § 49-480 or Rule 17.12.470 may request to have the actions constituting reasonably necessary and feasible precautions approved and included as permit conditions. Compliance with such permit conditions shall be considered compliance with this subsection.
- b. This subsection shall not apply when wind speeds exceed twenty-five (25) miles per hour (using the Beaufort Scale of Wind-Speed Equivalents, or as recorded by the National Weather Service). This exception does not apply if control measures have not been taken or were not commensurate with the size or scope of the emission source.

- c. This condition shall not apply to the generation of airborne particulate matter from undisturbed land.

Condition I.C.11 requires that:

the Permittee shall employ at least one of the following reasonably necessary and feasible precautions...: [listing measures]. The preceding listed control measures are included in the permit for the purposes of satisfying the requirement at I.C.3.a.

Asarco was using the following permit-listed measures in the central areas of Tailings Dam #8 in the days prior to and during the time in question: (1) “dust suppressants” in areas that were reachable; (2) “controlling vehicle access”; (3) “limiting vehicle speed”; (4) “inherent moisture control” early in the process and “encrustation” later. Pursuant to Condition I.C.3.a, “compliance with such permit conditions shall be considered compliance with this provision.” (Emphasis added). Asarco complied with Condition I.C.3 on this basis alone.

In addition to inherent moisture control and encrustation, Asarco applied polymer to the “vast interior” spaces of Tailings Dam #8 as soon as it became safe to do so. Measures that require Asarco’s employees to act in an unsafe manner are neither “reasonable” nor “feasible.”

The presence of truck tracks on December 22, 2009 documents that Asarco was applying “at least one” listed control measure as required by the permit. PDEQ’s suggestion that Asarco could have applied controls earlier is speculative at best and irresponsible at worst if it were to result in employee injuries or loss of dust control equipment due to miring in the tailings dam.

Condition II.H requires:

In the event of significant problematic and persistent property line visible emissions, PDEQ and the Permittee shall confer to determine whether additional reasonably necessary and feasible precautions are needed. In the event that PDEQ and the Permittee agree additional precautions are necessary, the Permittee shall propose for PDEQ approval precautions that seek to diminish, but may not necessarily eliminate, visible emissions at the property line

In January 2010, Asarco proposed a Berm Building Dust Control for PDEQ’s approval. PDEQ commented on that proposal and Asarco responded with a revised plan, incorporating PDEQ’s comments. These steps demonstrate that not only did Asarco take “reasonably necessary and feasible precautions” but fully complied with Condition II. H of the permit.

Furthermore, PDEQ’s contention that Asarco should have applied “all” possible controls is to be found nowhere in the permit and the PCC. There is nothing in Condition I.C or

PCC 17.16.040, .050, .060, .090, .100, .110, or .120 that requires Asarco to apply all measures, and PDEQ's insistence on this standard is not supportable. In fact, Condition I.C.11 requires Asarco to apply "at least one" of a list and specifically states that this requirement fulfills the requirement of Condition I.C.3.a. Therefore, independently of whether the wind speed exceeded 25 mph (and it did, which Asarco can document, often in PDEQ's own records), Asarco fully fulfilled its permit and code requirements. The "commensurate" limitation, which is apparently the foundation of PDEQ's complaint, applies only if Asarco seeks to apply the exception for high wind speeds. Because Asarco was implementing "at least one" control measure (it actually implemented many measures), PDEQ should withdraw its NOV.

PDEQ states, in its April 27, 2010 letter, that it:

reviewed the measures that ASARCO took in 2006 to address a similar violation with regard to emissions occurring during berm building at Tailings Dam #8. At that time, Asarco utilized the services of Ecosystems and Stuart A. Bengson to develop dust control measures to prevent emissions during berm building.

At the outset, Asarco wishes to point out that this comparison is improper because, as discussed later, Tailings Dam #8 was not in the berm building mode in 2006 when the dust emissions from the dam occurred. Moreover, there is no requirement that Asarco hire outside contractors. As a matter of fact, the dust control practices relating to the use of co-polymer employed in 2009 are based on the Ecosystems study in 2006, referenced above by PDEQ, and the dust suppressant manufacturer's recommended application rate. Asarco has significantly advanced and improved its dust control measures since 2006, as shown in Asarco's response to PDEQ's records request, which appears in Attachment A to this letter.

