

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

In re:)	
)	Case No. 05-21207
ASARCO LLC, et al.)	Chapter 11
)	
_____ Debtors.)	

**AMENDED CONSENT DECREE AND SETTLEMENT AGREEMENT ESTABLISHING
A CUSTODIAL TRUST FOR CERTAIN OWNED SITES IN ALABAMA, ARIZONA,
ARKANSAS, COLORADO, ILLINOIS, INDIANA, NEW MEXICO, OHIO,
OKLAHOMA, UTAH, AND WASHINGTON**

WHEREAS, the sites set forth and defined in Attachment A (the “Sites”) hereto are owned in whole or part by Debtors (as defined below), with the possible exception of the Whiting Site (as defined in Attachment A), and have been or will be the subject of environmental response activities and other work. The portions of these Sites owned by Debtors are referred to herein as the Designated Properties;

WHEREAS, the United States on behalf of the Environmental Protection Agency (“US EPA”) and the States of Alabama, Arizona, Arkansas, Colorado, Illinois, Indiana, New Mexico, Ohio, Oklahoma, Utah, and Washington (the “States”) (and, together with US EPA, the “Governments”) have alleged that ASARCO LLC (“ASARCO”), formerly known as ASARCO Incorporated, and/or affiliated debtors that are Chapter 11 debtors in the Reorganization Cases, as defined below, are potentially responsible parties with respect to the Sites and Designated Properties;

WHEREAS, the United States on behalf of US EPA has alleged that it has incurred past response costs, and/or may incur future response costs, under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”) in connection with the Designated

Properties and/or the Sites for which Debtors, as defined below, allegedly are liable and that Debtors are liable for all post-petition response costs and the performance of work under CERCLA relating to the Designated Properties as a present owner thereof;

WHEREAS, the States have alleged that they have incurred past response costs, and/or may incur future response costs, under CERCLA or state environmental law and, for certain States only, natural resource damages (“NRD”) related costs (including assessment costs) in connection with the Designated Properties and/or the Sites for which ASARCO allegedly is liable and that ASARCO is allegedly liable for all post-petition environmental response costs, NRD (including assessment costs), and the performance of work under CERCLA or state law relating to the Designated Properties as a present owner thereof;

WHEREAS, on April 11, 2005, several of ASARCO’s wholly-owned direct or indirect subsidiaries (the “Asbestos Subsidiary Debtors”¹) filed their voluntary petitions in this Court; then ASARCO filed its voluntary petition for relief under chapter 11 of title 11 of the United States Code with the United States Bankruptcy Court for the Southern District of Texas (the “Bankruptcy Court”) on August 9, 2005 (the “Bankruptcy Case”); later in 2005, several other of ASARCO’s wholly-owned direct or indirect subsidiaries (the “2005 Subsidiary Debtors”²) filed similar petitions for relief in this Court; next, on December 12, 2006, three more ASARCO

¹ The Asbestos Subsidiary Debtors consist of the following five entities: Lac d’Amiante du Québec Ltée (f/k/a Lake Asbestos of Quebec, Ltd.); Lake Asbestos of Quebec, Ltd.; LAQ Canada, Ltd.; CAPCO Pipe Company, Inc. (f/k/a/ Cement Asbestos Products Company); and Cement Asbestos Products Company.

² The 2005 Subsidiary Debtors are: ASARCO Consulting, Inc.; Encycle, Inc.; ALC, Inc.; American Smelting and Refining Company; AR Mexican Explorations Inc.; AR Sacaton, LLC, an Arizona limited liability company; Asarco Master, Inc.; Asarco Oil and Gas Company, Inc.; Bridgeview Management Company, Inc.; Covington Land Company; Government Gulch Mining Company, Limited; and Salero Ranch, Unit III, Community Association, Inc. Encycle/Texas, Inc. also filed a petition for relief; but its case, which was later converted to a chapter 7 case, is being administered separately.

subsidiaries (the “2006 Subsidiary Debtors”³) filed similar petitions for relief with this Court; finally, on April 21, 2008, six more direct or indirect ASARCO subsidiaries (the “2008 Subsidiary Debtors”⁴) filed similar petitions for relief with this Court (collectively with ASARCO, the Asbestos Subsidiary Debtors, the 2005 Subsidiary Debtors and the 2006 Subsidiary Debtors, the “Debtors”). The Debtors’ cases are collectively referred to as the “Reorganization Cases;

WHEREAS, the United States filed Proof of Claim Nos. 8375, 11008, 11009, and 10746, in the Bankruptcy Case protectively setting forth claims or causes of action for future response costs and work with respect to the Sites and/or Designated Properties and pursuant to Debtors’ status as present owner of the Designated Properties and setting forth a claim for past costs for the Murray Site (as defined in Attachment A);

WHEREAS, Lake County, Indiana purported to sell the Whiting property in a tax sale on March 31, 2008, and alleges that it became unredeemable as of July 29, 2008; **WHEREAS**, the States filed Proof of Claim Nos. 10740, 10741, 10827-10830, 18227, 18228 (Arizona), 10408 (Colorado), 9387, 9388 (Indiana), 9400, 9402, 9403, 10320-10332 (New Mexico), 7865, 9993 (Ohio), 7989, 10541, 10542, 10543, 10544 (Oklahoma), 10716-10733, 11098-11115 (Washington) in the Bankruptcy Case setting forth claims and causes of action under environmental laws with respect to the Designated Properties and/or Sites and pursuant to Debtors’ status as present owner of the Designated Properties;

³ The 2006 Subsidiary Debtors are: Southern Peru Holdings, LLC; AR Sacaton, LLC, a Delaware limited liability company; and ASARCO Exploration Company, Inc.

⁴ The 2008 Subsidiary Debtors are: Alta Mining and Development Company; Blackhawk Mining and Development Company, Limited; Green Hill Cleveland Mining Company; Peru Mining Exploration and Development Company; Tulipan Company, Inc.; and Wyoming Mining and Milling Company.

WHEREAS, New Mexico's Proof of Claim Nos. 10320-10331 were disallowed pursuant to the Order Granting Debtor's Ninth Omnibus Objection, in Part, and Disallowing Certain Proofs of Claim as Asserting Wrong Debtor Claim [Docket Number 8849], and Proof of Claim Nos. 9400, 9402, and 10332 are being resolved as part of the Separately Settled Matters (as defined below);

WHEREAS, New Mexico's Proof of Claim No. 9401 regarding the Dona Ana Site, also referred to as the El Paso County Metal Survey Site, (the "Dona Ana Site") was addressed in the Stipulation Relating to Proofs of Claim for El Paso County Metals Survey Site and Dona Ana Metal Site and Modification of Case Management Order [Docket Number 5775] (the "Dona Ana Stipulation") approved by the Bankruptcy Court on October 5, 2007 [Docket Number 6019]. The claims in the Dona Ana Stipulation are resolved and released by this Settlement Agreement;

WHEREAS, St. Paul Travelers filed Proof of Claim No. 18307 for the bond related to the Deming Mine;

WHEREAS, Debtors have disputed the claims and protective claims with respect to the Designated Properties and the Sites filed by the United States and the States as set forth in their respective Proofs of Claim;

WHEREAS, on July 31, 2008, as amended on September 12, 2008 and September 25, 2008, Debtors filed a plan of reorganization (the "2008 Plan") that incorporated in the 2008 Plan Exhibit 12 a proposed resolution of the claims for the Designated Properties and the Sites;

WHEREAS, on October 20, 2008, the Bankruptcy Court suspended all proceedings on the 2008 Plan;

WHEREAS, Debtors and the Governments wish to enter into this Settlement Agreement (“Settlement Agreement”) for the Designated Properties and the Sites as provided herein which will place the Designated Properties into environmental custodial trusts;

WHEREAS, this Settlement Agreement is not conditioned on confirmation of any particular plan of reorganization;

WHEREAS, Debtors and the United States have entered into a separate settlement relating to the off-site portions of the Beckemeyer Site (also known as the Circle Smelting Site, as defined in Attachment A). Debtors and the State of Ohio have entered into a separate settlement relating to the off-site portions of the Columbus Site, as defined below. Debtors and the State of New Mexico have entered into separate settlements or stipulations relating to NRD with respect to the Deming, Magdalena, Blackhawk, Stephenson-Bennett, and Dona Ana Sites (as each is defined in the respective settlement agreement) and response costs at the Blackhawk and Stephenson-Bennett Sites (as each is defined in the respective settlement agreement) (collectively with the matters covered by the separate Beckemeyer and Columbus settlements, the “Separately Settled Matters”);

WHEREAS, the parties hereto desire to settle, compromise and resolve their disputes relating to the Designated Properties, the Sites and other properties specifically addressed herein, other than the Separately Settled Matters, as provided herein;

WHEREAS, this Settlement Agreement is intended to serve as a comprehensive settlement of the claims and causes of action of the Governments against Debtors with respect to all past costs and any potential future costs incurred and work performed by the Governments relating to or in connection with the Designated Properties, the Sites and other properties specifically addressed herein, other than the Separately Settled Matters, as provided herein;

WHEREAS, in consideration of, and in exchange for, the promises and covenants herein, the parties hereby agree to the terms and provisions of this Settlement Agreement;

WHEREAS, the settlement amounts herein are in the nature of compromises and these amounts are lower than the Governments would claim in the absence of this settlement; and

WHEREAS, this Settlement Agreement is fair and reasonable and in the public interest, and is an appropriate means of resolving these matters.

NOW, THEREFORE, without the admission of liability or any adjudication on any issue of fact or law, and upon the consent and agreement of the parties by their attorneys and authorized officials, it is hereby agreed as follows:

I. DEFINITIONS

1. “Custodial Trust Parties” shall mean the Custodial Trust, the Custodial Trustee, as each is hereinafter defined, and the Custodial Trustee’s shareholders, officers, directors, employees, consultants, agents or other professionals or representatives employed by the Custodial Trust or Custodial Trustee.

2. “Environmental Actions” shall mean any response, removal, investigation, remediation, reclamation, closure, post-closure, corrective actions, institutional controls, operation and maintenance activities, and coordination and integration of reuse and remedial efforts and initiatives (including, without limitation, multi-stakeholder communications), and, if required, long-term stewardship and perpetual custodial care activities selected and approved by the Lead Government Agency (“Lead Government Agency”) as identified in Paragraph 10(1).

Environmental Actions may also include restoration or other actions related to natural resource damages but only with respect to Designated Properties other than the Alton, Beckemeyer, and Taylor Springs Designated Properties (as each is defined in Attachment B).

3. The “Designated Properties” are as set forth on Attachment B hereto.
4. “Closing Date” shall mean the effective date of the Settlement Agreement, as provided in Paragraph 38 hereof.
5. “Prepetition ASARCO Environmental Trust” means the trust created pursuant to the Consent Decree entered in United States v. ASARCO Inc., et al., Civil Action No. 02-2079, filed in the United States District Court for the District of Arizona.
6. Capitalized terms not otherwise defined herein shall have the meanings provided for in CERCLA, otherwise applicable environmental law, or Attachments A and B. In the case of a conflict between a term under CERCLA and other applicable environmental law, the law of the jurisdiction of the Lead Agency shall apply.

II. JURISDICTION

7. The Bankruptcy Court has jurisdiction over the subject matter hereof pursuant to 28 U.S.C. §§ 157, 1331, and 1334.

III. PARTIES BOUND; SUCCESSION AND ASSIGNMENT

8. This Settlement Agreement applies to, is binding upon, and shall inure to the benefit of the parties hereto, their legal successors and assigns, including any reorganized debtors under a confirmed plan of reorganization (the “Reorganized Debtors”), and any trustee, examiner or receiver appointed in the Bankruptcy Case.

IV. FORMATION AND PURPOSES OF THE CUSTODIAL TRUST

9. The Custodial Trust.
 - a. On the effective date of the plan of reorganization that the Bankruptcy Court approves in the Reorganization Cases (the “Effective Date”) and simultaneously with receipt of the payments to the Custodial Trust Environmental Costs Accounts (as defined

below) under Subparagraph 10(e), Debtors will transfer all of their right, title, and interest in and to, including, without limitation, all of their fee ownership in, all appurtenances, rights, easements, rights-of-way, mining rights (including unpatented mining claims, mill site claims, and placer claims), mineral rights, mineral claims, appurtenant groundwater rights, associated surface water rights, claims, and filings, permits, or other interests related to the Designated Properties⁵ (including without limitation all fixtures, improvements, and equipment located thereon as of the Effective Date), with the exception of: (i) any machinery, equipment, fixtures, furniture, computers, tools, parts, supplies, and other tangible personal property, used, or held for use, in connection with the operation of Debtors' operating assets; (ii) equipment and other items of personal property on Attachment C; and (iii) records, a forklift, and core samples at the Sacaton Site, to a Custodial Trust ("Custodial Trust"). Debtors shall retain no ownership or other interest whatsoever in the Designated Properties (except to the extent provided in subparts (i), (ii) and (iii) above, and in subparagraphs 9(e) and (f) below). The transfer of ownership shall be by quit claim deed or deed without warranty or other conveyance document, and personal property bill of sale without warranty of all of Debtors' rights, title and interests and shall be free and clear of all claims, liens, and interests against Debtors or, to the extent created by Debtors and affecting Debtors' interest in the Designated Properties, claims and liens against the Designated Properties other than any liability to the Governments under this Settlement Agreement, but subject to any existing *in rem* claims or interests other than liens for the payment of monetary claims such as property taxes or other monetary claims asserted or that could have been asserted in the

⁵ For purposes of this Paragraph 8, "Designated Properties" shall include any portion of the Whiting Site that Debtors own as of the Effective Date, including but not limited to any portion Debtors have title to following any

Reorganization Cases. All such conveyance documents shall be agreed to in form by ASARCO and the Custodial Trust, provided that in no event shall the conveyance document include any warranty whatsoever by the grantor by virtue of the grant document or the statutory or common law, or otherwise. In the event a quit claim deed is used, the parties agree that a deed substantially in the form of quit claim deed in Attachment G is acceptable. Debtors, Reorganized Debtors, or the entity administering the plan of reorganization for the benefit of the creditors, as applicable, will cooperate with the Governments and the Custodial Trustee to record or cause to be recorded in the appropriate real property records the transfer documents within five business days of the Effective Date. Debtors shall pay all property taxes relating to the Designated Properties prorated through the Effective Date. The transfer of the Columbus Designated Property to the Custodial Trust shall be subject to that certain Environmental Covenant filed in Ohio in the Office of the Franklin County Recorder. Further, as part of the conveyance of the Columbus Designated Property to the Custodial Trust, Debtors agree to transfer, and the Custodial Trustee, as hereinafter defined, agrees to accept transfer of the “Operation and Maintenance Agreement and Escrow Agreement for the Columbus Site” (the “Columbus Onsite Agreements”) if such agreements have been executed at the time of conveyance. If the Columbus Onsite Agreements and the related Environmental Covenant for the Columbus Designated Property have not been executed, the Custodial Trustee, as hereinafter defined, agrees to make a good faith, best effort to finalize, execute, and record the Columbus Onsite Agreements and the Environmental Covenant. Debtors shall execute and record releases of any liens or security interests held by any of the Debtors against any Designated Property. After Debtors execute this Settlement

action that reverses or sets aside the Lake County, Indiana purported tax sale of the Whiting property.

