

20530, and should refer to *United States v. Agway, Inc. et al.*, Civ. No. 98-CV-0112 (N.P.M), DOJ #90-11-2-2A.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Northern District of New York, James Foley U.S.

Courthouse, 45 Broadway, room 231, Albany, New York 12207; at the Region II Office of the U.S. Environmental Protection Agency, 290 Broadway, New York, New York 10278; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624-0892. Copies of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of \$71.00 (25 cents per page reproduction costs) payable to the Consent Decree Library.

**Joel M. Gross,**

*Environmental Enforcement Section,  
Environment and Natural Resources Division.*  
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## DEPARTMENT OF JUSTICE

### Notice of Consent Decrees Under the Clean Water Act and Resource Conservation and Recovery Act

Notice is hereby given that a consent decree in *United States v. ASARCO, Inc.*, Civil Action No. CV-98-3-H-CCL (D. Mont.) and a consent decree in *United States v. ASARCO, Inc.*, Civil Action No. CV-98-0137-PHX-ROS (D. Ariz.) were lodged with the United States District Courts for the District of Montana and District of Arizona respectively on January 23, 1998.

In these actions the United States sought injunctive relief and civil penalties under Section 309 (b) and (d) of the Clean Water Act ("CWA"), 33 U.S.C. 1319 (b) and (d), and Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6928(a). The consent decree lodged in the District of Montana ("Montana decree") resolves civil penalty claims of the United States against ASARCO, Inc. ("ASARCO") under the CWA for alleged unpermitted discharges at ASARCO's smelter facility in East Helena, Montana. The Montana decree also resolves civil penalty and injunctive relief claims of the United States against ASARCO under RCRA for alleged violations of hazardous waste regulations associated with materials acceptance and management practices at ASARCO's East Helena smelter facility. The decree lodged in the District of Arizona

("Arizona decree") resolves injunctive relief and civil penalty claims of the United States against ASARCO under the CWA for alleged permit violations and unpermitted discharges at ASARCO's Ray Mine complex located near Kearny, Arizona.

The Montana decree requires ASARCO to: institute improved materials screening and management procedures at each of its four smelters nationwide; perform a comprehensive RCRA corrective action investigation and, as appropriate, remediation at ASARCO's East Helena smelter facility; implement an improved environmental management system nationwide; and, pay a civil penalty to the United States of \$3,386,100 and perform a wetlands restoration project at ASARCO's East Helena smelter facility for alleged past violations of the CWA and RCRA at that facility.

The Arizona decree requires ASARCO to: Perform construction projects to address alleged permit violations and unpermitted discharges at ASARCO's Ray Mine complex; and, pay civil penalties to the United States and State of Arizona totaling \$3 million for alleged past violations of the CWA at ASARCO's Ray Mine complex.

The Department of Justice will accept written comments relating to the proposed consent decrees for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044 and refer to *United States v. ASARCO, Inc.* (D.Mt.), DJ Ref. #s: 90-5-1-1-4323, 90-7-1-890 and 90-7-1-886, and/or, *United States v. ASARCO, Inc.* (D. Ariz.), DJ Ref. #s: 90-5-1-1-3822 and 90-7-1-886.

Copies of the proposed Montana decree may be examined at the Office of the United States Attorney, Suite 400, 2929 3rd Avenue, N., Billings, Montana, 59103; at the U.S. Environmental Protection Agency, Montana Operations Office, Federal Building, 301 South Park Street, Helena, Montana 59626; and, at the U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Denver, Colorado 80202. Copies of the proposed Arizona decree may be examined at the Office of the United States Attorney, 1275 West Washington, Phoenix, Arizona 85007; and, at the U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California, 94105.

Copies of both proposed consent decrees may be examined at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202)

624-0892. A copy of the consent decrees may also be obtained in person or by mail at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. When requesting a copy of the Montana decree by mail, please enclose a check in the amount of \$44.75 for a copy including exhibits, or \$28.00 for a copy excluding exhibits (twenty-five cents per page reproduction costs) payable to the "Consent Decree Library." When requesting a copy of the Arizona decree by mail, please enclose a check in the amount of \$29.00 for a copy including exhibits, or \$9.00 for a copy excluding exhibits (twenty-five cents per page reproduction costs) payable to the "Consent Decree Library."

**Joel M. Gross,**

*Chief, Environmental Enforcement Section,  
Environment and Natural Resources Division,  
Department of Justice.*

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. Block Island Power Company, Inc.*, Civil Action No. 98-045-ML was lodged on January 28, 1998, in the United States District Court for the District of Rhode Island. The consent decree settles an action commenced in a complaint filed January 28, 1998, under the Clean Air Act, 42 U.S.C. 7401 *et seq.*, arising out of operations at the Block Island Power Company, Inc. ("BIPCO") facility on Block Island in the State of Rhode Island. BIPCO generates and sells electricity to the residents of Block Island through the use of diesel generators. The air pollutants emitted by the diesel generators include nitrogen oxides ("NO<sub>x</sub>"). NO<sub>x</sub> is an ozone precursor which means that, once emitted, it is transformed in the atmosphere through reaction with volatile organic compounds into ground-level ozone or "smog."

The complaint alleges that BIPCO failed to obtain a permit prior to installation of eight diesel generators as required by Prevention of Significant Deterioration and Non-Attainment New Source Review requirements of the Clean Air Act, EPA regulations, and the State of Rhode Island State Implementation Plan. The complaint also alleges violations of the acid rain provisions of the Clean Air Act.