Asarco believes that the real crux of PDEQ's complaint is that Asarco did not apply all reasonably necessary controls in a matter "commensurate with the size and scope of the emission source." There are several problems with this position.

First and foremost, Asarco did take such measures. Asarco smeared Tailings Dam #8 and then dried it for the minimum period of time necessary before starting construction, in compliance with Condition I.C.11. During the initial period, the surface of the dam was controlled by inherent moisture content, in compliance with Condition I.C.11, as acknowledged by PDEQ's admission on page 2 of its letter. Later, the surface was controlled by encrustation, in compliance with Condition I.C.11. As the dam dried out, Asarco began moving in from the perimeter and spraying dust suppressant closer and closer to the center of the tailings until the surface would not support the vehicles. This action complies with Condition I.C.11.

Second, PDEQ has consistently understated the amount of effort that Asarco put into the application of dust suppressants. Asarco applied approximately 138,500 gallons of dust suppressant/water mixture and 1.14 million gallons of water on Tailings Dam #8, from

September 10 to November 12, 2009, to minimize excess emissions. On November 13, 2009, Asarco applied 16,500 gallons of polymer mixture and 5500 gallons of water. Then, from November 14, 2009 to December 22, 2009, Asarco applied another 156,500 gallons of polymer mixture and 614,500 gallons of water in its comprehensive control plan to minimize dust emissions. On December 22, 2009, Asarco applied 50,000 gallons of polymer mixture and 5500 gallons of water. Asarco's supplementary application was a major effort and was "commensurate" with the size and scope of its source.

Third, Asarco submits that nothing more was either "reasonable" or "feasible" under any logical reading of the regulations.

Fourth, regardless of PDEQ's mistaken belief about whether Asarco's measures were "commensurate with the size or scope of the emission source," that is not the legal standard. The legal standard is established under Conditions I.C.11 and I.C.3.a, which have been set forth and discussed above. Asarco more than fulfilled that legal standard.

Fifth, Asarco does not agree that it failed to plan for high wind days and did not have alternative control measures in place. Asarco's prior responses have clearly set forth Asarco's plan: progressive inherent moisture control, encrustation, then polymer and water application on the surface, and progressive water and polymer application on the areas disturbed by berm construction on a daily basis supplemented by work stoppages on days that high winds are forecast or that equipment may not be available for dust control. Asarco's procedures fully complied with Condition I.C.3 of its permit.

Finally, PDEQ states that "the excess emissions stemmed from an activity and foreseeable event that could have been avoided through increased planning, operations and maintenance practices." Asarco requests that PDEQ identify specific, concrete measures that are both "reasonable" and "feasible" in the Arizona mining environment that Asarco, in over 50 years of operating the Mission property, has overlooked. Should this matter go to litigation, which Asarco hopes will not be the case, PDEQ will bear the burden of proving that each such measure it proposes is (1) legal; (2) feasible; and (3) reasonable in the mining environment.

### **Violation #3: Smearing**

The permit requires Asarco to monitor, during the berm building mode, to ensure that tailings piles have been smeared with a light coat of fresh, moist tailings on the surface of the dam once every 60 days unless otherwise warranted by meteorological conditions. PDEQ states in its April 27, 2010 letter that it has no record of Asarco objecting to this permit condition.

Asarco has not objected to this requirement in the past because, until 2007, it had never been interpreted inconsistently with the 1998 Settlement Agreement where this permit condition originated. On June 27, 2007, PDEQ requested that Asarco commit to

“sliming” tailings during the berm building mode in its proposed revision to the Visual Observation Plan (VOP). In its July 3, 2007 response, Asarco objected that it could not “slime” prior to berm building because the equipment would sink and that it was not feasible to ‘slime’ in the berm construction phase because the distribution line was disassembled. Asarco therefore proposed to delete the sliming provision as it relates to the berm building mode in the revision. PDEQ accepted Asarco’s proposal in the revised VOP, showing that in 2007, at least, PDEQ’s understanding of the “smearing” requirement corresponded to Asarco’s understanding.