Agreement, Debtors shall not further encumber the Designated Properties or their other interests therein and shall maintain such properties, including the improvements thereon and the fixtures thereto that are related to ongoing remediation activities in the condition that they exist as of the date of such execution, except to the extent that ongoing environmental actions require otherwise.

b. The purpose of the Custodial Trust shall be to own the Designated Properties, carry out administrative and property management functions related to the Designated Properties, manage and/or fund implementation of future Environmental Actions approved by the Lead Government Agencies with respect to the Designated Properties and Sites, pay certain future oversight costs, and ultimately sell, transfer, or otherwise dispose or facilitate the reuse of all or part of the Designated Properties, if possible, all as provided herein with no objective or authority to engage in any trade or business. The sale, lease or other disposition of some or all of a Designated Property by the Custodial Trust shall not be deemed an engagement in any trade or business. The Custodial Trust by and through its Custodial Trustee not individually but solely in its representative capacity (hereafter the "Custodial Trustee"), Debtors, and the Lead Government Agency for each of the Designated Properties shall exchange information and reasonably cooperate to determine the appropriate disposition of any executory contracts or unexpired leases that relate to the relevant site. The Custodial Trust shall be funded as specified in Paragraph 10 herein.

c. Le Petomane XXV, Inc., not individually but solely in its representative capacity as Custodial Trustee, by and through Jay A. Steinberg, not individually but solely in his representative capacity as president of the Custodial Trustee, is appointed as the

Custodial Trustee to administer the Custodial Trust and the Custodial Trust Accounts, as defined in Paragraph 10(a)-(c) below, in accordance with this Settlement Agreement and a Custodial Trust Agreement substantially in the form attached hereto as Attachment D.

d. No later than the earlier of (i) the Effective Date or (ii) 90 days after the Closing Date, Debtors shall provide to the Custodial Trustee all environmental information and/or data in possession of Debtors or their contractors regarding the Designated Properties in the state and condition in which such records are found.

e. ASARCO,⁶ on behalf of itself and its agents, employees, invitees, guests, permittees, representatives, successors and assigns, shall retain a license (the "License") for the purpose of (i) free and unrestricted access at all times on, over, and across the Sacaton Designated Property to the warehouse and other existing buildings in which documents and records are located ("Warehouse Space") as of the Effective Date, (ii) entering the Warehouse Space to inspect, maintain, remove and/or destroy the documents contained within the Warehouse Space, (iii) storing in the Warehouse Space any and all documents currently contained or hereafter stored in the Warehouse Space, and (iv) vehicular ingress to and egress from the Sacaton Designated Property together with the right to park vehicles on the Sacaton Designated Property, and any and all rights incidental thereto. The Custodial Trustee (or the purchaser in the event that the property is sold), shall, at the sole cost and expense of Custodial Trustee from the Custodial Trust Administrative Account (or the purchaser in the event that the property is sold), provide all utilities to the Warehouse Space necessary to facilitate ASARCO's use of the Warehouse Space as provided in this Subparagraph, including, but not limited to, heating,

⁶ For purposes of this Settlement Agreement, any rights granted to ASARCO or Debtors that extend after the Effective Date, shall also be deemed granted to the Reorganized Debtors.

ventilation, air conditioning, gas, water, sewer, and electrical utilities for up to one year from the Effective Date. After the Custodial Trustee (or the purchaser in the event that the property is sold) has paid these expenses for the first year, ASARCO or its successor in interest shall pay any further heating, ventilation, air conditioning, gas, water, sewer, and electric costs so long as ASARCO retains the License. ASARCO, its successors, or assigns shall at their sole cost and expense obtain appropriate insurance coverage related to the licensees' use and activities at the Designated Property reasonably satisfactory to the Custodial Trustee and naming the Custodial Trustee as an additional insured for so long as it retains the License. Notwithstanding anything to the contrary, ASARCO and Custodial Trustee agree that at all times during the License Term (as defined below) ASARCO shall have the right, but not the obligation, to lock entrances to and exits from the Warehouse Space or otherwise restrict access to the Warehouse Space by third parties, including, but not limited to, Custodial Trustee, subject to any Bankruptcy Court order providing for access. In connection with any entry by Custodial Trustee, its agents, employees, invitees, guests, permittees, and representatives into the Warehouse Space, Custodial Trustee shall give ASARCO at least five days advance written notice of such entry, subject to any Bankruptcy Court order providing for earlier access. Custodial Trustee shall cooperate with ASARCO in scheduling such visits so that an ASARCO representative may accompany Custodial Trustee to the Warehouse Space. Unless agreed to in writing by Custodial Trustee and ASARCO, the term of the License (the "License Term") shall automatically expire upon the earlier to occur of (i) 24 months after the Effective Date and (ii) the date of destruction of all records contained in the Warehouse Space in accordance with the terms and conditions contained in any plan of

reorganization or pursuant to a Bankruptcy Court order. Notwithstanding anything to the contrary contained in this Settlement Agreement, the rights granted pursuant to this Paragraph 9(e) by Custodial Trustee, as licensor, to ASARCO, as licensee, constitute a license and do not create any real property interest.

f. ASARCO and Custodial Trustee hereby acknowledge that ASARCO is involved in a lawsuit filed against Americas Mining Corporation (“AMC”), Tri-Point Development, LLC, CRM/Casa Grande, LLC, Vanguard Properties, Inc., and First American Exchange Company, LLC, Adversary Proceeding No. 07-02071 (the “Lawsuit”) regarding certain real property located adjacent to the Sacaton Designated Property and subject to the Lawsuit (the “Sacaton Adjacent Property”). Prior to the earlier to occur of (i) 270 days after the date of the final resolution of the Lawsuit and (ii) 5 years after the Effective Date (the “Option Period”), Custodial Trustee, its successors or assigns, shall not lease or sell to any party, nor enter into any agreements that restrict the right of Custodial Trustee, its successors or assigns, to lease or sell, all or any portion of the Sacaton Designated Property, the minerals located on or under the Sacaton Designated Property, appurtenant groundwater rights, or associated surface water rights, claims, or filings. Custodial Trustee hereby grants to ASARCO, its successors, or assigns an exclusive option to lease (the “Option”) the mineral rights and interests located on and under the Sacaton Designated Property, and any associated surface water rights, claims and filings, and appurtenant groundwater rights, and the rights of access, exploration, development and mining in connection with such lease (collectively, the "Option Property") from Custodial Trustee, its successors or assigns, on the following terms and conditions:

- (i) prior to the exercise of the Option, ASARCO, its successors, or its assigns must obtain title to the Sacaton Adjacent Property;
- (ii) the Option may be exercised only by the delivery of written notice (the “Option Notice”) from ASARCO, its successors, or its assigns to the Custodial Trustee during the “Option Period”;
- (iii) upon the timely delivery of the Option Notice, ASARCO, its successors, or its assigns and Custodial Trustee shall execute a mineral lease.

ASARCO, its successors, or its assigns and the Custodial Trustee shall agree on the form of the mineral lease, and the annual royalty to be paid to the Custodial Trustee under such lease shall be set at \$1,022 (50 cents an acre) and the production royalty shall be 0.25 percent of net smelter returns on all metals based on the quoted price (the “Mining Lease”); and

- (iv) ASARCO and Custodial Trustee agree that the consideration provided by ASARCO in connection with this Settlement Agreement (including but not limited to Subparagraph 9(f)(iii) above) shall serve as consideration for the Option and the lease of the Option Property, and ASARCO, its successors, or its assigns shall not be required to pay any additional consideration for the exercise of the Option or the transfer or lease of the Option Property.
- (v) Except as to damages caused by the Custodial Trust Parties while on the Sacaton Designated Property, ASARCO, its successors, or its assigns agree to hold the Custodial Trust Parties harmless and fully indemnify the Custodial Trust Parties against any and all claims or demands which may

be made upon them or against the Sacaton Designated Property, for, or on account of, any debt or expense contracted or incurred by ASARCO, its successors, or its assigns in conducting its activities during the term of the mineral lease pursuant to the Mining Lease, as well as against any and all acts, transactions, and omissions of ASARCO, its successors, its assigns, its agents or servants, in conducting its activities pursuant to the Mining Lease, and ASARCO, its successors, or its assigns will defend and save the Custodial Trust Parties harmless and fully indemnify them as to any liability for, or on account of, injury to, or death of, any person or damage to any property sustained during the term of the Mining Lease, resulting from any such act or omission of ASARCO, its successors, its assigns, its agents or servants. ASARCO, its successors, and its assigns shall obtain insurance coverage reasonably acceptable to the Custodial Trustee who shall be named as an additional insured.

- (vi) ASARCO, its successors, or its assigns shall conduct all activities under the Mining Lease in accordance with applicable law and with appropriate financial assurance and shall obtain all required permits. ASARCO, its successors, or its assigns recognize that the Custodial Trustee will be conducting cleanup activities on the Sacaton Designated Property. ASARCO, its successors, or its assigns, and the Custodial Trustee agree to include mutual cooperation provisions in the Mining Lease such that the activities of ASARCO, its successors, or its assigns shall not unreasonably interfere with any cleanup activities by the Custodial

Trustee. If ASARCO, its successors, or its assigns undertake any activity that disturbs or may disturb any cap, berm, or other response action that has been implemented or is being implemented, ASARCO, its successors, or its assigns shall provide financial security or other assurances in a reasonable amount acceptable to the Custodial Trustee with respect to such disturbances. The provisions in this Subparagraph 9(f)(vi) will be subject to the execution version of the Mining Lease, and in the event of any conflict, the Mining Lease shall control.

- (vii) In connection with the rights in this Paragraph 9(f), ASARCO also has the right to create a separate custodial trust for the Sacaton Designated Property provided it must do so by the Effective Date, and such separate trust will not add additional costs to the cost of total trust administration. The separate custodial trust will be in substantially the same form as the Custodial Trust and will have the same Custodial Trustee. The State of Arizona and the United States shall have the right to approve the separate custodial trust, and such approval shall not be unreasonably withheld.

10. The Custodial Trust Accounts

- a. The Custodial Trustee shall create a segregated Custodial Trust Environmental Costs Account (“Custodial Trust Environmental Costs Account”) within the Custodial Trust for each of the Designated Properties (except that the accounts for (i) the Trench Mine Designated Property and Salero Designated Property in Arizona and (ii) Gold Hill Designated Property and Belshazzar Designated Property in Utah, shall each cover the two properties respectively as provided herein). The purpose of a Custodial Trust

Environmental Costs Account for a Designated Property shall be to provide funding for future Environmental Actions and certain future oversight costs of the Governments with respect to the Designated Property and related Site. Funding from a Custodial Trust Environmental Costs Account for a Designated Property may not be used for another Designated Property and related Site except as otherwise expressly provided by and in accordance with Subparagraphs 10(m) and (n) hereof.

b. The Custodial Trustee shall also create a segregated Custodial Trust administrative account (“Custodial Trust Administrative Account”) to fund the payment of real estate taxes, insurance, and other administrative costs incurred in administering the Custodial Trust (“Administrative Costs”).

c. Assets of the Custodial Trust Environmental Cost Accounts and Custodial Trust Administrative Account (collectively, the “Custodial Trust Accounts”) shall be held in trust solely for the purposes provided in this Settlement Agreement. The Governments shall be the sole beneficiaries of the Custodial Trust Accounts.

d. All interest earned in an account shall be retained in the respective Custodial Trust Account and used only for the same purposes as the principal in that account as provided in this Settlement Agreement, subject to any reallocation approved by the Governments in accordance with the terms of this Settlement Agreement.

e. In settlement and full satisfaction of all claims against Debtors related to the Designated Properties and the Sites (including but not limited to the liabilities and other obligations asserted in the United States’ and States’ proofs of claim and other pleadings filed or evidence presented to the Bankruptcy Court relating to the Designated Properties and the Sites other than the Separately Settled Matters) other than the Separately Settled

Matters, Debtors shall make a payment of \$10,400,000 for the Custodial Trust Administrative Account and contributions and accretions totaling \$60,555,493 (which shall be reduced as provided in Subparagraph 10(f) below) to the Custodial Trust Environmental Cost Accounts on the Effective Date (as defined in Subparagraph 9(a)) and simultaneously with the transfer of the Designated Properties to be allocated as follows:

- (i) payment of \$10,400,000 on the Effective Date to fund the Custodial Trust Administrative Account;
- (ii) payment of \$200,000 on the Effective Date to fund future Environmental Actions and certain future oversight costs of the Governments with respect to the Ragland Site in St. Clair County, Alabama, to be deposited in the Custodial Trust Environmental Cost Account for that site;
- (iii) payment of \$20 million on the Effective Date to fund future Environmental Actions and certain future oversight costs of the Governments with respect to the Sacaton Site near Case Grande, Arizona, to be deposited in the Custodial Trust Environmental Cost Account for that site;
- (iv) payment of \$2.825 million on the Effective Date to fund future Environmental Actions and certain future oversight costs of the Governments with respect to the Trench Mine Site and the Salero Site near Patagonia and Rio Rico, Arizona, respectively, to be deposited in a single jointly managed Custodial Trust Environmental Cost Account for those sites;

- (v) payment of \$200,000 on the Effective Date to fund future Environmental Actions and certain future oversight costs of the Governments with respect to the Van Buren Site in Crawford County, Arkansas, to be deposited in the Custodial Trust Environmental Cost Account for that site;
- (vi) payment of \$4 million on the Effective Date to fund future Environmental Actions and certain future oversight costs of the Governments with respect to the Silverton Site in San Juan County, Colorado, to be deposited in the Custodial Trust Environmental Cost Account for that site;
- (vii) payment of \$16 million on the Effective Date to fund future Environmental Actions and certain future oversight costs of the Governments with respect to the Globe Site in Adams and Denver Counties, Colorado, to be deposited in the Custodial Trust Environmental Cost Account for that site;
- (viii) payment of \$7 million on the Effective Date to fund future Environmental Actions and certain future oversight costs of the Governments with respect to the Alton Site in Madison County, Illinois, to be deposited in the Custodial Trust Environmental Cost Account for that site;
- (ix) payment of \$200,000 on the Effective Date to fund future Environmental Actions and certain future oversight costs of the Governments, including but not limited to purchasing adjacent property needed to complete the landfill, with respect to the Beckemeyer Site in Clinton County, Illinois, to be deposited in the Custodial Trust Environmental Cost Account for that site;

- (x) payment of \$4.2 million on the Effective Date to fund future Environmental Actions and certain future oversight costs of the Governments with respect to the Taylor Springs Site in Taylor Springs, Illinois, to be deposited in the Custodial Trust Environmental Cost Account for that site;
- (xi) payment of \$1.2 million on the Effective Date to fund future Environmental Actions and certain future oversight costs of the Governments with respect to the Whiting Site in Lake County, Indiana, to be deposited in the Custodial Trust Environmental Cost Account for that site;
- (xii) payment of \$120,493 on the Effective Date to fund future Environmental Actions and certain future oversight costs of the Governments with respect to the Deming Site in Luna County, New Mexico, to be deposited in the Custodial Trust Environmental Cost Account for that site. In the event this payment is not made prior to the expiration of the current letter of credit related to surety bond number 386149 (the "Bond"), ASARCO agrees to post another letter of credit or other appropriate security for this amount acceptable to the State of New Mexico. In addition, ASARCO and St. Paul Travelers consent to the Custodial Trustee's right to draw on the Bond in the amount of \$850,000 within two months after the Effective Date to fund future Environmental Actions and certain future oversight costs of the Governments with respect to the Deming Site in exchange for a full and final release of the Bond. The funds from the Bond shall be

deposited in the Custodial Trust Environmental Cost Account for that site. The Custodial Trustee shall initiate all appropriate efforts to draw upon the Bond in order to obtain said funds within 30 days of the Effective Date and shall obtain said funds within two months of the Effective Date or have initiated appropriate legal actions. In connection with asserting a claim on the Bond, the Custodial Trustee shall provide written notice to St. Paul Travelers in substantially the form of the "Draw Letter" as attached as Attachment E as follows: Robert L. Scanlon, St. Paul Travelers Bond, One Tower Square, 2S2A, Hartford, CCT 06183, Fax: 860-277-5722; with a copy to: Andrew Rosenblatt, Esq., Chadbourne & Parke LLP, 30 Rockefeller Plaza, New York, New York 1011, Fax: 212-541-5369. Upon such payment, St. Paul Travelers shall immediately be released from all past, present and future liability with respect to the Bond without further court order, proceeding or other documentation. St. Paul Travelers waives any defenses to the Custodial Trustee's draw on the Bond during the two months after the Effective Date, and shall have an allowed general unsecured claim against ASARCO for \$850,000 without further Court order or proceeding if the Custodial Trustee draws on the Bond within two months after the Effective Date. Within five business days of its receipt of payment from St. Paul Travelers under the Bond, the Custodial Trustee shall notify ASARCO or its designated successor under the plan of reorganization that the Bankruptcy Court approves in the Reorganization Cases that the conditions precedent for the allowance of St. Paul

Travelers' claim have been satisfied. On the Effective Date, St. Paul Travelers shall have an allowed general unsecured claim against ASARCO in the amount of \$30,000 for attorneys fees associated with the Bond. St. Paul Travelers shall waive all attorneys fees except those allowed in this subparagraph. As of the Effective Date, only the Custodial Trustee may draw on the Bond. The State of New Mexico, the obligee under the Bond, waives any and all rights with respect to the Bond including the ability to assert a claim against the Bond, subject to St. Paul's complying with the Agreement. If the Custodial Trustee fails to draw on the Bond within two months after the Effective Date, the Bond shall be automatically deemed released, and all claims against the Bond shall be forever waived; provided, however, that St. Paul Travelers' failure to pay the Custodial Trustee's timely request for a draw on the Bond shall not result in any such release and waiver;

- (xiii) payment of \$1.34 million on the Effective Date to fund future Environmental Actions and certain future oversight costs of the Governments with respect to the Magdalena Site in Socorro County, New Mexico, to be deposited in the Custodial Trust Environmental Cost Account for that site;
- (xiv) payment of \$420,000, minus any monies put in escrow pursuant to the Operation and Maintenance Agreement Between Ohio EPA and ASARCO LLC Regarding ASARCO LLC's Former Zinc Oxide Facility Columbus, Franklin County, Ohio, on the Effective Date to fund future

Environmental Actions and certain future oversight costs of the Governments with respect to the Columbus Site in Franklin County, Columbus, Ohio, to be deposited in the Custodial Trust Environmental Cost Account for that site;

- (xv) payment of \$120,000 on the Effective Date to fund future Environmental Actions and certain future oversight costs of the Governments with respect to the Sand Springs Site in Tulsa County, Oklahoma to be deposited in the Custodial Trust Environmental Cost Account for that site;
- (xvi) payment of \$2.43 million on the Effective Date to fund future Environmental Actions and certain future oversight costs of the Governments with respect to the Murray Site in Salt Lake County, Utah, to be deposited in the Custodial Trust Environmental Cost Account for that site;
- (xvii) payment of \$100,000 on the Effective Date to fund future Environmental Actions and certain future oversight costs of the Governments with respect to the Gold Hill Site in Tooele County, Utah and Belshazzar Site in Salt Lake County, Utah, to be deposited in a single, jointly managed Custodial Trust Environmental Cost Account for those Sites; and
- (xviii) payment of \$200,000 on the Effective Date to fund future Environmental Actions and certain future oversight costs of the Governments with respect to the McFarland Site in Pierce County, Washington, to be deposited in the Custodial Trust Environmental Cost Account for that site.

