File 6.1.2

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET, - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
http://www.epa.gov/region08

FAX TRANSMITTAL COVER SHEET

TO: Lisa Farrell

Agency / Company DEH

City: Denver State: CO

Fax Telephone Number 720-865-5534
Phone Number 720 865-5439
Number of pages to follow Cover Sheet: 6

EPR-SR EPR-EP EPR-SA EPR-PS

CLERK'S DESK PHONE # 303-312-6218
FAX NUMBER 303-312-6897

FROM: Victor Ketellapper

SENDER'S PHONE # 303 312 6578

COMMENTS: Access Agreement for MW-05 and 06 at UB/1700U-2

Victor

Date Sent: _____ / Time Sent: _____ Sender: _____

EnviroGroup Limited
The environmental solutions company

AS0423 March 16, 2005

Timothy R. Gablehouse, Esq.
Gablehouse Calkins & Granberg, LLC
410 17th Street Ste 1375
Denver, CO 80202

Re: Access to 4120 Brighton Boulevard
Omaha Grant Smelter Site (VBI70 OU2)
Denver, Colorado

Dear Tim:

Please find the following materials enclosed:

- As requested, an original signed copy of the access agreement between Midtown Industrial Center LLC and JCRS II Colfax LLC, joint tenants and ASARCO, LLC.

- In accordance with paragraph 12 of the access agreement between, a copy of the Administrative Order on Consent (AOC) and a copy of the Statement of Work (SOW) for the performance of a Remedial Investigation / Feasibility Study for Operable Unit #2 of the Vasquez Boulevard/I-70 site (VBI70 OU2).

In accordance with paragraph 8 of the access agreement referenced above, a detailed description of the remedial investigation activities to be undertaken at your clients' property at 4120 Brighton Boulevard is presented below.

- Install 3 groundwater monitoring wells (MW-04, MW-05, and MW-06) upgradient of the former Omaha and Grant Smelter Site (VBI70 OU2).

- The locations of the proposed monitor well(s) will be identified physically in the field approximately one week before they are to be installed. The utilities will then be notified and utility locates performed.

- The locations of the proposed monitoring well(s) may be adjusted in the field based on the results of utility locates.

7009 South Potomac Street, Suite 300 • Centennial, Colorado 80112 • 303 790-1340 • Fax 303 790-1347
www.envirogroup.com

Timothy R. Gablehouse, Esq.
March 16, 2005

- It is expected that access to the area around the drill rig will be restricted ("coned off") during well installation.
- The monitor wells will be installed from ground surface to approximately 7-feet below the water surface, or to refusal, and completed with flush-mount limited access vaults with locking j-plugs.
- All drilling investigation derived waste (IDW) will be drummed and removed from the property within 24 hours of generation.
- Drill rig and support vehicles will mobilize to the site each day (drill rig and support vehicles will not stored on-site).
- Individual monitor wells will be drilled and completed the same day.

As indicated in our telephone conversation of March 14, 2005, we expect to identify the locations of the proposed wells in the field on March 16, 2005 and begin well installation, weather permitting, March 23, 2005.

Please call me if you have questions regarding this letter.

Sincerely,
EnviroGroup Limited

Theodore E. Kuehster, P.E.
Senior Project Engineer

Enc.

CC w/o enc: Victor Ketellapper – EPA Region 8
Barbara O'Grady – CDPHE
Dennis D. Bollmann - CCoD
Bob Litle – Asarco
Superfund records center

ACCESS AGREEMENT

THIS AGREEMENT is by and between the undersigned property owner(s) ("Owner") and ASARCO LLC, the City and County of Denver, Union Pacific Railroad Company, and their respective agents, employees, contractors, and subcontractors (collectively the "Investigating Parties"), referred to herein individually by name or as the parties.

RECITALS

A. On November 17, 2000, the United States Environmental Protection Agency ("EPA") provided a draft Administrative Order on Consent For Remedial Investigation/Feasibility Study ("AOC") and draft Statement of Work ("SOW") to the parties outlining the process for performing a Remedial Investigation/Feasibility Study ("RI/FS") at Operable Unit 02 (Omaha-Grant Smelter Site Location) of the Vasquez Boulevard/I-70 Superfund Site ("the VB/I-70 Site"). The Investigating Parties intend to make a good faith offer to perform the RI/FS under the oversight of EPA and the State of Colorado ("State") pursuant to a final negotiated AOC and SOW.

B. The Investigating Parties require access to Owner's property to perform the RI/FS, and Owner wishes to provide such access.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, Owner and the Investigating Parties agree as follows:

1. Identification of Owner:

1.1	Name(s) of Owner:	Midtown Industrial Center LLC. & JCRS II Colfax LLC, joint tenants
	Property Address:	4120 Brighton Blvd.
	City, State, Zip:	Denver CO
	If Different-- Mailing Address:	c/o Timothy R. Gablehouse
	City, State, Zip:	410 17th St., Ste. 1375, Denver CO 80202
	Telephone:	303-572-0050

2. Description of Property. Owner is the owner of real property located in Denver County, State of Colorado, Tax Parcels No. 02233-00-043-000 & 02233-00-149-000 (the "Property").

3. Condition Precedent. The parties agree that this Access Agreement is contingent upon EPA's approval of an AOC and SOW that is satisfactory to the Investigating Parties.

