

STATE OF ARIZONA

JANICE K. BREWER  
GOVERNOR

EXECUTIVE OFFICE

December 15, 2009

Ms. Laura Yoshii, Acting Regional Administrator  
U.S. Environmental Protection Agency, Region IX  
Mail Code: ORA-1  
75 Hawthorne Street  
San Francisco, CA 94105

RE: Lead Nonattainment Area Boundary Recommendations

Dear Ms. Yoshii:

Pursuant to Section 107(d) of the Clean Air Act, Arizona hereby submits the following designation recommendations for the National Ambient Air Quality Standards for Lead (Pb).

Arizona recommends that all portions of the State (excluding Indian Country) be designated as attainment/unclassifiable for the standard, with the exception of the Hayden area of Gila and Pinal Counties. Arizona recommends that the U.S. Environmental Protection Agency use its discretion to avoid making any premature designation of the Hayden area of Gila and Pinal Counties because ASARCO LLC has committed to improve its control of lead emissions from the concentrating and smelter operations at its Hayden Complex in an effort to ensure there are no three-month mean concentrations measured in the area in excess of the Pb standard between now and October 2010. ASARCO's written commitment, signed by Manuel Ramos, Chief Executive Officer of ASARCO, is enclosed.

If despite ASARCO's efforts there are three-month mean concentrations measured in the area which exceed the Pb standard for the averaging periods ending March 2010 through October 2010, or if ASARCO fails to agree to an enforceable Title V Air Quality Permit which will ensure the emissions from the Complex (including the smelter and concentrator) meet limits sufficient to attain the Pb National Ambient Air Quality Standard, then U.S. EPA should promulgate a designation of Pb nonattainment for the area, with boundaries identical to the Hayden sulfur dioxide nonattainment area boundaries. A map of these boundaries is enclosed with this letter and encompasses Townships 4S-6S, Ranges 14E-16E (excluding portions in the San Carlos Indian Reservation.) An analysis supporting the recommended boundaries will be submitted by ADEQ.

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If, on the other hand, there are no three-month mean concentrations measured in the area in excess of the Pb standard for the averaging periods ending March 2010 through October 2010, and ASARCO agrees to an enforceable Title V Air Quality Permit which will ensure the emissions from the Complex (including the smelter and concentrator) meet limits sufficient to attain the Pb National Ambient Air Quality Standard, then Arizona's recommendation is that U.S. EPA take the area under advisement pending the collection of additional data in advance of U.S. EPA's final deadline for promulgation of the designation (which must occur not later than October 2011).

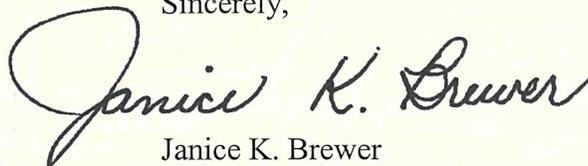
To help determine ambient lead concentrations in the area, ADEQ will ensure that a source-based monitor is installed and operated in conformance with federal regulations at or near the Hayden Complex. This monitor will be in addition to the existing Hayden monitor that was used to produce data underlying this recommendation and will continue to be used to collect data. Further, ADEQ will negotiate with ASARCO a renewal of ASARCO's Title V clean air permits, which will ensure the emissions from the Complex (including the smelter and concentrator) meet limits sufficient to attain the Pb National Ambient Air Quality Standard.

Arizona believes it is important to highlight that the current air monitor located in Winkelman on the roof of Hayden High School adjacent to the Hayden Complex has not registered any violations of the lead standard during the design monitoring period. Given that two of the three recorded violations were very close to the new legal standard for listing, and that there were no violations recorded at the Winkelman monitor, reserving judgment on a designation until October 2011 offers further controls immediately from ASARCO and little risk to the public because ASARCO's enforceable, permit-based control measures for lead in 2010 will come far sooner than any control measures required by an amended State Implementation Plan approved in later years in response to a final designation.

I believe this recommendation presents low risk to the public and promotes the prompt institution of control measures through an enforceable permit that is protective of public health.