The payments set forth in this Subparagraph (e) shall for purposes of the Chapter 11 case be accorded the status of expenses of administration.

f. The amount of payment for any Designated Property under Subparagraph 10(e)(ii)-(xviii) shall be reduced to reflect actual expenditures by Debtors at a Designated Property for Capital Expenditure Response Costs⁷ for work performed between February 1, 2009 and the Effective Date. Such costs shall not be associated with the Prepetition ASARCO Environmental Trust. Such response costs must be approved in writing in advance by the Lead Agency for the Designated Property. Debtors shall include an estimate of the expenditures in any such request. The Lead Agency shall seek to respond within 10 business days of any requests for approval of expenditures. If the Lead Agency has ordered or otherwise directed that ASARCO perform specific remediation at a Designated Property between February 1, 2009 and the Effective Date, but rejects ASARCO's proposed plan and related Capital Expenditure Response Costs for such work, the Lead Agency may provide an alternative plan to accomplish the remediation within 10 business days after the rejection. If, in the case of an order or other direction by the Lead Agency and, either the Lead Agency fails to respond within 10 business days of any requests for approval of expenditures or the Lead Agency fails to provide an alternative within 10 business days, and the Lead Agency does not indicate or otherwise agree that ASARCO should delay work until the Lead Agency responds or provides an alternative plan for remediation, then ASARCO may perform work and seek approval from the Bankruptcy Court for determination of appropriate credit for the performance of

⁷ "Capital Expenditure Response Costs" are third party contractor costs for response actions that are capital expenditures and are not operations and maintenance expenditures and which are either consistent with the National

such work; provided, however, this Paragraph is subject to Paragraph 12(h). Following completion of any work under this Paragraph, the Debtor shall provide documentation to the Governments of the exact amount of the expenditure. No reduction shall be made for expenditures of Debtors that are not reimbursements of third party contractors. No reduction shall be made for expenditures on property not owned by Debtors.

g. The Custodial Trustee shall at all times seek to have the Custodial Trust treated as a “qualified settlement fund” as that term is defined in Treasury Regulation section 1.468B-1. For purposes of complying with Section 468B(g)(2) of the Internal Revenue Code of 1986, as amended, this Settlement Agreement shall constitute a Consent Decree between the parties. Approval of the Bankruptcy Court, as a unit of the District Court, shall be sought, and the Bankruptcy Court shall retain continuing jurisdiction over the Custodial Trust and Custodial Trust Accounts sufficient to satisfy the requirements of Treasury Regulation section 1.468B-1. The Custodial Trustee will not elect to have the Custodial Trust treated as a grantor trust. The Custodial Trust shall be treated as a separate taxable entity. The Custodial Trustee shall cause any taxes imposed on the earnings of the Custodial Trust to be paid out of such earnings and shall comply with all tax reporting and withholding requirements imposed on the Custodial Trust under applicable tax laws. The Custodial Trustee shall be the “administrator” of the Custodial Trust pursuant to Treasury Regulation section 1.468B-2(k)(3).

h. The Custodial Trustee shall use the Custodial Trust Environmental Cost Account for each of the Designated Properties to fund future Environmental Actions and certain future oversight costs pursuant to CERCLA or state environmental statutes with respect

to that Designated Property and related site. The Custodial Trustee shall use the Custodial Trust Administrative Account to fund the Administrative Costs of the Custodial Trust that have been approved by the United States and States that are Lead Government Agencies.

i. Within 60 days of the Effective Date in the first year and thereafter by January 1 of each year following the Effective Date, the Custodial Trustee shall provide to US EPA and the relevant State for each of the Custodial Trust Environmental Cost Accounts, a balance statement and proposed budget for the coming year. The Lead Government Agency shall have the authority to approve or disapprove the proposed budget for the relevant Custodial Trust Environmental Cost Account after consultation with the other governmental agency.

j. The Custodial Trustee shall pay funds from a Custodial Trust Environmental Cost Account to the Lead Government Agency making a written request for funds within 10 days of such request. Such written request shall specify what the funds were used for and shall certify that they were used only for future Environmental Actions and future oversight costs with respect to the Designated Property and related Site. The Custodial Trustee shall also pay funds from a Custodial Trust Environmental Cost Account to the Non-Lead Government Agency (as defined below) making a written request for funds within 10 days of such request where the Lead Government Agency has requested the assistance of the Non-Lead Government Agency with respect to the Designated Property and related site.

k. In the case of requests by the Lead Government Agency to the Custodial Trustee to use the funds from a particular Custodial Trust Cleanup Account to perform

Environmental Actions, the Custodial Trustee shall utilize the funds and interest earned thereon from that Custodial Trust Environmental Cost Account to undertake such work promptly and in accordance with any schedule approved by the Lead Government Agency. The Custodial Trustee shall require appropriate liability insurance from each contractor hired to perform work.

1. For purposes of this Settlement Agreement, the initial Lead Government Agency for the Designated Properties and related sites are as follows:

Ragland	State of Alabama
Sacaton	State of Arizona
Trench/Salero	State of Arizona
Van Buren	State of Arkansas
Silverton	State of Colorado
Globe	State of Colorado
Alton	State of Illinois
Beckemeyer	US EPA
Taylor Springs	US EPA
Whiting	US EPA
Deming	State of New Mexico
Magdalena	State of New Mexico
Columbus	State of Ohio
Sand Springs	State of Oklahoma
Murray	US EPA
Gold Hill/Belshazzar	State of Utah
McFarland	State of Washington

The initial Non-Lead Government Agency (“Non-Lead Government Agency”) will be US EPA for sites where a state is the Lead Government Agency. The Non-Lead Government Agency will be the State of Illinois for the Beckemeyer and Taylor Springs Site. The Non-Lead Government Agency will be the State of Utah for the Murray Site. The Lead Government Agency for a Site shall consult with the Non-Lead Government Agency for that site relating to approval of the budget or requests for funding for cleanup of the Site if such consultation is requested. US EPA and the state may provide the

Custodial Trustee with joint written notice that the Lead Government Agency for a Designated Property has changed.

m. Upon the completion of all final actions and disbursement of all final costs for a Designated Property and related site, any funds remaining in that site's Custodial Trust Cleanup Account shall be transferred in the following order: (i) first, in accordance with instructions provided by the United States Department of Justice and the respective state (or in the case of Arizona, in accordance with instructions provided by Arizona after consultation with US EPA) to any of the other Custodial Trust Environmental Cost Accounts established under this Settlement Agreement for a Designated Property in that state with remaining actions to be performed and a need for additional trust funding; (ii) second, in accordance with instructions provided by the United States Department of Justice after consultation with the States, to any of the other Custodial Trust Environmental Cost Accounts established under this Settlement Agreement or pursuant to the other environmental settlement agreements⁸ established in the Reorganization Cases for a Designated Property in another State with remaining actions to be performed and a need for additional trust funding; and (iii) third, to the EPA Hazardous Substance Superfund (the "Superfund").

n. The United States and the State in which a Designated Property is located may agree in writing at any time after one year from the Effective Date that based on new information about the estimated cost of cleanup or the assumption of liability by a buyer or other party for a Designated Property, the funding in a Custodial Trust Environmental

⁸ These settlement agreements consist solely of the Amended Settlement Agreement and Consent Decree Regarding Residual Environmental Claims for the Coeur D'Alene, Idaho, Omaha, Nebraska, and Tacoma, Washington Environmental Sites; the Consent Decree and Settlement Agreement Regarding the Montana Sites; and the Consent

Cost Account is more than is conservatively projected to be needed. Upon such an agreement, the United States Department of Justice, after consultation with the States, may instruct the Custodial Trustee to transfer any such excess funding to one or more of the other Custodial Trust Accounts established under this Settlement Agreement or pursuant to the other settlement agreements established in the Reorganization Cases for a Designated Property with remaining actions to be performed and a need for additional trust funding (giving priority first to Custodial Trust Accounts in the same state). During the eighth year after the Effective Date, the Custodial Trustee shall provide the United States and the States an update of anticipated future Administrative Costs of the Custodial Trust. The United States Department of Justice may thereafter instruct in writing after consultation with the States and the Custodial Trustee that any conservatively projected surplus funding in the Custodial Trust Administrative Account be transferred to one or more of the other Custodial Trust Accounts established under this Settlement Agreement or pursuant to the other settlement agreements established in the Reorganization Cases for a Designated Property with remaining actions to be performed and a need for additional trust funding.

o. With respect to the Murray Site, the United States on behalf of US EPA shall in addition also have an allowed general unsecured claim for its past costs in the amount of \$167,486. Distributions to US EPA on this allowed claim shall be deposited in a Site-specific special account with respect to the Murray Site within the Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by US EPA to the Superfund.

p. With respect to the Sand Springs Site, the State of Oklahoma shall also have an allowed general unsecured claim for its past costs in the amount of \$10,000.

q. With respect to the Taylor Springs Site, the United States on behalf of US EPA already has an allowed general unsecured claim for past costs in the amount of \$80,740.64 which was established pursuant to the Stipulation and Order (Docket Number 7784) approved by the Bankruptcy Court on June 12, 2008 (Docket Number 8093) (“Taylor Springs Stipulation”). The Taylor Springs Stipulation also includes a capped allowed general unsecured claim for additional costs associated with the Not Owned Portions of the Site (as that term is defined in the Taylor Springs Stipulation, hereinafter referred to as the “Not Owned Portions of the Taylor Springs Site”) in the amount of \$1,581,800 for the United States on behalf of US EPA (the “Taylor Springs Capped Claim”). The Taylor Springs Capped Claim shall be allowed as a general unsecured claim in settlement and resolution of US EPA’s claims against Debtors related to the Not Owned Portions of the Taylor Springs Site (including but not limited to the liabilities and other obligations asserted in the United States’ proofs of claim and other pleadings filed or evidence presented to the Bankruptcy Court relating to this property). This allowed claim is in addition to the \$80,740.64 allowed claim and in addition to the payment Debtors are making hereunder for the Custodial Trust Account for the Taylor Springs Site. However, to the extent that Blue Tee Corp. performs response actions or work at the Not Owned Portion of the Taylor Springs Site under an administrative order on consent by the Effective Date, it will be entitled to a portion of the Taylor Springs Capped Claim as a general unsecured claim in the amount of 20 percent of the costs incurred in performing such response actions or work. The amount of the United States’ \$1,581,800 allowed

claim shall be reduced to the extent that Blue Tee establishes a right to such an allowed claim in accordance with the Taylor Springs Stipulation. Distributions to US EPA on its allowed claims under this Paragraph shall be deposited in a Site-specific special account with respect to the Taylor Springs Site within the Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by US EPA to the Superfund.

r. Notwithstanding anything to the contrary in this Settlement Agreement, unpatented mining claims that have already reverted to the United States shall be deemed relinquished. The Custodial Trustee shall hold unpatented mining claims, mill site claims, and placer claims consistent with the 1872 Mining Law, 30 U.S.C. 22 et seq., and the Federal Land Policy and Management Act, 43 U.S.C. 1701 et seq., or shall abandon such unpatented mining claims in accordance with applicable law. Any actions by the Custodial Trustee on property administered by any federal agency can only be taken after the written concurrence of the federal agency.

11. ASARCO shall continue, at its own expense, the operations of any required ongoing environmental activities being performed by ASARCO at a Designated Property until the payments required by Subparagraph 10(e) of this Agreement are made, including, but not limited to, environmental monitoring activities. ASARCO may receive credit for such activities to the extent permitted pursuant to Subparagraph 10(f) of this Settlement Agreement.

12. Custodial Trust Miscellaneous Provisions

a. The administrative funds within the Custodial Trust Administrative Account shall be used by the Custodial Trustee for Administrative Costs. Within 60 days of the Effective Date in the first year and thereafter by January 1 of each year, the Custodial

Trustee shall provide the Governments with an annual budget for administration of the Custodial Trust for review and approval or disapproval by the United States and States that are Lead Government Agencies.

b. In no event shall any of the Custodial Trust Parties be held liable to any third parties for any liability, action, or inaction of any other party including Debtors or any other of the Custodial Trust Parties.

c. The Custodial Trust Parties shall be deemed to have resolved their civil liability under CERCLA and state environmental statutes, to the United States and the States, and have protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2) or similar state law for matters addressed in this Settlement Agreement. For purposes of this Paragraph, the matters addressed in this Settlement Agreement are all Environmental Actions and past costs and oversight costs with respect to the Designated Properties and Sites, including the States' claims for NRD including assessment costs relating to or in connection with the Designated Properties and Sites except for the Alton, Beckemeyer, and Taylor Springs Sites.

d. The Custodial Trustee shall implement any institutional controls or deed restrictions requested by the Governments with respect to any of the Designated Properties. Additionally, the Custodial Trustee shall abide by the terms of any institutional controls or deed restrictions in place or of record as to any Designated Properties.

e. In the event that the Bankruptcy Court finds that the Custodial Trustee in any material respect, as a result of negligence, exacerbates conditions at any of the Designated Properties, is seriously or repeatedly deficient or late in performance of the

work or violates the provisions of this Settlement Agreement, the Custodial Trust Agreement or other related implementation agreements, the United States and the state in which the relevant site is located may jointly direct that (i) the Custodial Trustee be replaced in accordance with the Custodial Trust Agreement or (ii) that all remaining funds and future recoveries in the Custodial Trust be paid to US EPA or to the applicable state to be used in accordance with the terms of this Settlement Agreement.

f. The Custodial Trustee shall take such actions and execute such documents as are reasonably requested by ASARCO with respect to effectuating the transactions contemplated hereby. To the extent that ASARCO requests the Custodial Trustee to take such an action, the Custodial Trustee shall do so at the sole expense of ASARCO.

g. The Custodial Trust is intended to be governed by the terms of the Multi-State Custodial Trust Agreement and shall not be subject to any provision of the Uniform Custodial Trust Act as adopted by any state, now or in the future.

h. It is the express intent of the parties that Debtors' total financial obligations at each Designated Property shall not exceed the amount of funding provided for the Custodial Trust Environmental Costs Account and the Custodial Trust Administrative Account related to that Designated Property; provided, however, this Paragraph: (i) does not apply to funds expended from the Prepetition ASARCO Environmental Trust; (ii) does not apply to the Separately Settled Matters reserved in Paragraph 30 subpart (b); (iii) does not limit the amount of penalties relating to Debtors' conduct occurring between February 1, 2009 and the Effective Date pursuant to Paragraph 20; ~~and~~ (iv) does not limit the United States' and States' reservation of rights for liability in Paragraph 30,

subpart (c); and (iv) does not apply to any costs required to be incurred prior to the Effective Date that are not Capital Expenditure Response Costs.

i. The Governments agree that they will not oppose the below provisions in any plan of reorganization in the Reorganization Cases that provides for an entity to administer the plan of reorganization for the benefit of the creditors, assets or funds held by the entity administering the plan of reorganization for the benefit of the creditors, or provides for a Reorganized Debtor and which is consistent with this Consent Decree and Settlement Agreement and contains provisions A and B below (a “Qualifying Plan”):

A. The releases, discharges, satisfactions, exonerations, exculpations and injunctions provided under this Plan and the Confirmation Order shall not apply to any liability to a governmental agency arising after the Effective Date; provided, however, that, no governmental agency shall assert any claim or other cause of action under Environmental Laws against the entities administering the plan of reorganization for the benefit of the creditors, the assets or funds being held by the entities administering the plan of reorganization for the benefit of the creditors, or Reorganized Debtors based on or arising from acts, omissions or conduct of the Debtors prior to February 1, 2009 (including but not limited to continuing releases related to acts, omissions or conduct prior to February 1, 2009) except provided, further, however, nothing in the Plan or the Confirmation Order: (i) precludes the enforcement of the Hayden Settlement Agreement, the Mission Mine Settlement Agreement, or the Arizona NRD Settlement Agreement as provided therein; (ii) shall prevent the Governments or Custodial Trusts from recovering under any confirmed Plan on any allowed claim or payment due with

respect to any Site listed on Attachment F, or for any allowed claim for a permit fee or similar assessment or charge owed to the Governments under Environmental Laws; (iii) releases, discharges, precludes, or enjoins the enforcement of any liability to a governmental agency under Environmental Law that any Entity is subject to as the current owner or current operator of property after the Effective Date; (iv) releases, discharges, precludes, or enjoins any allowed claim or liability of Debtor's estate as the current owner or current operator of property between February 1, 2009 and the Effective Date; (v) for sites covered by an approved Custodial Trust Settlement Agreement, permits the Governments or Custodial Trusts to recover more than permitted under the approved Custodial Trust Settlement Agreement, nor does it affect the covenants not to sue in the Custodial Trust Settlement Agreements or the reservation of rights; (vi) releases, discharges, precludes, or enjoins any on-site liability of Debtors' estate as the owner, operator or lessee of the Ray Mine, the Mission Mine, the Hayden Mine, the Amarillo Copper Smelter, the Tucson Office, or the Ventura Warehouse; (vii) precludes enforcement by the United States or a State of any requirements under an Environmental Custodial Trust Agreement against an Environmental Custodial Trustee; or (viii) releases, discharges, precludes, or enjoins the enforcement of liability to a Governmental Unit under Environmental Law for criminal liability (except to the extent that such liabilities are dischargeable).

B. Prepetition ASARCO Environmental Trust:

The Prepetition ASARCO Environmental Trust shall remain in existence, and shall be unaffected by the Reorganization Cases or any related settlements. The entity administering the plan of reorganization for the benefit of the creditors or Reorganized Debtors shall succeed to ASARCO's administrative role, and shall, in its/their sole discretion, act as Performing Entity (as defined in the trust) from time to time, but shall assume no affirmative liabilities or obligations associated with that role.

The funds remaining in the Prepetition ASARCO Environmental Trust are separate from and without prejudice to the distributions to be made to holders of environmental claims under this Plan.

To allow for the possibility that AMC fails to make a required payment due under the note that funds the Prepetition ASARCO Environmental Trust, the plan will provide distributions shall be held back in an amount equal to the amount that the Prepetition ASARCO Environmental Trust would receive if AMC were to have made the required payment, \$25 million plus accrued interest in accordance with the note, and place such amount in the Prepetition ASARCO Environmental Trust Escrow. In the event that AMC fails to make any of the payments remaining due under the note, the Plan Administrator and the United States shall reasonably cooperate in determining the most efficient mechanism to recover the amounts owed by AMC. Upon AMC's payment of amounts due under the note, the Plan Administrator may release a corresponding amount from the Prepetition ASARCO Environmental Trust Escrow and distribute such funds in accordance with the terms and conditions of this Plan and the Confirmation Order.

For the avoidance of doubt, if a plan is confirmed that contains the provisions above, and if there is a site at which acts, omissions or conduct by the Debtors created liability under Environmental Laws prior to February 1, 2009 (other than those sites listed on Attachment F and sites owned by the Debtors as of February 1, 2009), no government agency may bring a cause of action or recover under Environmental Laws from the Debtors' estate, the entity administering the plan of reorganization for the benefit of the creditors, assets or funds held by the entity administering the plan of reorganization for the benefit of the creditors, or Reorganized Debtors, even if the government agencies are not currently aware of such liability. This shall not prevent any governmental agency from filing a claim or otherwise taking action to enforce or perfect rights in the event a Qualifying Plan is not confirmed. Debtors agree that any plan of reorganization that they file or support will be consistent with this Consent Decree and Settlement Agreement.