PDEQ’s new interpretation is gravely at odds with the Settlement Agreement and with Asarco’s commitment in the July 1998 letter from its counsel that led to the Settlement Agreement. Asarco will honor its commitment expressed in the July 1998 letter, but it will resist attempts by PDEQ to alter unilaterally the terms of the Settlement.

It appears that PDEQ has a selective memory. The Agency can recall that “the 60-day time period was a time frame discussed and agreed upon by both sides during past compliance and enforcement discussions,” but it cannot recall the very specific limitations on the 60-day period outlined in Asarco’s July 1998 letter where the condition was proposed.

Asarco also disagrees with PDEQ’s suggestion that the Company’s proposed segmentation process could have been implemented six years ago. First, it is still infeasible to “slime” tailings while the tailing supply line is out-of-service for repair and lifting. Second, the valving required for segmentation was difficult from both a technical and a regulatory basis using the transite pipe that then composed a large part of the Mission tailings supply line system.

Third, and most importantly, it was not clear at that time that the smaller tailings facilities at the Mission Complex could be segmented and still allow the berm building segment to be adequately dry to allow construction while smearing in another segment or segments. There was considerable engineering concern that the discharge in one portion might render the whole tailings dam too moist to allow construction or access in the segments slated for construction. There is still some concern on this issue. Asarco will not know for certain until it completes a cycle where the tailings dam as a whole is not dried prior to starting berm construction. Given the absence of prior experience with segmentation in small tailings ponds and the engineering imperative to maintain pond stability, Asarco does not believe that its proposal could have been made six years ago, especially since Tailings Dam #8 was not in the berm building mode at that time.

Similarly, Asarco disagrees that 6-foot berms, instead of 10-foot berms, constitute a better method of dust control. The six foot berm was an “emergency” measure proposed by Asarco prior to development of the acrylic copolymer application. Shorter berms are environmentally disadvantageous for several reasons. First, a 10-foot berm lasts roughly one year before the next lift is required. A 6-foot berm would last barely six months

before the next lift is required. This doubles the amount of drying time (from approximately 7 weeks to 15 weeks) during which Asarco cannot apply wet tails, the best form of dust control presently available. Second, the time required for berm building is unlikely to drop by half due to mobilization and related issues. Third, a recent initiative from MSHA and the State Mine Inspector wants increased freeboard. Adopting a shorter 6-foot lift increases the non-usable space from 16-20%, and for a 10- to 12-foot lift the non-usable space is increased by 33%. All of these factors would increase the amount of time drier tails are present, if shorter berms were used.

Asarco appreciates PDEQ's acknowledgement that Condition II.F.1 is a monitoring condition and not a control condition. Asarco looks forward to working with PDEQ to incorporate the correct control condition—set forth in Asarco counsel's letter dated July 1998—into the next permit revision.

In summary, with the exception of brief opacity exceedances on the days in question, Asarco was meeting its permit requirements. Asarco's permit requires it to implement "at least one" of an enumerated list of measures, but with the adoption of its Proposed Berm Building Dust Control Plan, Asarco is utilizing several measures that will assist in preventing recurrence. In addition to the segmentation of dams in the berm building mode, these measures include: (1) Monitoring the moisture level of the dam to determine when berm building construction can start; (2) Using "wet" construction techniques; (3) Applying water, at least daily, during construction; (4) Applying acrylic co-polymer, at least daily, to disturbed areas in the active berm building area; (5) Inspecting the dam surface to monitor the progress from inherent moisture level control to encrustation; and (6) Applying acrylic co-polymer when the encrustation begins to break down. These measures are in addition to vehicle controls, speed limits, and general road watering utilized throughout the mine. Also, Asarco adopted additional measures specific to berm building, such as not building berms on days forecast for high winds, ceasing work if winds arise, and not constructing on days when adequate equipment is not available to prevent dust emissions.

