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McGUIREWOODS

March 3, 2016

Freedom of Information Officer
United States Environmental Protection Agency
Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

Re: *Asarco Litigation Regarding Tri-States Mining District Sites*

Dear FOIA Officer:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and the United States Environmental Protection Agency's ("EPA") FOIA regulations, 40 C.F.R. Part 2, ASARCO LLC ("Asarco"), by and through its counsel, McGuireWoods LLP, hereby requests the release of the following documents and information associated with the Asarco Litigation Regarding Tri-States Mining District Sites, which consists of the Tar Creek Superfund Site in Ottawa County, Oklahoma, the Cherokee County Superfund Site in southeast Kansas, the Oronogo-Duenweg Lead Mining Belt Superfund Site in Jasper County, Missouri, and the Newton County Mine Tailings Site in Newton County, Missouri (the "Site"):

1. All 104(e) letters;
2. All 122 special notice letters;
3. All work plans (proposed and completed), including remedial designs;
4. All work summaries, including on the tailings piles, residential remediation, natural resource damages, and watershed;
5. All Records of Decisions ("ROD");
6. All five-year reviews;
7. All sampling and remediation of property soils;
8. All updates on remediation of waterways;
9. All SCORPIOS reports;

10. Any cost projections for the Site; and

11. All updates related to activities at the Site, including itemized cost summaries to date for the Site and/or its respective operating units (OUs).

For purposes of these requests, "document" refers to any electronic, written, graphic, video, or audio matter, however produced or reproduced, whether draft or final versions, and including but not limited to correspondence, e-mails, notes, interoffice communications, reports, memoranda, minutes, summaries, telephone records, telephone message logs or slips, PowerPoint presentations, meeting agendas, transcripts, call lists, spreadsheets, maps, photographs, data compilations, *Vaughn* indices, privilege logs, or calendars.

In responding to these requests, EPA's search should encompass, but should not be limited to: (a) documents sent to or from email addresses used by current or former EPA employees and representatives, regardless of whether such addresses are private or secondary addresses of official addresses; (b) documents generated for any meeting which EPA participated or conducted, including agendas, spreadsheets, PowerPoint presentations, and notes; (c) documents relating to or evidencing presentations made by any party to agencies or entities or than EPA; (d) documents addressing the timing of EPA disclosures of information to Asarco or the public; and (e) documents describing non-public meetings and other communications between EPA and any non-governmental parties.

With respect to these requests, EPA need not provide Asarco with duplicative copies of documents to the extent the same document is located in more than one location. EPA should, however, produce *in toto* any document and its accompanying attachments.

FOIA Exemptions

Should you decide to invoke a FOIA exemption with regard to any of the requested records, please include in your full or partial denial letter sufficient information to appeal the denial. *See* 5 U.S.C. § 552(a)(6)(A)(i), (a)(6)(F). To comply with legal requirements, the following information must be included:

1. Basic factual material about each withheld item, including the originator, addressees and recipients, date, length, general subject matter, and location of each item; and

2. Explanations and justifications for the denial, including identification of the category within the governing statutory provision under which the document (or portion thereof) was withheld and a full explanation of how each exemption fits the withheld material.

If you determine that portions of a record requested are exempt from disclosure, please redact the exempt portions, identify and describe the withheld portions, specify the applicable exemption, and provide the remainder of the record. *See* 5 U.S.C. § 552(a)(6)(A)(i), (a)(6)(F), (b).

Timing and Mechanics of Production

We request that in responding to this letter, EPA comply with all relevant deadlines and other obligations set forth in FOIA and EPA's regulations, and we look forward to receiving your response within 20 working days. 5 U.S.C. § 552(a)(6)(A)(i); 40 C.F.R. § 2.104. Given the limited nature of the request, Asarco does not agree to any extension of time for the response beyond the statutory deadlines. Please produce records as soon as possible, on a rolling basis; the search for—and deliberation concerning—certain documents should not delay the production of others that EPA has already retrieved and could turn over. Please note that Asarco is interested in working with EPA to ensure that the burden associated with this FOIA request is minimized to the extent practicable, including discussing phased or prioritized document productions.

We understand that there may be fees and costs associated with this request, and we agree to pay any fees or costs up to $200.00 associated with making these materials available to us. If the costs will be in excess of $200.00, please advise me before such costs are incurred. Notwithstanding the above, Asarco does not agree to pay any costs to upload or add these records to the Superfund Document Management System.

We prefer to receive electronic documents, and not paper copies, whenever possible. To the extent possible, we request that EPA provide the requested information in searchable, electronic format on CD, DVD, or external hard drives of sufficient size to contain the production. Electronic files should be provided in their original format, not in PDF containers. Individual e-mails, and their attachments, should be maintained as single msg files. If this is not possible, then e-mails and their attachments should be provided in either PST or NSF containers, thereby preserving all attachments information. Asarco would be happy to provide a hard drive for the records if that is more efficient. We are also amenable to making arrangements for an outside vendor to copy the records identified as responsive to this request.

In responding to the present letter, please mail copies of all requested documents, indices and logs, and any invoice for reasonable FOIA fees to the undersigned at McGuireWoods LLP, 633 West Fifth Street Suite 6700, Los Angeles, California, 90071.

Thank you for your assistance.

Very truly yours,

Laura G. Brys