The United States also agrees that it will not object to a provision in a Qualified Plan that provides that the United States' claims for the Kelly Mine Site and the Blue Ledge Site will be general unsecured, subordinated claims.

All of the provisions of this Paragraph and this Settlement Agreement shall apply solely to civil liability under Environmental Laws. The Governments and Debtors reserve all rights with respect to criminal liability or Plan provisions as they may relate to criminal liability.

The Governments have agreed to the language of this Paragraph based on the highly unique facts and circumstances present in this case and nothing in the Paragraph shall be treated as precedential in any other bankruptcy case.

13. The Custodial Trustee shall provide the United States and the state and their representatives and contractors access to all portions of the Designated Properties that the Custodial Trust owns at all reasonable times for the purposes of conducting Environmental Actions at or near the Designated Properties. The Custodial Trustee shall execute and record with the appropriate recorder's office any easements or deed restrictions requested by the Governments for restrictions on use of the Designated Properties in order to protect public health, welfare or safety or the environment or ensure non-interference with or protectiveness of any action. Any existing easements or deed restrictions of record as to any Designated Property prior to the Effective Date of this Settlement Agreement shall survive the Settlement Agreement.

14. The United States, the state in which the relevant Designated Property is located, or a governmental unit that is a designee thereof, may at any time propose in writing to take ownership of any of the Designated Properties or any part thereof. Any such proposed transfer and the terms thereof are subject to approval in writing by US EPA and the state (after consultation with the Custodial Trustee) in which the Designated Property is located.

15. The Custodial Trustee may at any time seek the approval of US EPA and the state in which the relevant Designated Property is located for the sale or lease or other disposition of all or part of a Designated Property. In the event of any approved sale or lease or other disposition under this Paragraph, any net proceeds from the sale or lease or other disposition shall be paid to the Custodial Trust Environmental Cost and/or Administrative Account for that Designated Property (subject to Subparagraphs 10(m) and 10(n) hereof) in a proportion approved by US EPA and the State in writing.

16. No Custodial Trust Party shall be personally liable unless the Bankruptcy Court, by a final order, finds that it committed fraud or willful misconduct after the Effective Date in relation

to the Custodial Trustee's duties. Any judgment against a Custodial Trust Party and any costs of defense relating to any Custodial Trust Party shall be paid from the Custodial Trust Environmental Cost Account for the relevant site or the Administrative Account without the Custodial Trust Party having to first pay from its own funds for any personal liability or costs of defense unless a determination is made by a final order of the Bankruptcy Court finding that it committed fraud or willful misconduct in relation to the Custodial Trust Party's duties.

However, any payment shall be limited to funds in the Custodial Trust Environmental Cost Account for the relevant Designated Properties or the Administrative Account. There shall be an irrebuttable presumption that any action taken or not taken with the approval of the Bankruptcy Court does not constitute willful misconduct.

17. The Custodial Trust Parties are exculpated by all persons, including without limitation, holders of claims and other parties in interest, of and from any and all claims, causes of action and other assertions of liability arising out of the ownership of Custodial Trust assets and the discharge of the powers and duties conferred upon the Custodial Trust and/or Trustee by this Settlement Agreement, the Custodial Trust Agreement, or any order of court entered pursuant to or in furtherance of this Settlement Agreement, the Custodial Trust Agreement, or applicable law or otherwise. No person, including without limitation, holders of claims and other parties in interest, will be allowed to pursue any claims or cause of action against any Custodial Trust Party for any claim against Debtors, for making payments in accordance with this Settlement Agreement or any order of court, or for implementing the provisions of this Settlement Agreement, the Custodial Trust Agreement, or any order of court. Nothing in this Paragraph or the Settlement Agreement shall preclude the Governments from enforcing the terms of this Settlement Agreement against the Custodial Trust Parties.

18. Except as may otherwise be provided herein: (a) the Custodial Trust Parties may rely, and shall be protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, or other paper or document believed by them to be genuine and to have been signed or presented by the proper party or parties; (b) the Custodial Trust Parties may consult with legal counsel, financial or accounting advisors and other professionals and shall not be personally liable for any action taken or not taken in accordance with the advice thereof; and (c) persons dealing with the Custodial Trust Parties shall look only to the Custodial Trust assets that may be available to them consistent with this Settlement Agreement to satisfy any liability incurred by the Custodial Trust Parties to such person in carrying out the terms of this Agreement or any order of the Bankruptcy Court, and the Custodial Trust Parties shall have no personal obligations to satisfy any such liability other than as provided in Paragraph 16.

19. Neither the United States, the States, nor any of Debtors shall be deemed to be an owner, operator, trustee, partner, agent, shareholder, officer, or director of the Custodial Trust or the Custodial Trust Parties, or to be an owner or operator of any of the Designated Properties on account of this Settlement Agreement or actions contemplated thereby.

V. OUTSTANDING OBLIGATIONS

20. All obligations of Debtors to perform work pursuant to any outstanding Consent Decree, Unilateral Administrative Order, Agreed Order, or Administrative Order on Consent regarding any of the Designated Properties or Sites, the Not Owned Portions of the Taylor Springs Site, and the Other Arizona Sites (as defined below), and any statutory, stipulated, or other penalties allegedly due from Debtors as of February 1, 2009, are fully resolved and satisfied by this Settlement Agreement and Debtors shall be removed as a party to such orders or decrees

pursuant to the terms hereof on the Effective Date (as defined in Subparagraph 9(a)); provided, however, that: (a) all requirements to retain records shall remain in full force and effect until the Effective Date (as defined in Subparagraph 9(a)), and that Debtors shall produce, or make available for production, in the state and condition in which such records are found any such records so retained to the United States or any State with respect to a Designated Property or Site as to which such State is a party to any order or consent decree; (b) with respect to the Murray Consent Decree, United States v. ASARCO, Inc. et al., No. 2:98CV0415B (D. Utah), the United States and ASARCO will file papers with the District Court for the District of Utah to modify the Consent Decree to conform to this Settlement Agreement and remove ASARCO as a party to the Consent Decree after the Effective Date; and (c) Debtors shall continue to perform work with respect to the Beckemeyer Designated Property, the Murray Site, and the unowned portions of the Globe Site until the Effective Date if Debtors are designated as the Performing Entity under the 2009 Annual Budget of the Prepetition ASARCO Environmental Trust at these properties to the extent funds are made available. A government agency may not impose any statutory, stipulated, or other penalties allegedly due from Debtors for Debtors' conduct occurring between February 1, 2009 and the Effective Date with respect to the Designated Properties or Sites unless it has given notice to the Debtors, the Official Committee of Unsecured Creditors of ASARCO LLC, the Official Committee of Unsecured Creditors for the Subsidiary Debtors, and the Future Claims Representative of the terms of any potentially applicable statutory, stipulated, or other penalties prior to the date the Debtors' allegedly actionable conduct occurred (except that no additional notice shall be required to enforce stipulated penalties in the amount of \$200 per day for days 1 through 30, \$1,000 per day for days 31 through 45, \$2,500 per day for days 46 through 60, and \$5,000 per day for each succeeding day thereafter that ASARCO fails to

perform operation and maintenance of the water treatment plant and all systems that collect and route ground and surface water to the treatment plant, as well as, operation and maintenance of the groundwater monitoring system at the Globe Designated Property, nor is additional notice required to enforce the statutory civil penalty under Colo. Rev. Statutes 25-8-608 if ASARCO exceeds the limits in its water discharge permit for the effluent from the water treatment plant at the Globe Designated Property for not more than \$10,000 per day for each day during which such violation occurs.). Moreover, if a government agency seeks to impose any such penalties, the amount of the penalty and circumstances under which it is imposed shall be negotiated before the penalty is applied.

VI. COVENANTS NOT TO SUE

21. With respect to the Designated Properties and the Sites (including releases of hazardous substances from any portion of the Designated Properties and the Sites and all areas affected by natural migration of such substances from the Designated Properties and the Sites), including but not limited to the Not Owned Portions of the Taylor Springs Site (including releases of hazardous substances from any portion of the Not Owned Portions of the Taylor Springs Site and all areas affected by natural migration of such substances from the Site), and except as specifically provided in Section VII (Reservation of Rights), upon the Effective Date and Debtors' full funding of all Custodial Trust Accounts as set forth in Subparagraph 10(e) of this Settlement Agreement (subject to any credit pursuant to Subparagraph 10(f)), the United States on behalf of US EPA and the States covenant not to sue or assert any civil claims or causes of action against Debtors, the Reorganized Debtors, and the Custodial Trust Parties pursuant to Sections 106, 107 of CERCLA, 42 U.S.C. §§ 9606, 9607; RCRA §§7002, 7003, 42 U.S.C. § 6972, 6973; and any similar state law; or any liabilities or obligations asserted in the United

States' and States' proofs of claim except as to the Separately Settled Matters. The State of New Mexico further covenants not to sue or assert any civil claims or causes of action against Debtors, the Reorganized Debtors, and the Custodial Trust Parties pursuant to Section 311 of the Clean Water Act, 33 U.S.C. § 1321. With respect to the Dona Ana Site (including releases of hazardous substances from any portion of the Dona Ana Site and all areas affected by natural migration of such substances from the Dona Ana Site), the State of New Mexico further covenants not to sue or assert any civil claims or causes of action against Debtors, the Reorganized Debtors, and the Custodial Trust Parties pursuant to Sections 106, 107 of CERCLA, 42 U.S.C. §§ 9606, 9607; the Resource Conservation and Recovery Act ("RCRA") §§7002, 7003, 42 U.S.C. § 6972, 6973; and any similar state law; or any liabilities or obligations asserted in its proofs of claim and agrees that any liabilities to it under the Dona Ana Stipulation are resolved and released.

22. Arizona has filed Proofs of Claim Nos. 10740, 10741, 10827-10830, 18227, and 18228 under environmental law. This Settlement Agreement and the Settlement Agreement Regarding Miscellaneous Federal and State Environmental Claims resolve upon the Effective Date all of Arizona's claims against Debtors or the Reorganized Debtors under environmental law for the following sites: Helvetia, Flux Mine, Madera Canyon, and Santa Cruz, (collectively, the "Other Arizona Sites") other than NRD claims relating to Mineral Creek and the Gila River allegedly related to releases from the Hayden Smelter and Ray Mine properties (the "Arizona NRD Claims"). The Arizona NRD Claims are being resolved in a separate settlement agreement. Liabilities for the Mission Mine, Ray Mine, Silver Bell Mine, and Hayden Smelter are being or will be assumed by the buyer or successor owner under any plan of reorganization in the Reorganization Cases as provided therein. With respect to the Other Arizona Sites (including

releases of hazardous substances from any portion of the Other Arizona Sites and all areas affected by natural migration of such substances from the Sites), the State of Arizona covenants not to sue or assert any civil claims or causes of action against Debtors, the Reorganized Debtors, and the Custodial Trust Parties pursuant to Sections 106, 107 of CERCLA, 42 U.S.C. §§ 9606, 9607; RCRA §§ 7002, 7003, 42 U.S.C. § 6972, 6973; and any similar state law; or any liabilities or obligations asserted in the state's proofs of claim.

23. The State of Indiana withdraws its claims for the American Chemical Services Sites, Conservation Chemicals Site, and Four County Landfill Site as listed in Proof of Claim No. 9388 and agrees not to assert any further claims against Debtors or the Reorganized Debtors for such Sites.

24. Except as otherwise set forth herein, St. Paul Travelers releases, covenants not to sue, and agrees not to assert any claims or causes of action against Debtors, the Reorganized Debtors, or the Custodial Trust Parties related to the Bond.

25. This Settlement Agreement in no way impairs the scope and effect of Debtors' discharge under Section 1141 of the Bankruptcy Code as to any third parties or as to any claims that are not addressed by this Settlement Agreement.

26. Without in any way limiting the covenants not to sue (and the reservations thereto) set forth in Paragraphs 21-24 and notwithstanding any other provision of this Settlement Agreement, such covenants not to sue shall also apply to Debtors' and Reorganized Debtors' successors, assigns, officers, directors, employees, and trustees, but only to the extent that the alleged liability of the successor, assign, officer, director, employee, or trustee of Debtors or Reorganized Debtors is based solely on its status as and in its capacity as a successor, assign, officer, director, employee, or trustee of Debtors or Reorganized Debtors.

27. The covenants not to sue contained in Paragraphs 21-24 of this Settlement Agreement extend only to Debtors, the Reorganized Debtors, the Custodial Trust Parties and the persons described in Paragraph 26 above and do not extend to any other person. Nothing in this Agreement is intended as a covenant not to sue or a release from liability for any person or entity other than Debtors, or the Reorganized Debtors, the Custodial Trust Parties, the United States, the States, and the persons described in Paragraph 26. Except as provided in Paragraph 10(e)(xii), the United States, the States, Debtors, the Reorganized Debtors, and the Custodial Trust Parties expressly reserve all claims, demands, and causes of action either judicial or administrative, past, present or future, in law or equity, which the United States, States, or Debtors, the Reorganized Debtors, or the Custodial Trust Parties may have against all other persons, firms, corporations, entities, or predecessors of Debtors for any matter arising at or relating in any manner to the Designated Properties and the Sites and/or claims addressed herein.

28. Nothing in this Settlement Agreement shall be deemed to limit the authority of the United States or the States to take response action under Section 104 of CERCLA, 42 U.S.C. § 9604, or any other applicable federal or state law or regulation, or to alter the applicable legal principles governing judicial review of any action taken by the United States or the States pursuant to that authority. Nothing in this Settlement Agreement shall be deemed to limit the information-gathering authority of the United States or the States under Sections 104 and 122 of CERCLA, 42 U.S.C. §§ 9604 and 9622, or any other applicable federal or state law or regulation, or to excuse Debtors or the Reorganized Debtors or the Custodial Trustee from any disclosure or notification requirements imposed by CERCLA or any other applicable federal or state law or regulation.

29. Debtors, the Reorganized Debtors, and the Custodial Trustee covenant not to sue and agree not to assert claims or causes of action against the United States or the States, and Debtors and the Reorganized Debtors covenant not to sue and agree not to assert claims or causes of action against the Custodial Trust Parties, with respect to the Designated Properties and the Sites, including but not limited to any direct or indirect claim for reimbursement from the Superfund (established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507) through CERCLA Sections 106(b)(2), 107, 111, 112, 113, 42 U.S.C. §§ 9606(b), 9607, 9611, 9612, 9613, or any other provision of law; any claims against the United States or the States, including any of their departments, agencies or instrumentalities pursuant to Section 107 or 113 of CERCLA, 42 U.S.C. §§ 9607, 9613; and any claims arising out of the response activities at the Designated Properties or the Sites. Nothing in this Settlement Agreement shall be construed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611 or 40 C.F.R. § 300.700(d).

VII. RESERVATION OF RIGHTS

30. The covenants not to sue set forth in Section VI do not pertain to any matters other than those expressly specified therein. The United States and the States reserve, and this Settlement Agreement is without prejudice to, all rights against Debtors, the Reorganized Debtors, or other persons with respect to all matters other than those set forth in Paragraphs 21-23. The United States and the States also specifically reserve: (a) any action to enforce the terms of this Settlement Agreement; (b) the Separately Settled Matters; and (c) liability for response costs and injunctive relief under CERCLA Sections 106 and 107, RCRA Sections 7002 and 7003 or state laws for Debtors' or the Reorganized Debtors' future acts creating liability under CERCLA, RCRA, or state law that occur after the Closing Date. Debtors' or the Reorganized Debtors'

future acts creating liability under CERCLA, RCRA, or state law do not include continuing releases related to Debtors' conduct prior to the Closing Date. The United States and the States also reserve, and this Settlement Agreement is without prejudice to any liability of Debtors' and Reorganized Debtors' successors, assigns, officers, directors, employees, and trustees for response costs and injunctive relief under CERCLA Sections 106 and 107, RCRA Sections 7002 and 7003, and state laws for any future acts by any such respective entity creating liability under CERCLA, RCRA or state law. Future acts creating liability under CERCLA, RCRA, or state law do not include continuing releases related to these entities' conduct prior to the Closing Date.

31. Subject to the provisions of Subparagraph 10(f) hereof, the United States and the States also reserve all rights against Debtors until the Effective Date (as defined in Subparagraph 9(a) hereof), provided, however, this Paragraph is subject to Paragraph 12(h).

32. Debtors, Reorganized Debtors, and the Custodial Trustee reserve, and this Settlement Agreement is without prejudice to all rights against the United States and States with respect to (a) all matters other than those set forth in Paragraph 29, and (b) any action to enforce their rights under the terms of this Settlement Agreement. In addition, Debtors' and Reorganized Debtors' covenant not to sue under Paragraph 29 shall not apply in the event that the United States or a State brings a cause of action or issues an order pursuant to the reservations set forth in Paragraph 30(b) and (c) or Paragraph 31, but only to the extent that Debtors' or Reorganized Debtors' claims arise from the same response action, response costs, damages, or other relief that the United States or the state is seeking pursuant to the applicable reservations.