As stated above, Asarco's permit requires it to implement "at least one" of these measures. Part "B," Condition I.C.11. And implementing "at least one" measure means that Asarco is "considered in compliance." Part "B", Condition I.C.3.a. Based upon the amount of planning, effort, co-polymer, and money expended, which has resulted in a 99.74% compliance record in the period January 1, 2005 to April 30, 2010, Asarco does not believe penalties are warranted for Violations 2 or 3 and should be mitigated for Violation 1.

Response to Final Compliance Determination  
ASARCO LLC—Mission Complex  
May 28, 2010  
Page 9 of 9

Asarco looks forward to the planned meeting with PDEQ on June 16, 2010 to discuss our response to the final compliance determination.

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard Rhoades".

Richard Rhoades  
General Manager

Enclosures:

1. 2006 Tailings Dam #8 Dust Control Project Report by Stu Bengson
2. 2009-2010 Tailings Dam #8 Berm Building, Areas Treated with Enviro Tac II dust Suppressant Co-Polymer
3. 2009-2010 Tailings Dam #8 Berm Building Monthly Water and Polymer Use

**ENCLOSURE 1**

**2006 Tailings Dam #8 Dust Control Project  
Report by Stu Bengson**



### ASARCO-Mission Complex Dust Abatement

On November 16, 2006 Environmental Products & Application (EP&A) was contracted by the ASARCO-Mission Complex to begin application of "Envirotac II", an acrylic copolymer to the surface and top slope of the No. 8 tailings impoundment to control blowing dust. It had been determined, based on the past experience of dust abatement at the Hayden tailing facilities, that this would provide the best long-term control of dust.

The following week EP &A mobilized their equipment (2-articulated Terra-Gator "floaters" plus a large (~3000 gallon) and a small (~1800 gallon) all-wheel drive water trucks along with some 23,375 gallons of "Envirotac II" in 85 "totes" on site. The EP&A crew of 5 MSHA certified men arrived on November 27, 2006 and the work of controlling the dust on the No. 8 tailing impoundment began.

It had been determined that an application rate of 150-gallons/acre of "Envirotac II" would be sufficient for controlling blowing dust on the 360 acres of flat surface of the No. 8 tailing; and a rate of 250 gallons/acre (along with a green dye for visual enhancement) would be appropriate for the 17 acres of top slope of No. 8. It was also agreed to that if time and materials were sufficient approximately 6.5 acres of the top slope (east and south facing aspects) of the No. 7 tailing impoundment would also be treated at the 250 gallons/acre rate (with the green dye). This totals some 383.5 acres of tailing surface and slopes to be treated.

The specially designed Terra-Gator "floaters" were used to treat the surface of the No. 8 tailing. The large very low ground pressure tires allow these "floaters" to traverse the soft tailing surfaces where other equipment would become mired down. The water trucks were principally used to mix the "Envirotac II" with water and supply this mixture to the "floaters". It was nearly 4 miles to the water source and this saved considerable time, as well as wear and tear on the "floaters". The water trucks also had side sprays that were used to spray the outside slopes from the roadway. This combination use of equipment expedited the application of the "Envirotac II" to the tailing sites.

On the first day (11/27/06) a total of approximately 30 acres in the NW quadrant on the top surface of tailing No. 8 was treated at 150 gallons/acre. This daily production rate was increased to more than 55 acres over time for an over average of some 38 acres/day. All of the work was completed by December 7, 2006 and over the course of 10 working days a total of some 383.75 "measured" acres were treated. The "measured" acres were determined by measuring the number of acres covered by each "floater" load of "Envirotac II" applied (~2.5 acres) and multiplying the number of loads applied each day. This "measured" a total of approximately 383.75 acres treated on No. 8 & No.7

(including slopes). There was a total of approximately 27.5 acres in the center of No. 8 tailing (near the decant tower) that was "too wet" for even the "floaters" to safely operate that was left untreated. Approximately 332.5 acres of flat tailing surface on No. 8 and another approximately 23.5 acres of slope on No. 8 and No. 7 were actually treated with "Envirotac II" for a total of approximately 356 acres. The difference between actual treated acres and "measured" acres (~27.75 acres) is due to some "overlap" in the process of application.

