

right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

The Commission notes that the patents at issue were the subject of earlier litigation, which raises the question of whether the complainant is precluded from asserting those patents. In instituting this investigation, the Commission has not made any determination as to whether the complainant is so precluded. Accordingly, the presiding administrative law judge may wish to consider this issue at an early date. Any such decision should be issued in the form of an initial determination (ID). The ID will become the Commission's final determination 45 days after the date of service of the ID unless the Commission determines to review the ID. Any petitions for review of the ID must be filed within ten (10) days after service thereof. Any review will be conducted in accordance with Commission Rules 210.43, 210.44, and 210.45, 19 CFR 210.43, 210.44, and 210.45.

By order of the Commission.

Issued: July 3, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

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DEPARTMENT OF JUSTICE

Notice of Lodging of Final Consent Decree With Newmont USA Limited and Resurrection Mining Company Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on July 2, 2008, a Final Consent Decree with Newmont USA Limited and Resurrection Mining Company ("Final Consent Decree") in *State of Colorado v. ASARCO Incorporated et al.*, Civil Action No. 86-cv-1675-WYD (consolidated with 83-cv-2388-WYD) was lodged with the United States District Court for the District of Colorado.

The United States and the State of Colorado previously entered into a

consent decree with Newmont Mining Corporation (now Newmont USA Limited, "Newmont") and Resurrection Mining Company ("Resurrection") concerning, among other things, Newmont's and Resurrection's performance of response actions addressing areas designated as Operable Units ("OUs") 4, 8 and 10 of the California Gulch Superfund Site located in Lake County, Colorado ("Site"). That consent decree was approved and entered by the United States District Court for the District of Colorado on August 26, 1994 (the "1994 Decree").

The proposed Final Consent Decree implements a settlement of the remainder of the claims concerning the Site (as that term is defined in the Final Consent Decree) filed by the Plaintiffs. In general, pursuant to the terms of the Final Consent Decree, Newmont and Resurrection will: (1) Pay \$2,000,000 in Past Response Costs, of which the United States will receive \$1,813,200 and the State of Colorado will receive \$186,800; (2) pay the United States \$6,500,000 for OUs 11 and 12 and additional source control in OUs 4, 8, and 10; (3) pay \$10,500,000 for natural resource damages, of which the United States will receive \$5,250,000 and the State of Colorado will receive \$5,250,000; (4) pay the future oversight costs incurred by the U.S. Environmental Protection Agency and the State of Colorado with respect to OUs 1, 4, 8 and 10; (5) implement the OU1 work plan; and (6) continue performance of the Operation and Maintenance Plan for OUs 4, 8 and 10. In addition, Newmont and Resurrection will, subject to the specific terms of the Final Decree, reclaim the Black Cloud Mine. The Final Consent Decree will resolve the Governments' claims against Newmont and Resurrection at the Site and at the Black Cloud Mine, and replace the 1994 Decree. In exchange for their commitments under the Final Consent Decree Newmont and Resurrection receive covenants not to sue from the Governments.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Final Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States v. Apache Energy and Minerals Company*, D.J. Ref. 90-11-3-138.

The Final Consent Decree may be examined at the Office of the United

States Attorney for the District of Colorado, 1225 Seventeenth Street, Suite 700, Denver, CO 80202, and at U.S. EPA Region 8, Superfund Records Center, 1595 Wynkoop St., Denver, CO 80202-1129. During the public comment period, the Decree, may also be examined on the following Department of Justice Web site, http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the Final Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy of the Final Consent Decree exclusive of appendices from the Consent Decree Library, please enclose a check in the amount of \$20.50 payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address. In requesting a copy of the Final Consent Decree with all appendices, please enclose a check in the amount of \$138.75.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

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DEPARTMENT OF JUSTICE

Notice of Lodging of Final Modification of 1994 Consent Decree With ASARCO Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on July 2, 2008, a Final Modification of 1994 Consent Decree with Asarco ("Final Consent Decree Modification") in *State of Colorado v. ASARCO Incorporated et al.*, Civil Action No. 86-cv-1675-WYD (consolidated with 83-cv-2388-WYD) was lodged with the United States District Court for the District of Colorado.

The United States and the State of Colorado previously entered into a consent decree with ASARCO Incorporated (now ASARCO, LLC) ("ASARCO") concerning, among other things, ASARCO's performance of response actions at various Operable Units ("OUs") of the California Gulch Superfund Site located in Lake County, Colorado ("Site") including OUs 5, 7 and 9. That consent decree was approved and entered by the United