33. Nothing in this Settlement Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a party to this Settlement Agreement.

VIII. CONTRIBUTION PROTECTION

34. The parties hereto agree that, as of the Closing Date, Debtors, the Reorganized Debtors, and the Custodial Trust Parties are entitled to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2) or similar state law for matters addressed in this Settlement Agreement. This specifically includes, without limitation, contribution protection against the alleged purchaser of the Whiting Site pursuant to the purported tax sale conducted by Lake County, Indiana.⁹ The matters addressed in this Settlement Agreement include all costs of Environmental Actions, including oversight costs, incurred or to be incurred by the United States and the States or any other person relating to or in connection with the Designated Properties, the Sites, the Not Owned Portions of the Taylor Springs Site, the Other Arizona Sites, and the Dona Ana Site, including releases of hazardous substances from any portion of the Designated Properties and the Sites, the Not Owned Portions of the Taylor Springs Site, the Other Arizona Sites, and the Dona Ana Site, and all areas affected by natural migration of such substances from such sites. Matters addressed in this Settlement Agreement also include the States' claims for NRD including restoration and assessment costs relating to or in connection with the Designated Properties and the Sites except for the Alton, Beckemeyer, Taylor Springs Sites, and Separately Settled Matters. Matters addressed in this Settlement Agreement do not include the City of Murray's claim for maintenance of the road repository containing Category II Waste Materials or maintenance of the Parking Repository at the Murray Site, the City and County of Denver's claims at the Globe Site, and the Separately Settled Matters

IX. PUBLIC COMMENT

⁹ All other provisions of this Settlement Agreement related to the Whiting Site also still apply in the event that the purported tax sale is not reversed.

35. This Settlement Agreement will be subject to a public comment period following notice published in the Federal Register and notice under any applicable under state law providing for public comment, which may take place concurrent with the judicial approval process under Paragraph 36 hereof. The United States and any state taking public comment reserve the right to withdraw or withhold their consent if the public comments regarding the Settlement Agreement disclose facts or considerations that indicate that this Settlement Agreement is inappropriate, improper, or inadequate. At the conclusion of the public comment period, the United States and any state taking public comment will provide the Bankruptcy Court with copies of any public comments and their response thereto.

X. JUDICIAL APPROVAL

36. The settlement reflected in this Settlement Agreement shall be subject to approval by the Bankruptcy Court pursuant to Bankruptcy Rule 9019. ASARCO shall move promptly for court approval of this Settlement Agreement and shall exercise commercially reasonable efforts to obtain such approval.

XI. RETENTION OF JURISDICTION

37. The Bankruptcy Court shall retain jurisdiction over both the subject matter of this Settlement Agreement and the parties hereto, for the duration of the performance of the terms and provisions of this Settlement Agreement for the purpose of enabling any of the parties to apply to the Bankruptcy Court at any time for such further order, direction and relief as may be necessary or appropriate for the construction or interpretation of this Settlement Agreement, or to effectuate or enforce compliance with its terms.

XII. CLOSING DATE

38. This Settlement Agreement shall be effective after the close of the public comment period in accordance with Paragraph 35, and upon approval by the Bankruptcy Court pursuant to Paragraphs 35 and 36 of this Settlement Agreement.

XIII. SIGNATORIES/SERVICE

39. The signatories for the parties each certify that he or she is authorized to enter into the terms and conditions of this Settlement Agreement and to execute and bind legally such party to this document.

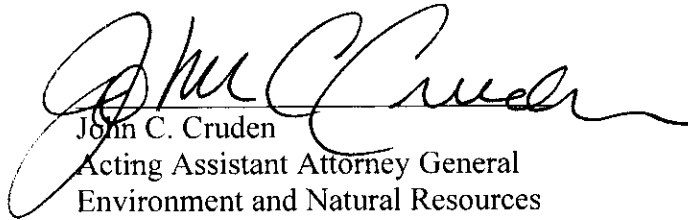
XIV. REPRESENTATIONS

40. St. Paul Travelers represents that it is the parent company of Seaboard Surety Company (“Seaboard”) and is authorized to act for and on behalf of Seaboard to bind Seaboard with respect to the terms of this Settlement Agreement.


THE UNDERSIGNED PARTIES ENTER INTO THIS SETTLEMENT AGREEMENT

FOR THE UNITED STATES

Date: 3/13/09


John C. Cruden
Acting Assistant Attorney General
Environment and Natural Resources
Division
U.S. Department of Justice

Date: 3/10/09


Alan S. Tenenbaum
David L. Dain
Eric D. Albert
Environment and Natural Resources
Division
Environmental Enforcement Section
U.S. Department of Justice

Date: _____

Catherine R. McCabe
Acting Assistant Administrator
Office of Enforcement and Compliance
Assurance

U.S. Environmental Protection Agency

THE UNDERSIGNED PARTIES ENTER INTO THIS SETTLEMENT AGREEMENT

FOR THE UNITED STATES

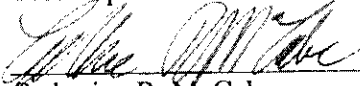
Date: _____

John C. Cruden
Acting Assistant Attorney General
Environment and Natural Resources
Division
U.S. Department of Justice

Date: _____

Alan S. Tenenbaum
David L. Dain
Eric D. Albert
Environment and Natural Resources
Division
Environmental Enforcement Section
U.S. Department of Justice


Date: 2/27/09




Catherine R. McCabe
Acting Assistant Administrator
Office of Enforcement and Compliance
Assurance
U.S. Environmental Protection Agency

FOR ASARCO LLC; ALTA MINING AND DEVELOPMENT COMPANY; AR SACATON, LLC; ASARCO MASTER, INC. (FEDERATED METALS); SALERO RANCH, UNIT III, COMMUNITY ASSOCIATION, INC.; GOVERNMENT GULCH MINING COMPANY, LIMITED; COVINGTON LAND COMPANY; BRIDGEVIEW MANAGEMENT COMPANY, INC; ASARCO OIL AND GAS COMPANY, INC.; AR MEXICAN EXPLORATIONS INC.; AMERICAN SMELTING AND REFINING COMPANY; ALC, INC.; ASARCO CONSULTING, INC.; ENCYCLE, INC.; AND ASARCO, INC.

Date: March 13, 2009


Thomas L. Aldrich
Vice President, Environmental Affairs

Date: March 13, 2009


Douglas E. McAllister
Executive Vice President, General Counsel

FOR LAQ CANADA, LTD.; LAKE ASBESTOS OF QUEBEC, LTD.; LAC D'AMIANTE DU QUEBEC, LTEE.; CEMENT ASBESTOS PRODUCTS COMPANY; CAPCO PIPE COMPANY, INC.

Date: _____

William Perrell
President

FOR ASARCO LLC; ALTA MINING AND DEVELOPMENT COMPANY; AR SACATON, LLC; ASARCO MASTER, INC. (FEDERATED METALS); SALERO RANCH, UNIT III, COMMUNITY ASSOCIATION, INC.; GOVERNMENT GULCH MINING COMPANY, LIMITED; COVINGTON LAND COMPANY; BRIDGEVIEW MANAGEMENT COMPANY, INC; ASARCO OIL AND GAS COMPANY, INC.; AR MEXICAN EXPLORATIONS INC.; AMERICAN SMELTING AND REFINING COMPANY; ALC, INC.; ASARCO CONSULTING, INC.; ENCYCLE, INC.; AND ASARCO, INC.

Date: _____

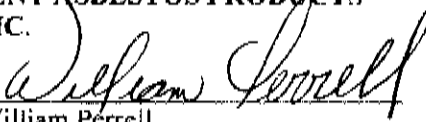
Thomas L. Aldrich
Vice President, Environmental Affairs

Date: _____

Douglas E. McAllister
Executive Vice President, General Counsel

FOR LAQ CANADA, LTD.; LAKE ASBESTOS OF QUEBEC, LTD.; LAC D'AMLANTE DU QUEBEC, LTEE.; CEMENT ASBESTOS PRODUCTS COMPANY; CAPCO PIPE COMPANY, INC.

Date: 3-13-09

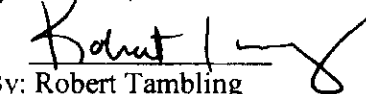


William Perrell
President

FOR THE STATE OF ALABAMA

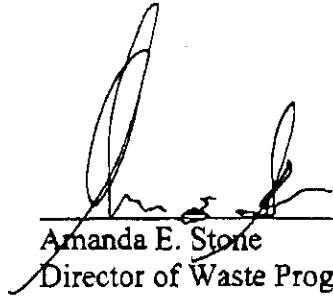
Troy King
Attorney General
State of Alabama

Date: _____


By: Robert Tambling
Assistant Attorney General


FOR THE STATE OF ARIZONA

Date: 3/3/09



Amanda E. Stone
Director of Waste Programs Divisions
Arizona Department of Environmental
Quality

Date: 3/5/09

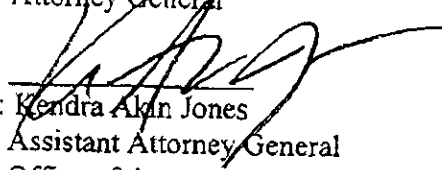


Donald Baier
on behalf of the State Mine Inspector

FOR THE STATE OF ARKANSAS


Date: 2/27/09

Dustin McDaniel
Attorney General


By: Kendra Alan Jones
Assistant Attorney General
Office of the Attorney General
323 Center Street, Suite 400
Little Rock, AR 72201

FOR THE STATE OF COLORADO


Date: Feb 27, 2009


James B. Martin, Executive
Director of Colorado Department
Of Public Health and Environment
For Colorado Hazardous Materials
And Waste Management
Division

FOR THE STATE OF ILLINOIS

FOR THE PEOPLE OF THE STATE OF
ILLINOIS *ex rel.* LISA MADIGAN,
Attorney General of the State of Illinois

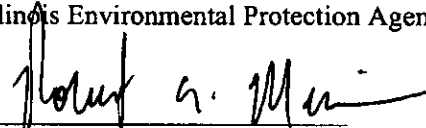
MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

Date: 2/27/09 BY: 

THOMAS DAVIS, Chief
Environmental Bureau

FOR THE ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

DOUGLAS P. SCOTT, Director
Illinois Environmental Protection Agency

BY: 

ROBERT A. MESSINA
Chief Legal Counsel

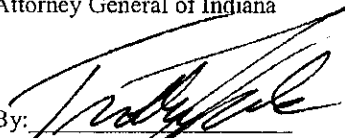
Signature page for Amended Consent Decree and Settlement Agreement,

In re: Asarco, Case No. 05-21207

FOR THE STATE OF INDIANA

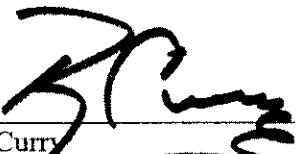
Gregory F. Zoeller
Attorney General of Indiana

Date: 3/2/09

By: 
Timothy J. Link
Deputy Attorney General
Indianapolis, IN

FOR THE STATE OF NEW MEXICO

Date: 3/2/09



Ron Curry
Secretary, ~~New Mexico Department~~
of the Environment

Date: _____

Joanna Prukop
Secretary, New Mexico Energy, Minerals,
and Natural Resources Department

Gary King
New Mexico Attorney General

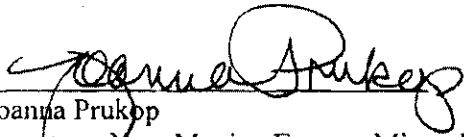
By: _____
Stephen R. Farris
Assistant Attorney General

FOR THE STATE OF NEW MEXICO

Date: _____

Ron Curry
Secretary, New Mexico Department
of the Environment

Date: 03.11.09



Joanna Prukop
Secretary, New Mexico Energy, Minerals,
and Natural Resources Department

Gary King
New Mexico Attorney General

By: _____
Stephen R. Farris
Assistant Attorney General

FOR THE STATE OF NEW MEXICO

Date: _____

Ron Curry
Secretary, New Mexico Department
of the Environment

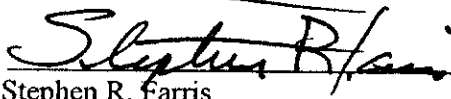
Date: _____

Joanna Prukop
Secretary, New Mexico Energy, Minerals,
and Natural Resources Department

Gary King
New Mexico Attorney General

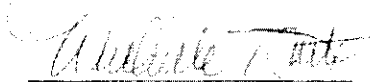
3-11-09

By:


Stephen R. Farris
Assistant Attorney General

FOR THE STATE OF OHIO

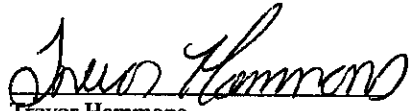
Date: 3/13/09



Michelle T. Sutter
Assistant Attorney General
Environmental Enforcement Section
30 E. Broad Street, 25th Floor
Columbus, OH 43215

FOR THE STATE OF OKLAHOMA

Date: 02/27/09



Trevor Hammons
Assistant Attorney General
Oklahoma Office of the Attorney General
Environmental Protection Unit
313 N.E. 21st Street
Oklahoma City, Oklahoma 73105
Office: (405) 522-4448
Fax: (405) 522-0608

Date: 02/27/09

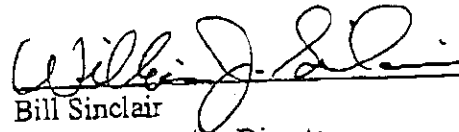


Steven A. Thompson, Executive Director
Oklahoma Department of Environmental Quality
707 N. Robinson
Oklahoma City, Oklahoma 73101

FOR THE STATE OF UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY

Date: 2/19/09

By:



Bill Sinclair
Acting Executive Director
Utah Department of Environmental Quality
168 North 1950 West
P.O. Box 144810
Salt Lake City, Utah 84114-4810

FOR THE STATE OF UTAH NATURAL RESOURCE TRUSTEE

Date: 2/25/09

By:



Dianne Nielson
Utah Natural Resource Trustee

FOR THE STATE OF WASHINGTON

Date: 2-23-09

Robert M. McKenna
Attorney General

Elliott Furst

Elliott Furst
Senior Counsel
Attorney General of Washington
Ecology Division

Field Code Changed

The ASARCO Multi-State Custodial Trustee
By and through LePetomane XXV, Inc., not
individually but solely in the representative capacity
as Trustee of the ASARCO Multi-State Custodial Trust

Date: March 12, 2009 By: Jay A Steinberg *not individually*
but solely as President
Jay A. Steinberg, not individually but solely
in the representative capacity as President
of the Trustee of the Custodial Trust

FOR ST. PAUL TRAVELERS

Date: _____

Name: _____

Position: _____

[THIS PAGE TO BE SUPPLEMENTED]



ENTERED
06/05/2009

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

In re:	§	Case No. 05-21207
	§	
ASARCO LLC, et al.,	§	Chapter 11
	§	
Debtors.	§	Jointly Administered
	§	

ORDER AND JUDGMENT APPROVING AMENDED CONSENT DECREE AND SETTLEMENT AGREEMENT ESTABLISHING A CUSTODIAL TRUST FOR CERTAIN SITES IN ALABAMA, ARIZONA, ARKANSAS, COLORADO, ILLINOIS, INDIANA, NEW MEXICO, OHIO, OKLAHOMA, UTAH, AND WASHINGTON [DOCKET NOS. 10534, 10542, 10642, 11316, 11343, AND 11519]

Upon consideration of the Motion Under Bankruptcy Rule 9019 For Order Approving Settlement of Environmental Claims (the "Motion"); and it appearing that the Court has jurisdiction over this matter; and it appearing that due notice of the Motion has been provided as set forth in the Motion, and that no other or further notice need be provided; and it appearing that public comment on the Multi-State Custodial Trust Settlement Agreement¹, which was originally filed on March 13, 2009 and to which a supplemental version was filed on March 27, 2009, has occurred and the United States has filed its response to comments; and it further appearing that the relief requested in the Motion is in the best interests of the Debtors and their estates and creditors; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefore, for the reasons set forth in the Court's Findings of Fact and Conclusions of Law on Debtors' Motion For Order Approving Settlement of Environmental Claims, it is

¹ All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion.

ORDERED that the Multi-State Custodial Trust Settlement Agreement, which sets forth a settlement of environmental claims by and between the United States, ASARCO, ASARCO Master, Inc., AR Sacaton, LLC, CAPCO, Alta Mining and Development Company, the States of Alabama, Arizona, Arkansas, Colorado, Illinois, Indiana, New Mexico, Ohio, Oklahoma, Utah, and Washington, LePetomane XXV (not individually, but solely in its representative capacity as trustee of the custodial trust), and St. Paul Travelers is approved; and it is further

ORDERED that, the Debtors are authorized to enter into and implement the Multi-State Custodial Trust Settlement Agreement; and it is further

ORDERED that the multi-state custodial trust shall receive a settlement payment totaling \$70,955,493 which shall be treated as an administrative expense priority claim in accordance with Section 1129 of the Bankruptcy Code and be paid in cash, in full on the effective date, and shall have a general unsecured claim of \$177,486; and it is further

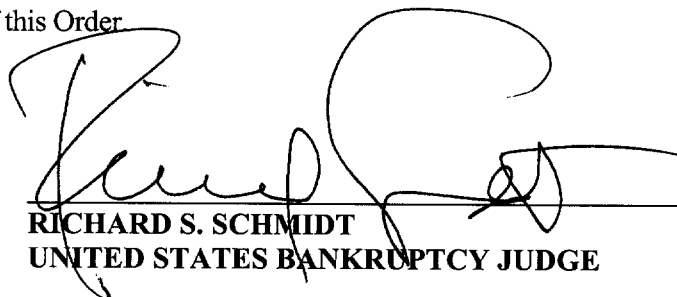
ORDERED that the Multi-State Custodial Trust Settlement Agreement is fair, reasonable, and consistent with environmental law; and it is further

ORDERED that the standards set forth in *Protective Comm. for Independent Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414 (1968) and Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") or other applicable environmental law have been met with regard to the Multi-State Custodial Trust Settlement Agreement; and it is further

ORDERED that the Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order

Dated:

50 June 2009



RICHARD S. SCHMIDT
UNITED STATES BANKRUPTCY JUDGE

ASARCO Owned Sites

Alabama

1. The Ragland site in St. Clair County, Alabama, includes the Ragland Designated Property, any further description in the proofs of claim, and any location at which hazardous substances from this property have come to be located (the “Ragland Site”).