A total of 60,225 gallons of "Envirotac II" was delivered to the site over the course of the application period. After the initial delivery of 23,375 gallons the remaining 36,850 gallons of "Envirotac II" was delivered by tanker truck and additional totes over the next 7-8 days. A total of 59,125 gallons was applied to the tailing surfaces at the specified rates of application. This averages more than 166 gallons/acre over the entire 356 total acres treated with "Envirotac II". Some 1100 gallons of "Envirotac II" was left for any maintenance application if needed.

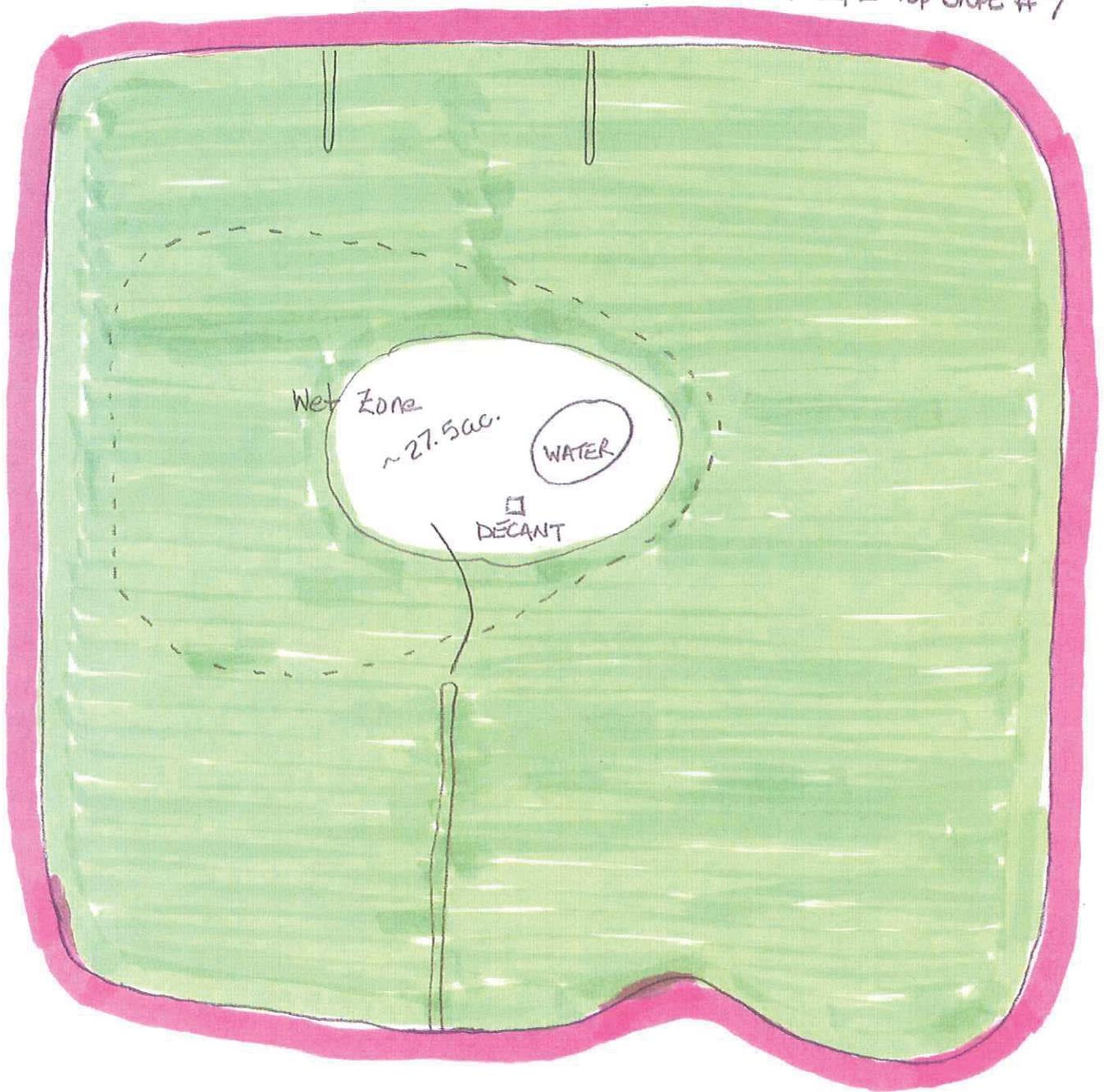
**Stuart A. Bengson**

*Certified Professional in Erosion & Sediment Control #209 (SWCS/IECA)*

ASARCO - MISSION COMPLEX  
TAILING #8

Area Treated @ 150 g/ac.