I look forward to working with you to finalize the designations for promulgation. If you have any questions, please contact Benjamin H. Grumbles, the Director of the Department of Environmental Quality, at (602) 771-2203 or Nancy C. Wrona, Air Quality Division Director, at (602) 771-2308.

Sincerely,



Janice K. Brewer  
Governor

Enclosures



Manuel E. Ramos  
CEO

**Sent Via Facsimile and First Class Mail**

Honorable Janice K. Brewer  
Governor of the State of Arizona  
1700 West Washington Street  
Phoenix, Arizona 85007  
Fax: 602-542-7602

**RE: Recommendation to the EPA on the 2008 Revised Lead NAAQS Attainment Status of an Area around Hayden, Arizona**

Dear Governor Brewer:

On behalf of ASARCO LLC ("Asarco"), I am writing to you concerning the recommendation you are due shortly to make to the United States Environmental Protection Agency ("EPA") concerning the attainment status of an area around Hayden, Arizona ("the Area") in relation to the 2008 revised National Ambient Air Quality Standard ("NAAQS") for lead. Asarco would very much like to thank Messrs. Mike Anable and Richard Bark of your office, Director Benjamin Grumbles of the Arizona Department of Environmental Quality ("ADEQ"), ADEQ Deputy Director Patrick Cunningham, ADEQ Air Quality Division ("AQD") Deputy Director Ira Domsy and the AQD staff for their efforts in achieving the understanding underlying this letter. Based on these efforts, it is our understanding that:

- (1) You will recommend to the EPA that it use its statutory discretion to refrain from promulgating a premature designation under 42 U.S.C. § 7407(d)(1)(B) for the Area, pending the generation of additional air quality monitoring data for the Area;
- (2) If based on the additional data there are no rolling three-month mean concentrations in excess of the NAAQS for lead for the averaging periods ending March 2010 through October 2010, and in the meantime Asarco agrees with the ADEQ to identify and implement measures required to control lead emissions from the Hayden Operations as part of the ongoing permit renewal proceeding for the Operations, then Arizona's recommendation to the EPA is that the EPA not promulgate a designation for the area until October 2011 and base the promulgation on all data gathered through October 2011;
- (3) If based on the additional data there are rolling three-month mean concentrations in excess of the NAAQS for lead for the averaging periods ending March 2010 through October 2010, or Asarco fails to agree to an enforceable Title V air quality permit that ensures emissions from the Operations (including the smelter and concentrator) are limited sufficiently to achieve attainment of the NAAQS for lead, then Arizona's recommendation to the EPA is that the EPA promulgate a designation of nonattainment of the lead standard for the Area;

- (4) In calculating three-month mean concentrations for purposes related to the designation, data generated using the existing monitors including the "Hayden" and "Winkelman" monitors will be used, as well as data generated using a State and Local Air Monitoring Station ("SLAMS") that is scheduled to be installed in the Area pursuant to the State of Arizona Air Monitoring Network Plan; and
- (5) Asarco will have the opportunity to participate in the siting of the SLAMS and review all data and calculations used for purposes of the designation.

Based on the foregoing, Asarco agrees to enter into a renewed air quality permit for the Hayden Operations that ensures emissions from the Operations (including the smelter and concentrator) are limited sufficiently to achieve attainment of the NAAQS for lead. Asarco commits to work closely with the ADEQ in the context of the ongoing air quality permit renewal proceeding for the Hayden Operations and the laws governing technologies and other applicable requirements to identify the measures required to further reduce lead emissions from the Operations and to the extent possible under applicable licensing timeframes incorporate those measures in Asarco's permit renewal application and implement those measures at the Hayden Operations.

Asarco does not waive any right to challenge any administrative decision in the permit renewal proceeding and Asarco does not waive any right to challenge the EPA's designation promulgation for any reason.