Arizona

2. The Sacaton site in Pinal County, Arizona includes the Sacaton Designated Property, any further description in the proofs of claim, and any location at which hazardous substances from this property have come to be located (the “Sacaton Site”).
3. The Trench Mine site in Santa Cruz County, Arizona, includes the Trench Mine Designated Property, any further description in the proofs of claim, and any location at which hazardous substances from this property have come to be located (the “Trench Mine Site”).
4. The Salero site in Santa Cruz County, Arizona, includes the Salero Designated Property, any further description in the proofs of claim, and any location at which hazardous substances from this property have come to be located (the “Salero Site”).

Arkansas

5. The Van Buren site in Crawford County, Arkansas, includes the Van Buren Designated Property, any further description in the proofs of claim, and any location at which hazardous substances from this property have come to be located (the “Van Buren Site”).

Colorado

6. The Silverton site in San Juan County, Colorado includes the Silverton Designated Property, any further description described in the proofs of claim, and any location at which hazardous substances from this property have come to be located (the “Silverton Site”).
7. The Globe site in Adams and Denver Counties, Colorado in north-central Denver, Colorado includes the Globe Designated Property, any further description in the proofs of claim, and any location at which hazardous substances from this property have come to be located (the “Globe Site”).

**Attachment A
Multi-State Custodial
Trust Settlement Agreement**

Illinois

8. The Beckemeyer site (also known as the Circle Smelting Site) in Clinton County, Illinois, includes the Beckemeyer Designated Property, any further description in the proofs of claim, and any location at which hazardous substances from this property have come to be located (the “Beckemeyer Site”).
9. The Alton site in Madison County, Illinois, includes the Alton Designated Property, any further description in the proofs of claim, and any location at which hazardous substances from this property have come to be located (the “Alton Site”).
10. The Taylor Springs site includes the Taylor Springs Designated Property, any further description in the proofs of claim, and any location at which hazardous substances from this property have come to be located (the “Taylor Springs Site”).

Indiana

11. The Whiting site in Lake County, Indiana, includes the Whiting Designated Property, any further description in the proofs of claim, and any location at which hazardous substances from this property have come to be located (the “Whiting Site”).

New Mexico

12. The Deming site in Luna County, New Mexico includes the Deming Designated Property, any further description in the proofs of claim, and any location at which hazardous substances from this property have come to be located (the “Deming Site”).
13. The Magdalena site in Socorro County, New Mexico includes a historic mine site, capped tailings dam, an old rock house, and open land, any further description in the proofs of claim, and any location at which hazardous substances from this property have come to be located (the “Magdalena Site”).

Ohio

14. The Columbus/Blue Tee site in Crawford County, Columbus, Ohio includes the Columbus Designated Property, and any location at which hazardous substances from this property have come to be located (the “Columbus/Blue Tee Site”).

Oklahoma

15. The Sand Springs site in Tulsa County, Oklahoma includes the Sand Springs Designated Property, any further description in the proofs of claim, and any location at which hazardous substances from this property have come to be located (the “Sand Springs Site”).

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Multi-State Custodial
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Utah

16. The Murray site in Salt Lake County, Utah includes the Murray Designated Property, any further description in the proofs of claim, and any location at which hazardous substances from this property have come to be located (the “Murray Site”).
17. The Gold Hill Site in Toolee County, Utah includes the Gold Hill Designated Property, any further description in the proofs of claim, and any location at which hazardous substances from this property have come to be located (the “Gold Hill Site”).
18. The Belshazzar site in Salt Lake County, Utah includes the Belshazzar Designated Property, any further description in the proofs of claim, and any location at which hazardous substances from this property have come to be located (the “Belshazzar Site”).

Washington

19. The McFarland site in the City of Tacoma in Pierce County, Washington includes the MacFarland Designated Property, any further description in the proofs of claim, and any location at which hazardous substances from this property have come to be located (the “McFarland Site”).

Ragland Designated Property

Situate in the County of St. Clair, State of Alabama.

Begin at the Northeast corner of the Northwest Quarter of the Northeast Quarter of Section 18, Township 15 South, Range 5 East, and run westerly along the North boundary of said Quarter-Quarter Section a distance of 293.23 feet to a point; thence turn an angle of 86° 35' to the left and run southerly a distance of 148.50 feet to a point; thence turn an angle of 37° 46' to the right and run southwesterly a distance of 39.29 feet to the point of beginning of the tract of land herein described. From said point of beginning, continue southwesterly along the last mentioned course a distance of 648.91 feet to a point; thence turn an angle of 21° 00' to the right and run southwesterly a distance of 823.29 feet to a point; thence turn an angle of 57° 18' to the left and run southwesterly a distance of 781.92 feet to a point; thence turn an angle of 90° 00' to the left and run southeasterly a distance of 385.00 feet to a point; thence turn an angle of 90° 00' to the right and run southwesterly a distance of 600.00 feet to a point; thence turn an angle of 90° 00' to the left and run southeasterly a distance of 575.00 feet to a point; thence turn an angle of 86° 12' to the left and run northeasterly a distance of 458.54 feet to a point; thence turn an angle of 4° 20' to the left and run northeasterly a distance of 297.94 feet to a point; thence turn an angle of 0° 01' to the left and run northeasterly a distance of 766.85 feet to a point; thence turn an angle of 3° 01' to the right and run northeasterly a distance of 161.53 feet to a point; thence turn an angle of 5° 12' 30" to the right and run northeasterly a distance of 297.76 feet to a point; thence turn an angle of 0° 09' 30" to the right and run northeasterly a distance of 374.29 feet to the point of beginning.

Salero Designated Property

THAT PORTION OF THE NORTH HALF OF THE BACA LOCATION NO. 3, ALSO KNOWN AS THE **BACA FLOAT NO. 3** IN SANTA CRUZ COUNTY, ARIZONA, ACCORDING TO THE SURVEY BY PHILIP CONTZEN UNDER CONTRACT NO. 133, DATED JUNE 17, 1905, AND NOW FILED AND APPROVED IN THE OFFICE OF THE COMMISSIONER OF THE GENERAL LAND OFFICE, WASHINGTON, D.C., AND A PORTION OF **SALERO RANCH UNIT 3** AS RECORDED IN BOOK 2 OF SURVEYS AT PAGE 236, RECORDS OF SANTA CRUZ COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT MILE STONE NO. 2 OF SAID BACA FLOAT NO. 3, SAID POINT ALSO BEING ON THE NORTH LINE OF LOT 81 OF SAID SALERO RANCH UNIT 3;

THENCE NORTH 89 DEGREES 46 MINUTES 23 SECONDS EAST 1715.00 FEET UPON THE NORTH LINE OF SAID BACA FLOAT NO. 3 AND SAID LOT 81 TO THE **POINT OF BEGINNING** AT THE NORTHEAST CORNER OF SAID LOT 81;

THENCE NORTH 89 DEGREES 46 MINUTES 23 SECONDS EAST 3951.16 FEET UPON SAID NORTH LINE OF BACA FLOAT NO. 3 TO A 2 ½ INCH GLO BCSM STAMPED "CC T21S R14E S12/R15E S18/BF NO. 3 1925";

THENCE EASTERLY 1683.96 FEET UPON SAID NORTH LINE OF SAID BACA FLOAT NO. 3;

THENCE SOUTH 0 DEGREES 14 MINUTES 18 SECONDS WEST 657 FEET, MORE OR LESS;

THENCE SOUTH 39 DEGREES 24 MINUTES 19 SECONDS EAST 592.49 FEET;

THENCE SOUTH 10 DEGREES 37 MINUTES 11 SECONDS WEST 401.47 FEET;

THENCE SOUTH 35 DEGREES 03 MINUTES 34 SECONDS EAST 686.93 FEET;

THENCE SOUTH 13 DEGREES 39 MINUTES 54 SECONDS WEST 882.52 FEET;

THENCE NORTH 75 DEGREES 08 MINUTES 37 SECONDS WEST 944.54 FEET;

THENCE SOUTH 86 DEGREES 25 MINUTES 21 SECONDS WEST 2943.62 FEET;

THENCE NORTH 84 DEGREES 28 MINUTES 17 SECONDS WEST 530.16 FEET TO A POINT ON THE EASTERLY LINE OF LOT 85 OF SAID SALERO RANCH UNIT 3;

THENCE NORTH 84 DEGREES 28 MINUTES 17 SECONDS WEST 957.09 FEET;

THENCE NORTH 62 DEGREES 26 MINUTES 45 SECONDS WEST 1552.23 FEET;

THENCE NORTH 38 DEGREES 16 MINUTES 18 SECONDS WEST 559.73 FEET TO A POINT ON THE SOUTHERLY LINE OF LOT 82 OF SAID SALERO RANCH UNIT 3;

THENCE NORTH 72 DEGREES 53 MINUTES 52 SECONDS EAST 589.35 FEET UPON SAID SOUTHERLY LINE TO THE EASTERLY CORNER OF LOT 82 OF SAID SALERO RANCH UNIT 3, ALSO BEING A CORNER COMMON WITH LOTS 81 AND 83 OF SAID SALERO RANCH UNIT 3;

THENCE UPON THE COMMON LINE BETWEEN SAID LOTS 81 AND 83 THE FOLLOWING 3 DESCRIBED COURSES;

1) THENCE SOUTH 74 DEGREES 04 MINUTES 02 SECONDS EAST 104.46 FEET;

2) THENCE NORTH 87 DEGREES 05 MINUTES 36 SECONDS EAST 160.14 FEET;

3) THENCE SOUTH 41 DEGREES 37 MINUTES 44 SECONDS EAST 228.38 FEET TO THE SOUTHEAST CORNER OF SAID LOT 81;

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Multi-State Custodial
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THENCE NORTH 1 DEGREES 32 MINUTES 29 SECONDS WEST 1557.20 FEET UPON THE EAST LINE OF SAID LOT 81 TO THE **POINT OF BEGINNING**.

ALSO INCLUDED IN THIS PROPERTY ARE LOT 81 – 44.44 ACRES, LOT 82 – 36.46 ACRES, WITH A CARVE OUT OF 5.22 ACRES.

Trench Mine Designated Property

Hardshell No. 7; Josephine; Trench No. 2; Trench No. 3; Trench No. 4; Trench No. 5, Trench No. 6, Trench No. 7; Trench No. 8, Trench Extension No. 1; Trench Extension No. 2; Trench Extension No. 3; and Trench Extension No. 4 lode mining claims, designated as Survey No. 4222, being a portion of Sections 4 and 5, Township 20 South, Range 16 East of the Gila and Salt River Base and Meridian, Santa Cruz County, Arizona.

Sacaton Designated Property

Parcel 1

The West 630 feet of the North 1855 feet of the South 2905 feet of Section 25, Township 5 South, Range 5 East of the Gila and Salt River Meridian, Pinal County, Arizona.

2007 Assessor's Tax Parcel No. 502-25-005A-5

Parcel 2

The South 265.72 feet of the East 1450 feet of the Northeast quarter of Section 26, Township 5 South, Range 5 East of the Gila and Salt River Meridian, Pinal County, Arizona.

2007 Assessor's Tax Parcel No. 502-25-007C-9

Parcel 3

The Southeast quarter of Section 26, Township 5 South, Range 5 East of the Gila and Salt River Meridian, Pinal County, Arizona.

2007 Assessor's Tax Parcel No. 502-25-007A-3

Parcel 4

The Southwest quarter of Section 26, Township 5 South, Range 5 East of the Gila and Salt River Meridian, Pinal County, Arizona.

2007 Assessor's Tax Parcel No. 502-25-008A-2

Parcel 5

The West half of the Southeast quarter of Section 27, Township 5 South, Range 5 East of the Gila and Salt River Meridian, Pinal County, Arizona.

2007 Assessor's Tax Parcel No. 502-36-007-02

Parcel 6

The East half of the Southeast quarter of Section 27, Township 5 South, Range 5 East of the Gila and Salt River Meridian, Pinal County, Arizona.

2007 Assessor's Tax Parcel No. 502-36-008-01

Parcel 7

The Southwest quarter of Section 27, Township 5 South, Range 5 East of the Gila and Salt River Meridian, Pinal County, Arizona.

2007 Assessor's Tax Parcel No. 502-36-006-03

Parcel 8

The North half of Section 34, Township 5 South, Range 5 East of the Gila and Salt River Meridian, Pinal County, Arizona.

2007 Assessor's Tax Parcel No. 502-25-011-09

Parcel 9

The North half; AND the Southeast quarter of Section 35, Township 5 South, Range 5 East of the Gila and Salt River Meridian, Pinal County, Arizona.

2007 Assessor's Tax Parcel Nos. 502-25-013-07; 502-25-014A-4; 502-25-014B-2 and 502-25-015-05

Parcel 10

The Southwest quarter of Section 35, Township 5 South, Range 5 East of the Gila and Salt River Meridian, Pinal County, Arizona.

Except all oil, gas, other hydrocarbon substances, helium or other substances of a gaseous nature, coal, metals, minerals, fossils, fertilizers of every name and description, together with all uranium, thorium or any other material which is or may be determined by the laws of the United States, or of this state, or decisions of court, to be peculiarly essential to the production of fissionable materials, whether or not of commercial value as reserved by the State of Arizona in the Patent recorded in Instrument No. 1995-028658.

2007 Assessor's Tax Parcel No. 502-25-022-06

Parcel 11

That portion of the Northwest quarter of Section 36, Township 5 South, Range 5 East of the Gila and Salt River Meridian, Pinal County, Arizona, described as follows:

Commencing at an aluminum cap stamped L.S. 26049, located in the North quarter corner of said Section 36;

Thence North 89 degrees 43 minutes 54 seconds West, along the North line of the Northwest quarter of said Section 36, a distance of 2657.45 feet to an aluminum cap stamped L.S. 26049, located at the Northwest corner of said Section 36;

Thence departing said West line, South 00 degrees 02 minutes 09 seconds East, along the West line of the Northwest quarter of said Section 36, a distance of 1316.64 feet to the TRUE POINT OF BEGINNING;

Thence South 88 degrees 24 minutes 01 seconds East, a distance of 227.58 feet to a point of curvature of a tangent curve concave to the Southwest;

Thence Southeasterly along the arc of said curve to the right, having a radius of 217.19 feet, with a chord of South 45 degrees 30 minutes 14 seconds East, 295.67 feet and a central angle of 85 degrees 47 minutes 34 seconds for an arc distance of 325.21 feet to a point of tangency;

Thence South 02 degrees 36 minutes 28 seconds East, a distance of 980.73 feet to a point on the arc of a non-tangent curve concave to the Northwest, a radial line of said curve through said point having a bearing of North 89 degrees 40 minutes 59 seconds East;

Thence Southwesterly along the arc of said curve, to the right, having a radius of 123.28 feet, with a chord of South 44 degrees 27 minutes 45 seconds West, 173.67 feet and a central angle of 89 degrees 33 minutes 32 seconds for an arc distance of 192.70 feet to a non-tangent line;

Thence North 89 degrees 27 minutes 17 seconds West, a distance of 360.55 feet to a point on the West line of the Northwest quarter of said Section 36;

Thence North 00 degrees 02 minutes 09 seconds West, along said West line, a distance of 1313.81 feet to the POINT OF BEGINNING.

Except all oil, gas, other hydrocarbon substances, helium or other substances of a gaseous nature, coal, metals, minerals, fossils, fertilizers of every name and description, together with all uranium, thorium or any other material which is or may be determined by the laws of the United States, or of this state, or decisions of court, to be peculiarly essential to the production of fissionable materials, whether or not of commercial value as reserved by the State of Arizona in the Patent recorded in Instrument No. 1995-028658.

2007 Assessors Tax Parcel No. 502-25-021A-5

Parcel 12

Lots 1, 2, 3 and 4; AND the South half of the North half of Section 3, Township 6 South, Range 5 East of the Gila and Salt River Meridian, Pinal County, Arizona.

2007 Assessor's Tax Parcel No. 503-69-001A-5

Parcel 13

The West 215 feet of the Southwest quarter of Section 3, Township 6 South, Range 5 East of the Gila and Salt River Meridian, Pinal County, Arizona.

Except the North 247.5 feet and the West 33 feet thereof.

2007 Assessors Tax Parcel No. 503-69-004B-0

Parcel 14

An easement for road, railroad and drainage ditch over the West 215 feet of the North 247.5 feet of the Southwest quarter of Section 3, Township 6 South, Range 5 East of the Gila and Salt River Meridian, Pinal County, Arizona as granted in instrument recorded in Docket 693, Page 342.

Parcel 15

A 20 foot wide appurtenant, non-exclusive, re-locatable water line easement as granted in Easement Agreement recorded in Instrument No. 2004-049636, lying within Sections 25 and 26, Township 5 South, Range 5 East of the Gila and Salt River Meridian, Pinal County, Arizona, the centerline of which is described as follows:

Commencing at the ½" rebar with RLS aluminum cap found at the Northeast corner of said Section 25, from which the ½" rebar with RLS26049 aluminum cap found at the North quarter corner of said Section 25 bears North 89 degrees 44 minutes 56 seconds West, a distance of 2658.90 feet;

Thence South 00 degrees 00 minutes 39 seconds West, along the West line of the East half of said Section 25, a distance of 29.55 feet to the POINT OF BEGINNING;

Thence departing said West line of the East half of Section 25 South 87 degrees 04 minutes 11 seconds West, a distance of 584.80 feet to a point that is 62.00 feet South of the North line of the East half of said Section 25;

Thence North 89 degrees 44 minutes 56 seconds West along a line 62.00 feet South of the North line of the East half of said Section 25, a distance of 2075.13 feet to a point that is 62.00 feet South of the North line of the West half of said Section 25;

Thence North 89 degrees 44 minutes 05 seconds West along a line 62.00 feet South of the North line of the West half of said Section 25, a distance of 2659.21 feet to a point that is 62.00 feet South of the North line of the East half of said Section 26;

Thence North 89 degrees 52 minutes 39 seconds West along a line 62.00 feet South of the North line of the East half of said Section 26, a distance of 2644.97 feet to a point that is 62.00 feet South of the North line of the West half of said Section 26;

Thence North 89 degrees 52 minutes 37 seconds West along a line 62.00 feet South of the North line of the West half of said Section 26, a distance of 2065.45 feet to the beginning of a curve concave Southeasterly and having a radius of 525.00 feet;

Thence Southwesterly along said curve through a central angle of 89 degrees 13 minutes 28 seconds an arc length of 817.56 feet to a point that is 62.50 feet East of the West line of the North half of said Section 26;

Thence South 00 degrees 53 minutes 55 seconds West along a line 62.50 feet East of the West line of the North half of said Section 26, a distance of 2056.73 feet to a point on the East-West mid-section line of said Section 26 and the POINT OF ENDING.