Area Treated @ 250 g/ac.  
+ SE & E Top Slope #7



inside slope =  $\sim 14'$  =  $\sim 5$  ac.  
outside slope =  $\sim 33'$  =  $\sim 12$  ac.



Distance around =  $\sim 15,800'$



73-710 Fred Waring Drive, Suite 220  
 Palm Desert, CA 92260  
 Ph: 760.779.1814 • Fax: 760.779.1815  
 E-mail: DustControlMan@aol.com  
 Web: www.envirotac.us

## INVOICE

<b>Name:</b>	ASARCO MISSION COMPLEX	<b>Date:</b>	12/12/06
	4201 W. PIMA MINE ROAD	<b>Invoice:</b>	06-12012
	SAHUARITA, AZ 85629	<b>P.O. #:</b>	<b>W22840</b>
<b>Phone:</b>	520-648-4588	<b>Authorized:</b>	AL COOPER
<b>Fax:</b>	520-648-0802	<b>Phone:</b>	520-648-4588
<b>Project:</b>	<b>Location:</b>	<b>Sales Rep:</b>	JOHN VERMILLION
ASARCO MINES	SAHUARITA	<b>Telephone:</b>	760.779.1814

Qty	Description	Price	Unit	Extension
	REGARDING DUST CONTROL			
	CONTAINMENT POND # 8 & SLOPES 7 & 8			
	REQUISITION #: 014059			
	COMPLETED APPLICATION FLAT LAND TAILING			
	POND # 8 USING ENVIROTAC ACRYLIC			
332.5	POLYMER TO 332 1/2 ACRES	\$700.00	ACRE	\$ 232,750.00
	COMPLETED APPLICATION TO SLOPES 7, 8			
	TAILING PONDS SLOPES USING ENVIROTAC			
	ACRYLIC POLYMER AND GREEN DYE			
23.5	TO 23-1/2 ACRES SLOPES	\$850.00	ACRE	\$ 19,975.00
	ALL WORK COMPLETED TO CONTRACT			
	SPECIFICATIONS			
	TERMS: NET 10 DAYS PER MUTUAL AGREEMENT		<b>TOTAL</b>	<b>\$ 252,725.00</b>