4. Grant of Access. Owner grants the Investigating Parties, their agents, employees, contractors and subcontractors, and EPA and the State and their respective agents, employees, contractors, and subcontractors, the right to enter the Property for the purposes of implementing the AOC and SOW, subject to the terms and conditions of this Access Agreement.

5. Availability of Access. The Investigating Parties shall have access to the Property at all reasonable times for the duration of this Access Agreement. Access to the Property shall be solely for the purpose of carrying out the terms of this Access Agreement.

6. Duration of Agreement. This Access Agreement shall be effective when all parties have executed it as evidenced by their signatures below and shall remain in effect until certification by EPA that the AOC and SOW have been satisfactorily completed, or such earlier date as EPA may authorize.

7. Independent Contractor. The Investigating Parties represent that they and any employee, agent, consultant, contractor, or subcontractor retained by the Investigating Parties are independent contractors and are not employees of or agents for Owner.

8. Performance of the Work. The Investigating Parties will use best efforts to minimize disruption to Owner during performance of the RI/FS. The Investigating Parties shall notify Owner and Timothy R. Gablehouse of Gablehouse Calkins & Granberg, LLC in writing (with a detailed description of the activities to be undertaken) and by telephone not less than four (4) calendar days prior to undertaking activities on the Property. The Investigating Parties assume the risk of identifying the locations of any underground utilities prior to any excavations on the Property. Any damages to structures at the Property shall be promptly repaired in a workman-like manner. The Investigating Parties agree that the work to be performed pursuant to this Access Agreement shall be performed in compliance with any federal, state, or local laws, ordinances, or regulations, which may be applicable.

9. Drilling/Well Installation. Monitor wells will be installed with flush-mount limited access vaults with locking j-plugs. All drilling investigative derived waste (IDW) will be drummed and removed from the property within 24 hours of generation. Drill rig and support vehicles will mob to the site each day (not stored on-site) and individual monitor wells will be drilled and completed the same day.

10. Coordination and Cooperation. Owner agrees to cooperate with the Investigating Parties with respect to reasonable requests for information and assistance in responding to EPA and the State concerning response activities related to the installation

of monitoring wells on the Property. If requested to do so by the Investigating Parties, Owner agrees to use its best efforts to attend meetings with EPA and the State.

11. Sample Results. Sample results will be provided, which include borehole logs, well construction summaries, chain of custody documents, laboratory reports (which include laboratory Quality Control (QC) data) and copies of all diagrams and figures, which reference the installed wells.

12. Reports. Upon execution of this Access Agreement the AOC and SOW, including any amendments that apply after the Access Agreement is executed, will be sent to Timothy R. Gablehouse, Gablehouse Calkins & Granberg, LLC, 410 17th Street, Suite 1375, Denver, CO 80202.

13. Expense. Entry into this Access Agreement does not bind any party to sponsorship or financing of the performance of the RI/FS. Entry into this Access Agreement shall be of no effect as to any past or future liabilities in connection with Operable Unit 02 or the VB/I-70 Site, and shall not constitute evidence of an appropriate allocation of responsibility for liabilities related to Operable Unit 02 or the VB/I-70 Site.

14. Denial of Liability. Each party understands and agrees that, by entering into this Access Agreement, it and the other parties to this Access Agreement do not admit, and specifically deny liability or fault for, any and all of the facts, legal contentions and occurrences alleged against it with respect to Operable Unit 02 and/or the VB/170 Site. Neither this Access Agreement, any information shared between the parties, nor any action taken by any party pursuant to this Access Agreement shall constitute, be interpreted, construed or used as evidence of any admission of liability, law or fact, a waiver of any right or defense, nor an estoppel against any party by parties as among themselves or by any person not a party; *provided that* this Access Agreement may be used to enforce the terms of this Access Agreement.

15. The Investigating Parties not EPA Representatives. The Investigating Parties are not, and shall not be deemed to be, representatives or agents of EPA with respect to the RI/FS.

16. Entire Agreement. This Access Agreement constitutes the complete agreement between the Parties with respect to the subject matter hereof and supersedes any prior agreements or understandings, written or oral. No waiver under this Access Agreement shall be valid unless it is given in writing and duly executed by the party to be charged therewith. This Access Agreement may be amended only by a writing signed by each of the parties hereto. The invalidity or unenforceability of any provision of this Access Agreement shall not affect the other provisions hereof, and this Access Agreement shall be construed as if such invalid or unenforceable provision were omitted. This Access Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and assigns.

17. Jurisdiction. This Access Agreement shall be governed by and interpreted in accordance with the laws of the State of Colorado.

18. Execution in Counterparts. This Access Agreement may be executed in any number of counterparts, and each such counterpart shall be deemed to be an original instrument, but all such counterparts together shall constitute one agreement.

19. Authority to Enter Into Agreement. Each person signing this Access Agreement represents that he or she has been duly authorized to enter into this Access Agreement by the party on whose behalf it is indicated that the person is signing. If signed by an attorney for a party, such attorney represents that he or she is fully authorized to enter into this on behalf of his or her client(s) and thereby binds his or her client(s) to all obligations imposed by this Access Agreement.

AGREED to as of the last date written below.

OWNER(S):

By: _____

Timothy R. Gablehouse
Counsel

Union Pacific Railroad Company

By: _____

Its: _____

ASARCO LLC

By: _____

_____
Site Manager

City and County of Denver

By: _____

Its: _____