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COMMUNICATIONS AND PUBLIC AFFAIRS OFFICE

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MEDIA BACKGROUNDER/FACT SHEET

Motion of the City of El Paso for Relief from Stay Regarding State Administrative Proceeding

- On Monday, January 21, 2008, the City of El Paso filed a *Motion for Relief from Stay Regarding State Administrative Proceeding* in the U.S. Bankruptcy Court which requests a ruling from the Court allowing the City to file a *Petition for Revocation* of Asarco's Air Permit for its smelter operations in El Paso, Texas.
- Asarco Incorporated filed an application to renew its Air Quality Permit No. 20345 for the Asarco El Paso Smelter with the Texas Commission on Environmental Quality (TCEQ). The City of El Paso has long-opposed the renewal of this Air Permit because of the smelter's detrimental environmental impact on El Paso and surrounding areas.
- After applying to renew the Air Permit for the El Paso Smelter, Asarco voluntarily filed for bankruptcy under Chapter 11, which grants bankruptcy protections to Asarco such as automatic stays in legal proceedings against the company. Asarco is one of the largest polluters in U.S. history and filed for bankruptcy protection largely because of environmental liabilities.
- In the *Motion for Relief from Stay*, the City asks the U.S. Bankruptcy Judge presiding over Asarco's case for a ruling allowing the City to file and pursue its *Petition by the City of El Paso for Revocation of Air Quality Permit No. 20345, Issued to Asarco Incorporated* with the TCEQ.
- Before shutting down the plant in 1999, Asarco's smelter operations in El Paso generated emissions of lead, arsenic, sulfur dioxide and other chemicals. These emissions contaminated El Paso and the surrounding communities and exposed their citizens to unsafe levels of lead, arsenic and other contaminants.
- Once allowed to proceed with the filing of its *Petition for Revocation*, the City of El Paso will request that the TCEQ revoke Asarco's Air Quality Permit No. 20345 for the following reasons:

- Asarco has consistently violated the Terms and Conditions of the Permit and revocation is necessary to maintain the quality of air in the state and to protect human health and environment;
 - Asarco has a record of environmental violations, and the plant's operational record is replete with air quality violations during its last five years of operations in the 1990s, including the smelter's processing of hazardous waste in violation of Air Quality Permit No. 20345;
 - The Asarco El Paso Plant has consistently and repeatedly violated emissions limitations and breached pollution control standards set by the TCEQ;
 - Asarco misrepresented or failed to disclose all relevant facts when it obtained the permit in 1992 and in subsequent permit revisions;
 - Asarco has failed to ensure that the management of the Asarco El Paso Plant conforms to the statutes and rules within the TCEQ's jurisdiction;
 - Asarco has abandoned current operations under the permit;
 - The area surrounding the Asarco El Paso Plant has changed dramatically since the permit was issued in 1992 and more is now known about the impacts of the emissions from the plant.
- The Asarco El Paso Plant has polluted the air, soils, and waters in and around El Paso, and Asarco's pattern of noncompliance with environmental regulations is equally disturbing. The City of El Paso is pursuing these legal proceedings against Asarco because the City desires to enforce environmental protection laws under the laws of the State of Texas for the benefit of public health and safety.