*Paid 12/19/06  
 CR # 337264  
 From N.T.*

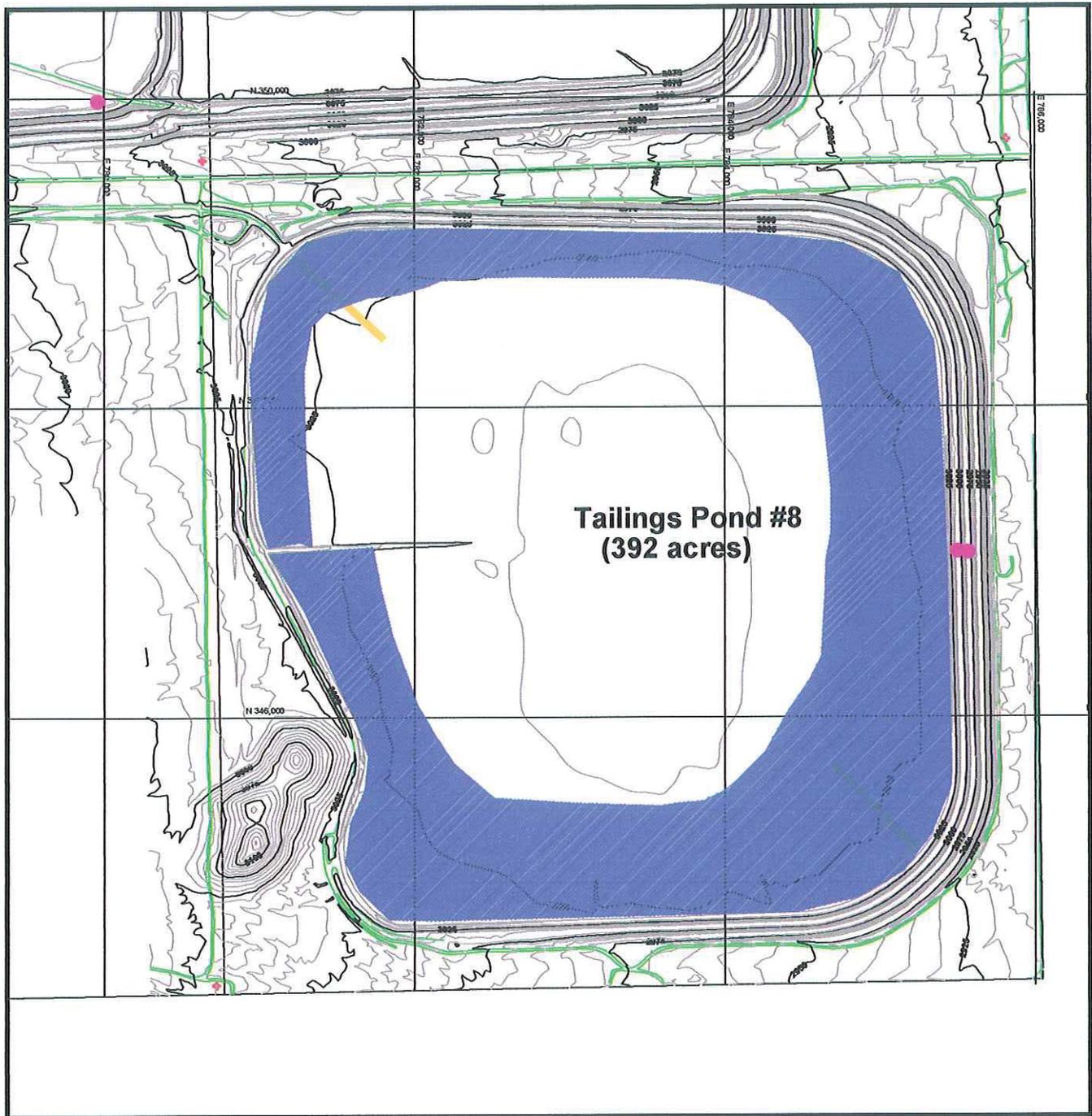
**A.T.C.**  
**DEC 14 2006**

*OK to pay  
 Allen T. Cooper  
 P.O. W22840  
 Ref# 014059*

**ENCLOSURE 2**

**2009-2010 Tailings Dam #8 Berm Building**

**Areas Treated with Envirotac II dust Suppressant  
Co-Polymer**



-  Proposed wing wall
-  Piezometer well
-  187 ACRES



NORTH

<b>ASARCO PROPERTY MISSION COMPLEX</b>	
<b>Tailings Pond #8</b>	
Scale 1"-1000'	

**ENCLOSURE 3**

**2009-2010 Tailings Dam #8 Berm Building  
Monthly Water and Polymer Use**

# WATER AND POLYMER USED ON PROJECTS

MONTH September 2009

	Polymer Gal Used	Dam Location	Water Gal Used	Dam Location
DATE				
1				
2				
3				
4				
5				
6				
7				
8			8,000	#8
9			8,000	#8
10	250	#8	6,000	#8
11				
12				
13				
14			6,000	#8
15	250		6,000	#8
16			8,000	#8
17			8,000	#8
18	250	#8	8,000	#8
19				
20				
21			16,500	#8
22	250	#8	16,500	#8
23			20,000	#8
24	250	#8	20,000	#8
25			20,000	#8
26				
27				
28			35,000	#8
29	250	#8	27,500	#8
30			33,000	#8
31				

