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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI VICINAGE

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IN THE MATTER OF ASARCO LLC,	:	Hon. RICHARD S. SCHMIDT
	:	Chapter 11
Debtor.	:	Case No. 05-21207

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PROOF OF CLAIM

1. The Attorney General of New Jersey, by Rachel Jeanne Lehr, Deputy Attorney General appearing, files this Proof of Claim for the State of New Jersey, Department of Environmental Protection ("Department" or "State"), a principal department within the Executive Branch of the State government.

2. The Attorney General of New Jersey is authorized to make this Proof of Claim for the Department. The undersigned does so without the authority to waive the State of New Jersey's or its officers' sovereign immunity under the United States Constitution or to consent to this Court's exercise of jurisdiction over the State of New Jersey or its officers. Accordingly, nothing in this



# ASARCO INCORPORATED GROUND WATER INJURY CALCULATION

901 Oak Tree Road

South Plainfield, Middlesex County



Red line is the Classification Exception Area (CEA). 2002 Imagery

The following ground water injury assessment is based on currently available site data depicting the ground water Classification Exception Area(s) (CEAs) at the site. Contaminants in ground water include, trichloroethylene (TCE), tetrachloroethylene (PCE), Arsenic, and various volatile organics including Chloroform, carbon tetrachloride, 1, 1 dichloroethylene.

For settlement purposes the ground water injury calculation for the two intersecting CEAs was calculated by determining the area of intersection between the overburden and bedrock CEAs. This extent of overlapping CEAs was subtracted from the calculation for the overburden CEA. Thus 13.2943 acres (the overlap) was subtracted from the original overburden CEA of 26.9360 acres to determine an extent of 13.6417 acres for the ground water injury calculation of the overburden CEA. The bedrock CEA was calculated in its entirety.

The monetary figure of \$1,586,601.00 represents the value of the ground water injuries. A restoration project, such as acquisition of open space for aquifer recharge, or a non-point source pollution abatement project, is an alternative option to settle natural resource injury liabilities resulting from discharges at the ASARCO Inc. site.

PRIVILEGED AND CONFIDENTIAL / FOR SETTLEMENT PURPOSES



Ground water Injury Calculation		2002 WATER RATES	
<b>SITE:</b> ASARCO Inc. Overburden CEA minus the overlap with the Bedrock CEA			
<b>1. Choose the township</b> South Plainfield Boro GW Surplus/Deficit: SURPLUS Planning Area: 10		Plume Size (sq. ft) <b>594232.45</b> Recharge Rate: (ft/yr) <b>x 1.08</b> Cubic Feet Groundwater 641771.05	
<b>2. Enter plume size in acres or sq ft.</b> <input checked="" type="radio"/> acres 13.6417 <input type="radio"/> square feet		Cubic Feet Groundwater <b>641771.05</b> 7.48 Gallons/Cubic Foot <b>x 7.48</b> Gallons Injured/Year 4800447.44	
<b>3. Enter duration of injury in years.</b> Duration of Injury: 5		Gallons Injured/Year <b>4800447.44</b> Duration of Injury <b>5</b> Water Rate/1000 Gallons <b>x 1.05</b> <b>Calculated NRD: \$25,202.35</b>	

Ground water Injury Calculation		2002 WATER RATES	
<b>SITE:</b> ASARCO Inc. South Plainfield Boro, bedrock aquifer CEA			
<b>1. Choose the township</b> South Plainfield Boro GW Surplus/Deficit: SURPLUS Planning Area: 10		Plume Size (sq. ft) <b>3681538.74</b> Recharge Rate: (ft/yr) <b>x 1.08</b> Cubic Feet Groundwater 3976061.84	
<b>2. Enter plume size in acres or sq ft.</b> <input checked="" type="radio"/> acres 84.5165 <input type="radio"/> square feet		Cubic Feet Groundwater <b>3976061.84</b> 7.48 Gallons/Cubic Foot <b>x 7.48</b> Gallons Injured/Year 29740942.56	
<b>3. Enter duration of injury in years.</b> Duration of Injury: 50		Gallons Injured/Year <b>29740942.56</b> Duration of Injury <b>50</b> Water Rate/1000 Gallons <b>x 1.05</b> <b>Calculated NRD: \$1,561,399.48</b>	

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pleading is intended to waive the State of New Jersey's or its officials' immunity from suit in federal court under its sovereign immunity in the United States Constitution.

3. The Department is making this Proof of Claim for the costs, including reasonable assessment costs, it has incurred, or will incur, for the restoration and replacement, where practicable, of any natural resource damaged or destroyed by the discharges at the Site under applicable federal and state environmental statutes and regulations including the New Jersey Spill Compensation and Control Act ("the Spill Act"), N.J.S.A. 58:10-23.11 et seq., concerning the real property located at 901 Oak Tree Road and Park Avenue, in the Borough of South Plainfield, County of Middlesex, State of New Jersey ("the Site"), this property also being known and designated as Block 222, Lot 1, on the Tax Map of South Plainfield, for which the Debtor ("the Debtor") is liable.

4. Natural resources of the State of New Jersey have been, and will continue to be, damaged or destroyed by the discharge of hazardous substances at the Site.

5. The Department is making this Proof of Claim for any costs, including reasonable assessment costs, it has incurred, or will incur, for the restoration and replacement, where practicable, of any natural resource damaged or destroyed by the discharges at the Site.

6. The Department has estimated that restoration and replacement costs of the damaged groundwater, including assessment costs, will total about \$1,586,601.00 for the Site. See Exhibits A and B.

7. The Debtor discharged hazardous substances at the Site and is responsible for the natural resource damages, said substances having entered onto the soils and into waters of the State of New Jersey.

8. Pursuant to N.J.S.A. 58:10-23.11u.b.(4), the Debtor is also strictly liable, jointly and severally, without regard to fault, for all restoration and replacement costs, including reasonable assessment costs, the Department has incurred, and will incur, for the Site.

9. The Department and the Administrator reserve the right to amend this Proof of Claim from time-to-time to include any additional costs or damages they may incur during the pendency of these bankruptcy proceedings.

10. No judgments have been rendered on these claims.

11. The Debtor has made no payments on these claims.

12. These claims are not subject to any set-off or counterclaim.

13. This Proof of Claim is not to be construed as a waiver of any other claim or right, including penalties or tax claims, which the Department, the Administrator or any other agency or

instrumentality of the State may have against the Debtor, the Debtor's estate or any other person.

Respectfully submitted,

PETER C. HARVEY  
ATTORNEY GENERAL OF NEW JERSEY

By: \_\_\_\_\_  
Rachel Jeanne Lehr  
Deputy Attorney General

Dated: December 28, 2005