The easement lines shall be lengthened or shortened to match the West line of said Section 25 at the point of beginning and lengthened or shortened to match the East-West mid-section line of said Section 26 at the point of ending.

Parcel 16

The Northwest quarter of the Northeast quarter of the Northeast quarter of Section 28, Township 5 South, Range 6 East of the Gila and Salt River Meridian, Pinal County, Arizona.

2007 Assessor's Tax Parcel No. 515-28-002

Parcel 17

The Northeast quarter of the Northeast quarter of the Northeast quarter of the Southeast quarter of Section 28, Township 5 South, Range 6 East of the Gila and Salt River Meridian, Pinal County, Arizona.

2007 Assessors Tax Parcel No. 515-28-010-06

Parcel 18

An easement for the location, use, maintenance, repair and replacement of an existing water line and for ingress/egress between Parcels 16 and 17 above, as granted in Instrument No. 2002-052696 and re-recorded in Instrument No. 2002-059438.

Parcel 19

The West 215 feet of the Northwest quarter of the Northwest quarter of Section 10, Township 6 South, Range 5 East of the Gila and Salt River Meridian, Pinal County, Arizona.

2007 Assessors Tax Parcel No. 503-31-004A

Van Buren Designated Property

TRACT I: TRACTS 7, 8, 9 AND 10 OF THE CRAWFORD COUNTY INDUSTRIAL PARK, AS REFLECTED ON PLAT FILED MARCH 18, 1968, AND RECORDED ON PLAT BOOK NO.2, PAGE NO. 18, CRAWFORD COUNTY, ARKANSAS. SAID PROPERTY IS MORE PARTICULARLY DESCRIBED AS FOLLOWS: THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 9 NORTH, RANGE 31 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN CRAWFORD COUNTY, ARKANSAS.

LESS AND EXCEPT A TRACT OF LAND IN THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 9 NORTH, RANGE 31 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN CRAWFORD COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER; THENCE NORTH 01 DEGREES 28 MINUTES 30 SECONDS EAST, 355.73 FEET ALONG THE WEST LINE OF SAID NORTHWEST QUARTER, ALSO BEING THE CENTERLINE OF 28TH STREET, TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID LINE NORTH 01 DEGREES 28 MINUTES 30 SECONDS EAST, 914.14 FEET TO A POINT; THENCE SOUTH 87 DEGREES 59 MINUTES 30 SECONDS EAST, 804.88 FEET TO A POINT; THENCE SOUTH 01 DEGREES 28 MINUTES 30 SECONDS WEST, 441.61 FEET TO A POINT; THENCE SOUTH 88 DEGREES 06 MINUTES 30 SECONDS WEST, 1.76 FEET TO A POINT; THENCE SOUTH 01 DEGREES 28 MINUTES 30 SECONDS WEST, 60.69 FEET TO A POINT; THENCE SOUTH 88 DEGREES 06 MINUTES 30 SECONDS WEST, 23.32 FEET TO A POINT; THENCE SOUTH 01 DEGREES 28 MINUTES 30 SECONDS WEST, 409.75 FEET TO A POINT; THENCE SOUTH 88 DEGREES 06 MINUTES 30 SECONDS WEST, 154.33 FEET TO A POINT; THENCE SOUTH 01 DEGREES 28 MINUTES 30 SECONDS WEST, 117.56 FEET TO A POINT; THENCE SOUTH 88 DEGREES 06 MINUTES 30 SECONDS WEST, 410.12 FEET TO A POINT; THENCE SOUTH 01 DEGREES 28 MINUTES 30 SECONDS EAST, 117.11 FEET TO A POINT; THENCE SOUTH 88 DEGREES 06 MINUTES 30 SECONDS WEST, 218.86 FEET TO THE POINT OF BEGINNING.

TRACT 2: THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 9 NORTH, RANGE 31 WEST.

TRACT 3: THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 9 NORTH, RANGE 31 WEST.

TRACT 4: THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 9 NORTH, RANGE 31 WEST.

Globe Designated Property

ADAMS PARCELS:

All of that part of the South Half of the North Half of the Northeast Quarter, and the East Half of the Southwest Quarter of the Northeast Quarter, and the Southeast of the Northeast Quarter of Section 15, Township 3 South, Range 68 West of the Sixth Principal Meridian lying Northeasterly and Easterly of Colorado & Southern Globeville Industrial Subdivision according to the plat thereof recorded June 23, 1978 at Reception No. B140397,

EXCEPT the ditch and right of way formerly called The Table Mountain Water Company Ditch now known as The Rocky Mountain Water Company ditch as conveyed to United Water Co. by Deed recorded May 26, 1917 in Book 87 at Page 357,

AND EXCEPT the Highway as conveyed to The State Highway Department by Deed recorded September 3, 1949 in Book 380 at Page 155 and to Department of Transportation, State of Colorado by Deed recorded July 22, 1996 in Book 4798 at Page 503 as Reception No. C0195611,

County of Adams, State of Colorado.

DENVER PARCEL:

A parcel of land in Section 15, Township 3 South, Range 68 West of the 6th P.M. described as follows:

Beginning at a point in the North Half of the Northeast Quarter of the Southeast Quarter of said Section 15 which is 60 feet West and 200 feet North of the Southeast corner of said North Half; thence North to the North line of said North Half; thence West to the East line of the Railroad right of way; thence Southerly on the said right of way to a point 80.78 feet South and 227.7 feet East of the Northwest corner of said North Half; thence North 85° 21' West 11 feet; thence South 04° 39' West 300 feet; thence South 85° 21' East 11 feet; thence Southerly on the railroad right of way to the North line of 51st Avenue; thence East to a point 125 feet West of the West line of Washington Street; thence North 170 feet; thence East 125 feet to the Point of Beginning,

EXCEPT the ditch and right of way formerly called The Table Mountain Water Company Ditch now known as The Rocky Mountain Water Company Ditch as conveyed to United Water Co. by Deed recorded in the Adams County records May 26, 1917 in Book 87 at Page 357,

City and County of Denver, State of Colorado.

Silverton Designated Property

The following is a summary, from Patent to Plant Date of 2-19-08 of all relevant documents found of record in the San Juan County, Colorado office of Clerk & Recorder pertaining to the ownership of the lands referenced below. The summaries shown are drawn from an examination of the available documents but do not constitute a legal opinion as to ownership.

SUBJECT PROPERTIES:

Mining Claims
San Juan County, Colorado

Parcel # 48290220010002

Algiers - 11469
Badger - 11448
Emma - 238
Galena - 11448
Jocko - 14163
Last Chance - 11448
Lowville - 5529A
Nevada - 8530
Nevada Ext - 8497
New York City - 9104
Professor Newberry - 14046
Rochester - 4764
Round Mountain - 5110
Smyrna - 5571A

Parcel # 48290260010001

American Boy - 7244 (undivided 2/3 interest)
Barbadoes - 14036
Buckeye - 232
Buckeye No. 2 - 7896
Club - 12978
Cub - 12193
Dandy - 7896
Elk - 12977
Exploit - 12946
General Merritt - 14030
Grip - 6647
Hillside - 12946
Homestake - 5471
Jaffa - 12122A
Lake Shore - 13064
Last Chance Amd- 7896
Last Chance - 12193

**Attachment B
Multi-State Custodial
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Manila - 14030
Melville - 12353
Panuco - 7896
Professor Wedding - 11469
Professor Weisback - 11469
Professor Zeuner - 11469
Royal Tiger - 48
Tiger Ext No. 2 - 14036

Parcel # 48290230010001
Arabian Boy - 6994
Black Diamond - 4811
Dump - 9843A
Eckley Coxe - 14066
Essex Street - 9106A
Freiberg - 14047
Galycia Boy - 13139
General Hale - 14066
General Miles - 14066
Gretchen - 2163
J.W. Collins - 6561
Key - 13065
Lake Side - 12818
Professor Percy - 14066
Professor Stelzner - 7568
Rivington Street - 9003
Royal - 6198
Royal Tiger No. 1 - 769
Silver Lake - 2164
Silver Lake Spur - 6994
Whale - 4764
White Diamond - 13011
Stag - 6646

Parcel # 48290230010011
Cremorne - 827
North Star Ext - 7772

Parcel # 48290000010024
Bear - 280
Cairo - 11469
Carolina - 5569A
Seymour - 96
Solstice - 5571
Titusville - 403

**Attachment B
Multi-State Custodial
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Parcel # 48290140010003
Big Giant Ext - 14320

Parcel # 48290210010002
Demosthenes - 14196
Pompeii - 404
Pyramid - 2461
Pyramid No. 2 - 14220
Pyramid No. 3 - 14220

Parcel # 48290140010033
Dreadnaught - 14320
General Garfield - 828

Parcel # 48290100010004
Marcia L. MS - 8801B
Rochester MS - 8592B
San Juan - 15112

Beckemeyer Designated Property

Part of the North One Half of the Northwest Quarter of Section 22, Township 2 North, Range 3 West, of the Third Principal Meridian, Clinton County, Illinois, more particularly described as follows:

Commencing at a PK nail marking the Northwest corner of said Northwest Quarter of Section 22; thence South 00 Degrees 12 Minutes 28 Seconds West along the West line of said Quarter for a distance of 33.00 feet; thence North 88 Degrees 22 Minutes 37 Seconds East for a distance of 29.92 feet to an iron pin marking the Southeast corner of Harper Street and S.B.I. Route 12 (old U.S. Route 50); thence North 88 Degrees 22 Minutes 37 Seconds East along the south right of way line of said S.B.I. Route 12 for a distance of 1140.83 feet (recorded as 1130.1 feet) to an iron pin marking the Northwest corner of a tract of land described in Document No. 98R2096; thence continuing North 88 Degrees 22 Minutes 37 Seconds East along said right of way line for a distance of 1497.20 feet to a concrete monument (No. 8) on the East line of said Northwest Quarter and being the POINT OF BEGINNING of the tract of land to be described; thence South 01 Degree 04 Minutes 24 Seconds East along said East line of the Northwest Quarter for a distance of 575.00 feet; thence South 88 Degrees 22 Minutes 37 Seconds West for a distance of 450.00 feet; thence North 01 Degree 04 Minutes 24 Seconds West for a distance of 575.00 feet to a point on said South right of way line of S.B.I. Route 12; thence North 88 Degrees 22 Minutes 37 Seconds East along said right of way line for a distance of 450.00 feet to the point of beginning containing 5.94 acres more or less.

The Beckemeyer Designated Property will also include the adjacent land described below if ASARCO LLC purchases such land before the Effective Date:

Part of the North Half of the Northwest Quarter of Section 22, Township 2 North, Range 3 West of the Third Principal Meridian, Clinton County, Illinois, being more particularly described as follows:

Commencing at the intersection of the south right-of-way line of Old Route 50 with the east line of said Quarter; thence southerly along said east line having a recorded bearing of S. 01°-04'-24" E. 575.00 feet to the point of beginning, said point being the southeast corner of an existing 5.94 Acre Tract; thence continuing S. 01°-04'-24" E. along said east line 160.23 feet; thence S. 88°-22'-37" W. 450.00 feet; thence N. 01°-04'-24" W. 160.23 feet to the southwest corner of said 5.94 Acre Tract; thence N. 88°-22'-37" E. along the south line of said 5.94 Acre Tract 450.00 feet to the point of beginning.

Containing 1.65 Acres, more or less.

Alton Designated Property

Parcel 1:

that part of section 18, township 5 north, range 9 west of the third principal meridian, Madison County, Illinois, described as follows:

beginning at a point on the line known as the Powder House Line, where said line intersects the southwesterly line of the right of way of the Chicago, Peoria & St. Louis Railway of Illinois; thence southerly on and along the said Powder House Line 13 chains and 31 links, more or less, to a stone on the east or left bank of the Mississippi River; thence in a southeasterly direction along the bank of the Mississippi River, 2.64 chains, more or less, to a stone set where the south line of said section 18, township 5, range 9 intersects the said bank of said river; thence easterly along the southerly line of said section 18, 35 chains and 82 links, more or less, to a point where the south line of said section 18 intersects the southwesterly line of the right of way of the Chicago, Peoria & St. Louis Railway of Illinois; thence northwesterly along said right of way of said railway 40.7 chains, more or less, to the place of beginning; except that part in the southeast 1/4 of section 18, township 5 north, range 9 west of the third principal meridian, Madison County, Illinois.

Parcel 2:

that part of the northwest 1/4 of section 19, township 5 north, range 9 west of the third principal meridian, Madison County, Illinois, bounded on the north by the north line of said section 19; bounded on the east by the east line of the northwest 1/4 of said section 19; bounded on the south by a northerly line of the property conveyed by deed from American Smelting and Refining Company to Illinois Power Company recorded January 4, 1972 as document number 187-6308 book 2803 page 159, said line described as commencing at a concrete monument at the center of said fractional section 19; thence north 0 degrees 55 minutes west along said half section line a distance of 1637.08 feet to a point which is approximately 1067 feet southerly from the north line of said fractional section 19; said point being the point of beginning; thence south 89 degrees 59 minutes west parallel to the north line of said fractional section a distance of 1592.07 feet to a point in the east property line of the Alton Boxboard Company, being also on the southerly prolongation of what is known as the Powder House Line where the center line of a sanitary sewer easement to the City of Alton, Illinois intersects the same; said point being the terminus of the line demarking the south boundary of the described parcel; and bounded on the west by the southerly prolongation of the Powder House Line, Madison County, Illinois.

Taylor Springs Designated Property

Parcel 1:

The east 1/2 of the east 1/2 of the southwest 1/4 of the southwest 1/4, the southeast 1/4 of the southwest 1/4, and the south 30 acres of the southwest 1/4 of the southeast 1/4, excepting therefrom the south 70 feet of the east 167 feet thereof, sold to the Trustees of the First Presbyterian Church of Hillsboro, Illinois, and also excepting therefrom part of the southwest quarter of the southeast quarter described as follows:

Commencing at the southeast corner of the southwest quarter of said southeast quarter; thence north 00 degrees 00 minutes east along the east line of the southwest quarter of said southeast quarter, a distance of 70.00 feet to the point of beginning; thence north 89 degrees 23 minutes 45 seconds west, a distance of 167.00 feet; thence north 00 degrees 00 minutes 00 seconds east, a distance of 160.00 feet; thence south 89 degrees 23 minutes 45 seconds east, a distance of 167.00 feet to the east line of the southeast quarter of said southeast quarter; thence south 00 degrees 00 minutes 00 seconds west, along said east line, a distance of 160.0 feet to the point of beginning, all in section 14, township 8 north, range 4 west of the third principal meridian, in Montgomery County, Illinois.

Parcel 2A:

All that part of the northeast quarter of the northeast quarter of section 22 which lies east of Shoal Creek, containing 17 acres, more or less;
the west half of the northwest quarter of section 23;
the southeast quarter of the northwest quarter of section 23;
the south 5 acres of the northeast quarter of the northwest quarter of section 23;
all that part of the east half of section 23 described as follows:

Beginning at the center of said section 23, thence north along the center line of said section 23 to the north line of the southwest quarter of the northeast quarter of said section 23; thence east along the north line of said last described quarter-quarter section, 1185 feet, more or less to the westerly right of way line of the Chicago, Indianapolis & St. Louis Short Line Railway Company; thence southwesterly along the westerly line of said right of way to the north and south center line of said section 23; and thence north along said center line 650 1/2 feet more or less to the place of beginning;
the north 35 acres of the northeast quarter of the northwest quarter of section 23;
that part of the northwest quarter of the northeast quarter of section 23 described as follows:
beginning at a point 975 feet south of the northwest corner of said last described quarter-quarter section, thence east 943 feet more or less to the west line of Washington Street in W.A. Frame's First Addition to Frametown; thence south 323 feet more or less to a point due west of the southwest corner of block 4 in said W.A. Frame's First Addition to Frametown; thence east 266 feet more or less to the westerly right of way line of the Chicago, Indianapolis & St. Louis Short Line Railway Company; thence southwesterly along the westerly line of said right of way to the south line of said last described quarter-quarter section; thence west 1185 feet more or less to the southwest corner of said last described quarter-quarter section; thence north 350 feet more or less

to the place of beginning, all in township 8 north, range 4 West of the third principal meridian, in Montgomery County, Illinois.

Parcel 2B:

Lots 1, 2, 3, 4, 5, and 6 in block 4 in W.A. Frame's First Addition to Frametown; and the south half of vacated William Street lying north of and adjoining lots 1 and 2 of said subdivision.