# WATER AND POLYMER USED ON PROJECTS

MONTH October 2009

	Polymer Gal Used		Dam Location		Water Gal Used	Dam Location
DATE						
1					35,000	#8
2	500		#8		30,500	#8
3						
4						
5					33,000	#8
6					27,500	#8
7	500		#8		27,500	#8
8					33,000	#8
9	250		#8		33,000	#8
10						
11						
12					15,000	#8
13					27,500	#8
14					33,000	#8
15					27,500	#8
16	250		#8		27,500	#8
17						
18						
19					8,000	#8
20	2250	22,500	#8		24,000	#8
21					31,500	#8
22					22,000	#8
23					22,000	#8
24					22,000	#8
25						
26					22,000	#8
27	2,000	24,000			6,000	#8
28	1500	16,500	#8		14,000	#8
29	1000	11,000	#8		16,500	#8
30	1500	11,000	#8		22,000	#8
31					38,500	#8

# WATER AND POLYMER USED ON PROJECTS

MONTH November 2009

	Polymer Gal Used		Dam Location	Water Gal Used		Dam Location
DATE						
1				33,000		#8
2				16,000		#8
3	500	5500		18,500		#8
4				38,500		#8
5				33,000		#8
6	500	5500	#8	27,500		#8
7				33,000		#8
8				33,000		#8
9				38,500		#8
10				11,000		#8
11	500	5500	#8	16,500		#8
12	2000	22,000	#8	16,500		#8
13	1250	16,500	#8	5,500		#8
14	1750	22,000	#8	5,500		#8
15	1500	16,500	#8	5,500		#8
16	500	5,500	#8	27,500		#8
17	250	5,500	#8	33,000		#8
18	250	5,500	#8	33,000		#8
19	250	5,500	#8	33,000		#8
20	250	5,500	#8	27,500		#8
21	-			38,500		#8
22						
23	250	5,500	#8	33,000		#8
24	250	5,500	#8	33,000		#8
25						
26						
27						
28						
29						
30						
31						

# WATER AND POLYMER USED ON PROJECTS

MONTH December 2009

	Polymer Gal Used	Dam Location	Water Gal Used	Dam Location	
DATE					
1			11,000	#8	
2			38,500	#8	
3	500	5,500	#8	33,000	#8
4	250	5,500	#8	33,000	#8
5	250	5,500	#8	27,500	#8
6					
7	2750	28,000	#8	5500	#8
8				33,000	#8
9	250	2000	#8	10,000	#8
10			#8	12,000	#8
11	500	5500	#8	38,500	#8
12	500	5500	#8	11,000	#8
13					
14			#8	16,500	#8
15	250	5500	#8	11,000	#8
16	500	5500		24,000	#8
17	500	5500	#8	22,000	#8
18	500	5500	#8	22,000	#8
19					
20					
21				29,500	#8
22	6,000	50,000	#8	5,500	#8
23	250	5,500	#8		
24					
25					
26					
27					
28	250	5,500	#8	33,000	#8
29	1000	11,000	#8	11,000	#8
30	250	5,500	#8	27,500	#8
31					

## WATER AND POLYMER USED ON PROJECTS

MONTH 01-04-10

	Polymer Gal Used	Dam Location	Water Gal Used	Dam Location
DATE				
1				
2				
3				
4	250	5500 #8	33,000	#8
5		#8	38,500	#8
6	500	5500 #	33,000	#8
7	500	5500 #8	33,000	#8
8	250	5500 #8	22,000	#8
9	2250	33,000 #	11,000	#8
10				
11	250	5,500 #8	33,000	#8
12	250	5,500 #8	33,000	#8
13	500	5,500 #8	33,000	#8
14	250	5,500 #8	33,000	#8
15	—	— #8	7500	#8
16	250	2000 #8	12,000	#8
17				
18		#8	10,000	#8
19	250	2000 #8	10,000	#8
20	—	— #8	—	#8
21	250	2000 #8	2000	#8
22	750	6000 #8	2000	#8
23	250	2000 #8	6000	#8
24				
25	250	2000 #8		#8
26	250	2000 #8	4000	#8
27	250	2000 #8	2000	#8
28	250	2000 #8		
29				
30				
31				