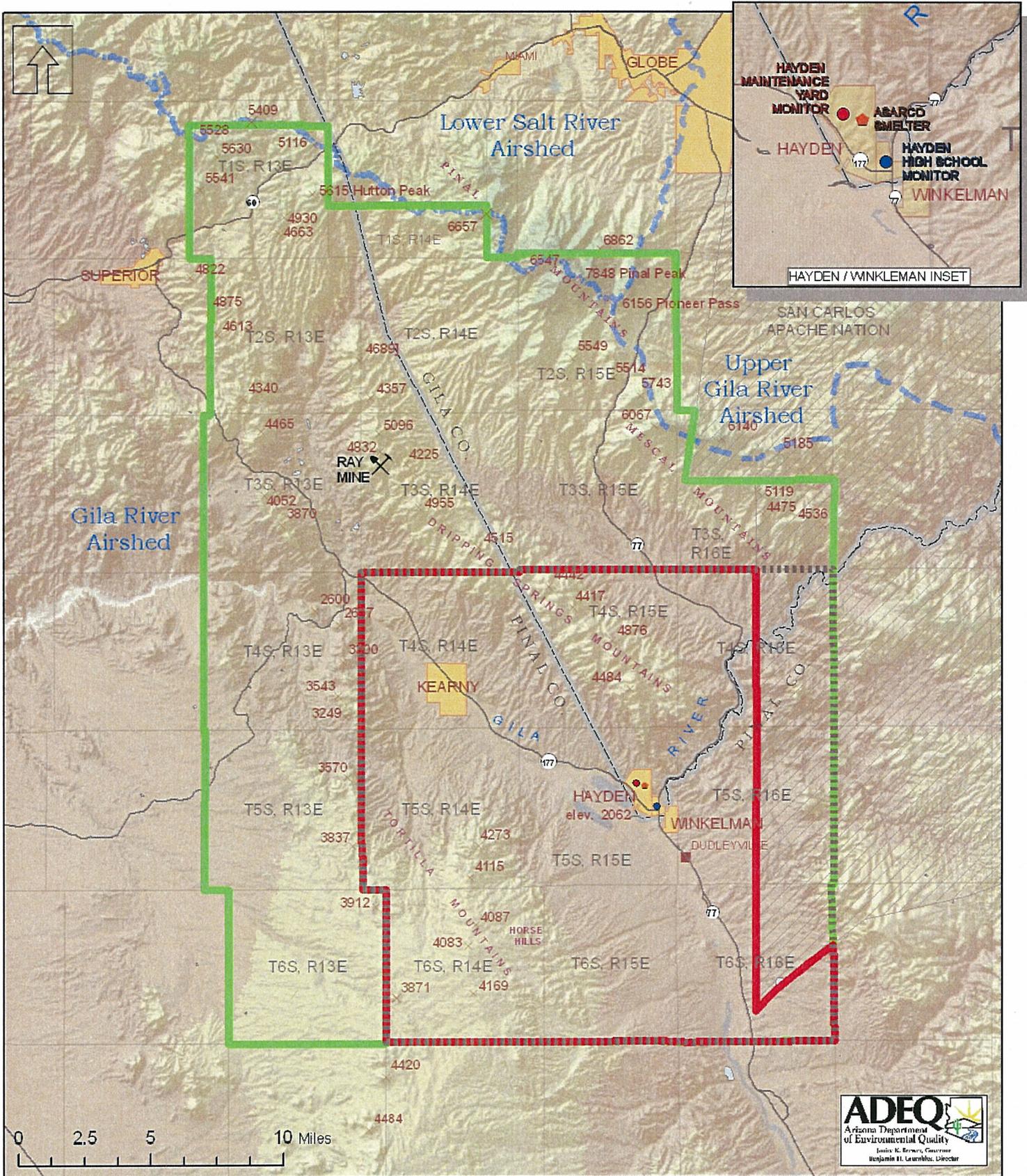
We once again thank you and your staff and the ADEQ for their work toward the development of your recommendation and your involvement of Asarco in its formulation. If you have any questions regarding this letter, please do not hesitate to let us know.

Sincerely yours,



Manuel E. Ramos  
Chief Executive Officer, ASARCO LLC

cc: Benjamin Grumbles, Director, ADEQ  
Patrick Cunningham, Deputy Director, ADEQ  
Douglas McAllister, Executive Vice-President, General Counsel & Secretary, ASARCO LLC  
File



## Recommended Hayden Lead Nonattainment Area