Parcel 3:

The east 1/2 of the southeast quarter of section 22; all of the southwest quarter of section 23 (excepting therefrom 6.01 acres conveyed to John C. Davie for railroad right of way by warranty deed dated February 13, 1903 recorded in deed record 79 at page 248 of the records of Montgomery County, Illinois,) in township 8 north range 4 west of the third principal meridian, situated in the County of Montgomery, State of Illinois; and also excepting part of the southwest quarter of section 23, township 8 north, range 4 west of the third principal meridian, Montgomery County, Illinois, described as follows:

Beginning at the southeasterly corner of said southwest quarter; thence south 89 degrees 51 minutes 50 seconds west (bearings are assumed for descriptive purposes only) along the southerly line of said southwest quarter a distance of 1,076.92 feet to a point in the southeasterly right of way line of the former Chicago, Indianapolis & St. Louis Short Line Railway Company, and being 75 feet normally distant southeasterly from the centerline of said Chicago, Indianapolis & St. Louis Short Line Railway Company right of way; thence north 31 degrees 09 minutes 07 seconds east along said southeasterly line, being parallel to and 75 feet southeasterly distant from said centerline a distance of 760.42 feet to a point; thence north 58 degrees 50 minutes 53 seconds west and continuing along said southeasterly line a distance of 25.00 feet to a point being 50 feet southeasterly distant from said centerline; thence north 31 degrees 09 minutes 07 seconds east and continuing along said southeasterly line, now being parallel to and 50 feet southeasterly distant from said centerline, a distance of 1,371.05 feet to a point in the easterly line of the aforesaid southwest quarter; thence south 00 degrees 08 minutes 06 seconds west along said easterly line of said northeast quarter a distance of 1,834.49 feet to the point of beginning, situated in Montgomery County, Illinois.

Parcel 4:

Lots 6 and 9 in block 1 in Daylight Addition to the Village of Taylor Springs, Montgomery County, Illinois.

Parcel 5:

Lots 9, 23, 26, 31, 37 and 38 in block 2 and lots 1 and 19 in block 3 in Daylight Addition to the Village of Taylor Springs, in Montgomery County, Illinois.

Parcel 7:

The southwest quarter of the southeast quarter of section 23, township 8 north, range 4 west of the third principal meridian, in Montgomery County, Illinois, except that part of said southeast quarter described as follows:

Beginning at the northeasterly corner of said southeast quarter; thence south 00 degrees 01 minute 01 second west (bearings are assumed for descriptive purposes only) along the easterly line of said southeast quarter a distance of 1,315.95 feet to the northeasterly corner of the southeast quarter of the southeast quarter of said section 23; thence north 89 degrees 49 minutes 41 seconds west along the northerly line of said southeast quarter of the southeast quarter a distance of 1,304.94 feet to the northwesterly corner of said southeast quarter of the southeast quarter; thence south 00 degrees 04 minutes 04 seconds west along the westerly line of said southeast quarter of the southeast quarter, a distance of 1,324.73 feet to the southwestly corner of said southeast quarter of the southeast quarter; thence south 89 degrees 51 minutes 50 seconds west along the southerly line of said southeast quarter a distance of 1,306.90 feet to the southwestly corner of said southeast quarter; thence north 00 degrees 08 minutes 06 seconds east along the westerly line of said southeast quarter a distance of 645.50 feet to a point; thence north 89 degrees 56 minutes 53 seconds east a distance of 127.01 feet to a point; thence north 32 degrees 44 minutes 09 seconds east a distance of 163.88 feet to a point; thence north 82 degrees 42 minutes 37 seconds east a distance of 746.33 feet to a point; thence north 00 degrees 36 minutes 49 seconds west a distance of 415.47 feet to a point; thence north 51 degrees 12 minutes 17 seconds west a distance of 250.58 feet to a point; thence south 89 degrees 38 minutes 24 seconds west a distance of 232.76 feet to a point; thence south 34 degrees 53 minutes 42 seconds west a distance of 270.42 feet to a point; thence north 89 degrees 58 minutes 50 seconds west a distance of 367.34 feet to a point in the aforesaid westerly line of the southeast quarter; thence north 00 degrees 08 minutes 06 seconds east along said westerly line of the southeast quarter a distance of 607.00 feet to a point in the southeasterly right of way line of the former Chicago, Indianapolis & St. Louis Short Line Railway Company, said point being 50 feet normally distant southeasterly from the centerline of said former Chicago, Indianapolis & St. Louis Short Line Railway Company right of way; thence north 31 degrees 09 minutes 07 seconds east along said southeasterly right of way line, being parallel to and 50 feet normally distant southeasterly from the centerline of said former Chicago, Indianapolis & St. Louis Short Line Railway Company right of way, a distance of 721.79 feet to a point; thence south 58 degrees, 50 minutes 53 seconds east a distance of 150.00 feet to a point; thence north 31 degrees 09 minutes 07 seconds east along a line 200 feet normally distant southeasterly from and parallel to said centerline of the former Chicago, Indianapolis & St. Louis Short Line Railway Company right of way, a distance of 330.48 feet to a point in the northerly line of the aforesaid southeast quarter; thence south 89 degrees 28 minutes 51 seconds east along said northerly line of the aforesaid southeast quarter a distance of 1,936.83 feet to the point of beginning.

Whiting Designated Property

PARCEL 1: PART OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 7, TOWNSHIP 37 NORTH, RANGE 9 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN LAKE COUNTY, INDIANA, DESCRIBED AS FOLLOWS; BEGINNING AT THE INTERSECTION OF THE CENTER LINE OF INDIANAPOLIS BOULEVARD (FORMERLY INDIANA BOULEVARD) WITH THE SOUTH LINE OF THE RIGHT-OF-WAY OF THE INDIANA HARBOR BELT RAILROAD; THENCE WESTERLY ALONG THE SOUTH LINE OF THE RIGHT-OF-WAY, A DISTANCE OF 1655.25 FEET; THENCE SOUTHERLY PARALLEL WITH THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION, 669.65 FEET TO THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION, 1775.35 FEET TO THE CENTER LINE OF NEW YORK AVENUE; THENCE NORTHERLY ALONG THE CENTERLINE OF NEW YORK AVENUE, 514.87 FEET TO THE INTERSECTION OF THE CENTERLINE OF NEW YORK AVENUE, WITH THE CENTER LINE OF INDIANAPOLIS BOULEVARD; THENCE NORTHWESTERLY ALONG THE CENTER LINE OF INDIANAPOLIS BOULEVARD, 194.1 FEET TO THE PLACE OF BEGINNING, EXCEPTING THEREFROM THE LAND HERETOFORE CONVEYED BY OLIVER O. FORSYTH, GUARDIAN OF GEORGE W. FORSYTH, TO THE INDIANA HARBOR BELT RAILROAD COMPANY BY DEED DATED APRIL 14, 1917 AND RECORDED MAY 3, 1917 IN DEED RECORD 231, PAGE 385, IN THE CITY OF HAMMOND, LAKE COUNTY, INDIANA.

PARCEL 2: AN IRREGULAR SHAPED PARCEL OF LAND SITUATED IN THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 7, TOWNSHIP 37 NORTH, RANGE 9 WEST OF THE 2ND PRINCIPAL MERIDIAN IN THE CITY OF HAMMOND, LAKE COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION AND THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTHEAST 1/4; THENCE EASTERLY ALONG THE SAID SOUTH LINE OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION , A DISTANCE OF 1243.15 FEET, MORE OR LESS, TO A POINT IN THE WESTERLY LINE OF THE 66 FOOT STRIP OF RIGHT-OF-WAY OF THE INDIANA HARBOR BELT RAILROAD COMPANY AS CONVEYED BY OLIVER O. FORSYTH, GUARDIAN OF HENRY P. FORSYTH TO THE INDIANA HARBOR BELT RAILROAD COMPANY BY DEED DATED APRIL 14, 1917 AND RECORDED IN THE RECORDER'S OFFICE OF LAKE COUNTY, INDIANA, ON MAY 3, 1917 IN DEED RECORD 231, PAGE 382; THENCE SOUTHERLY ALONG SAID WEST LINE OF THE INDIANA HARBOR BELT RAILROAD COMPANY 66 FOOT STRIP OF RIGHT-OF-WAY A DISTANCE OF 356.46 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG A CURVE CONVEX TO THE NORTHEAST, HAVING A RADIUS OF 287.94 FEET AND TANGENT TO THE LAST DESCRIBED LINE AT SAID POINT OF CURVE, A DISTANCE OF 454.81 FEET TO A POINT OF TANGENCY IN A LINE PARALLEL TO AND DISTANT, BY RECTANGULAR MEASUREMENT, 66 FEET FROM THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION; THENCE WESTERLY ALONG SAID PARALLEL LINE A DISTANCE OF 952.73 FEET, MORE OR LESS, TO A POINT IN THE WEST LINE OF THE SOUTHEAST 1/4; THENCE NORTHERLY ALONG SAID WEST LINE OF SAID SOUTHEAST 1/4 A DISTANCE OF 66 FEET TO A PLACE OF BEGINNING.

PARCEL 3: A RECTANGULAR SHAPED PARCEL OF LAND SITUATED IN THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 7, TOWNSHIP 37 NORTH, RANGE 9 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN THE CITY OF HAMMOND, LAKE COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION. OF THE EASTERLY LINE OF THE 66 FOOT STRIP OF RIGHT-OF-WAY OF THE INDIANA HARBOR BELT RAILROAD COMPANY AS CONVEYED BY OLIVER O. FORSYTH, GUARDIAN OF HENRY P. FORSYTH, TO THE INDIANA HARBOR BELT RAILROAD COMPANY, BY DEED DATED APRIL 14, 1917 AND RECORDED IN THE RECORDER'S OFFICE OF LAKE COUNTY, INDIANA, ON MAY 3, 1917 IN DEED RECORD 231, PAGE 382; AND THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTHEAST 1/4; THENCE EASTERLY ALONG SAID SOUTH LINE OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 A DISTANCE OF 650.60 FEET, MORE OR LESS, TO A POINT IN THE CENTER LINE OF NEW YORK AVENUE; THENCE SOUTHERLY ALONG THE CENTER LINE OF NEW YORK AVENUE, A DISTANCE OF 66 FEET; THENCE WESTERLY ALONG A LINE PARALLEL TO AND DISTANT BY RECTANGULAR MEASUREMENT 66 FEET FROM THE SOUTH LINE

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OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION, A DISTANCE OF 650.72 FEET, MORE OR LESS, TO A POINT IN THE EASTERLY LINE OF THE 66 FOOT STRIP OF RIGHT-OF-WAY OF THE INDIANA HARBOR BELT RAILROAD COMPANY; THENCE NORTHERLY ALONG SAID EASTERLY LINE OF THE 66 FOOT RIGHT-OF-WAY OF THE INDIANA HARBOR BELT RAILROAD COMPANY, A DISTANCE OF 66 FEET TO THE PLACE OF BEGINNING.

PARCEL 4: A RECTANGULAR SHAPED PARCEL OF LAND SITUATED IN THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 7, TOWNSHIP 35 NORTH, RANGE 9 WEST OF THE SECOND PRINCIPAL MERIDIAN IN THE CITY OF HAMMOND, LAKE COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION AND THE SOUTHERLY LINE OF THE 66 FOOT STRIP OF RIGHT-OF-WAY OF THE INDIANA HARBOR BELT RAILROAD COMPANY; THENCE EASTERLY ALONG SAID SOUTHERLY LINE OF THE 66 FOOT STRIP OF RIGHT-OF-WAY OF THE INDIANA HARBOR BELT RAILROAD COMPANY, A DISTANCE OF 183.65 FEET, MORE OR LESS, TO A POINT IN THE WESTERLY LINE OF PROPERTY CONVEYED BY F.E.D. CORPORATION TO FEDERATED METALS CORPORATION BY DEED DATED NOVEMBER 30, 1932 AND RECORDED IN THE RECORDER'S OFFICE OF LAKE COUNTY, INDIANA, ON DECEMBER 8, 1932 IN DEED RECORD 500, PAGE 574; THENCE SOUTHERLY ALONG SAID WESTERLY LINE OF AFORESAID PROPERTY A DISTANCE OF 669.65 FEET TO THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION; THENCE WESTERLY ALONG SAID SOUTH LINE OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 A DISTANCE OF 183.65 FEET, MORE OR LESS, TO THE WEST LINE OF THE SOUTHEAST 1/4; THENCE NORTHERLY ALONG THE SAID WEST LINE OF THE SOUTHEAST 1/4 A DISTANCE OF 669.97 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

PARCEL 5: AN IRREGULAR SHAPED PARCEL OF LAND SITUATED IN THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 7, TOWNSHIP 37 NORTH, RANGE 9 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN THE CITY OF HAMMOND, LAKE COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION AND A LINE PARALLEL TO AND DISTANT BY RECTANGULAR MEASUREMENT, 66 FEET SOUTHERLY FROM THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTHEAST 1/4; THENCE EASTERLY ALONG THE SAID PARALLEL LINE A DISTANCE OF 952.73 FEET, TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY ALONG A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 287.94 FEET AND TANGENT TO THE LAST DESCRIBED LINE AT SAID POINT OF CURVE A DISTANCE OF 454.81 FEET TO A POINT OF TANGENCY IN THE WESTERLY LINE OF THE 66 FOOT STRIP OF RIGHT-OF-WAY OF THE INDIANA HARBOR BELT RAILROAD COMPANY AS CONVEYED BY OLIVER O. FORSYTH, GUARDIAN OF HENRY P. FORSYTH, TO THE INDIANA HARBOR BELT RAILROAD COMPANY, BY DEED DATED APRIL 14, 1917 AND RECORDED IN RECORDER'S OFFICE OF LAKE COUNTY, INDIANA ON MAY 3, 1917 IN DEED RECORD 231, PAGE 382; THENCE SOUTHERLY ALONG SAID WEST LINE OF THE INDIANA HARBOR BELT RAILROAD COMPANY 66 FOOT STRIP OF RIGHT-OF-WAY A DISTANCE OF 100.01 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG A CURVE CONVEX TO THE NORTHEAST, HAVING A RADIUS OF 287.94 FEET AND TANGENT TO THE LAST DESCRIBED LINE AT SAID POINT OF CURVE, A DISTANCE OF 454.81 FEET, TO A POINT OF TANGENCY IN A LINE PARALLEL TO AND DISTANT, BY RECTANGULAR MEASUREMENT, 166 FEET SOUTHERLY FROM THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION; THENCE WESTERLY ALONG SAID PARALLEL LINE A DISTANCE OF 952.79 FEET, MORE OR LESS TO THE WEST LINE OF THE SOUTHEAST 1/4; THENCE NORTHERLY ALONG SAID WEST LINE OF SOUTHEAST 1/4 A DISTANCE OF 100 FEET TO THE PLACE OF BEGINNING.

PARCEL 6: A RECTANGULAR SHAPED PARCEL OF LAND SITUATED IN THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 7, TOWNSHIP 37 NORTH, RANGE 9 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN THE CITY OF HAMMOND, LAKE COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS; BEGINNING AT THE INTERSECTION OF THE EASTERLY LINE OF THE 66 FOOT STRIP OF RIGHT-OF-WAY OF THE INDIANA HARBOR BELT RAILROAD COMPANY, AS

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CONVEYED BY OLIVER O. FORSYTH, GUARDIAN OF HENRY P. FORSYTH, TO THE INDIANA HARBOR BELT RAILROAD COMPANY, BY DEED DATED APRIL 14, 1917 AND RECORDED IN RECORDER'S OFFICE OF LAKE COUNTY, INDIANA ON MAY 3, 1917 IN DEED RECORD 231, PAGE 382 AND A LINE PARALLEL TO AND DISTANT BY RECTANGULAR MEASUREMENT, 66 FEET SOUTHERLY FROM THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION; THENCE EASTERLY ALONG SAID PARALLEL LINE A DISTANCE OF 650.72 FEET, MORE OR LESS, TO A POINT IN THE CENTER LINE OF NEW YORK AVENUE; THENCE SOUTHERLY ALONG THE CENTER LINE OF NEW YORK AVENUE A DISTANCE OF 100 FEET; THENCE WESTERLY ALONG A LINE PARALLEL TO AND DISTANT, BY RECTANGULAR MEASUREMENT, 166 FEET SOUTHERLY FROM THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION, A DISTANCE OF 650.90 FEET, MORE OR LESS, TO A POINT IN THE EASTERLY LINE OF THE 66 FOOT STRIP OF RIGHT-OF-WAY OF THE INDIANA HARBOR BELT RAILROAD COMPANY; THENCE NORTHERLY ALONG SAID EASTERLY LINE OF THE 66 FOOT STRIP OF RIGHT-OF-WAY OF THE INDIANA HARBOR BELT RAILROAD COMPANY, A DISTANCE OF 100 FEET TO THE PLACE OF BEGINNING.

PARCEL 7: AN IRREGULAR SHAPED PARCEL OF LAND SITUATED IN THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 7, TOWNSHIP 37 NORTH, RANGE 9 WEST OF THE 2ND PRINCIPAL MERIDIAN, IN THE CITY OF HAMMOND, LAKE COUNTY, INDIANA; MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF THE PRESENT 66 FOOT STRIP OF RIGHT-OF-WAY OF THE INDIANA HARBOR BELT RAILROAD COMPANY AT THIS PLACE AND THE SOUTHWESTERLY LINE OF INDIANA BOULEVARD AT THIS PLACE, MEASURE SOUTHWESTERLY AT AN ANGLE OF 12 DEGREES 20 MINUTES AND 0 SECONDS WITH THE LAST DESCRIBED RIGHT-OF-WAY LINE 116.66 FEET MORE OR LESS, TO A POINT; THENCE CONTINUING SOUTHWESTERLY ALONG A CURVE CONVEX TO THE NORTHWEST, HAVING A RADIUS OF 407.97 FEET AND WHOSE TANGENT MAKES AN ANGLE OF 5 DEGREES 58 MINUTES 40 SECONDS WITH THE LAST DESCRIBED LINE 588.27 FEET TO A POINT OF TANGENCY IN THE NORTH AND SOUTH CENTER LINE OF SAID QUARTER SECTION; THENCE SOUTHERLY ALONG SAID NORTH AND SOUTH CENTER LINE, TANGENT TO THE LAST DESCRIBED CURVE 269.78 FEET, MORE OR LESS, TO A POINT IN THE EAST AND WEST CENTER LINE OF SAID QUARTER SECTION; THENCE WESTERLY ALONG SAID EAST AND WEST CENTER LINE 66 FEET MORE OR LESS TO A POINT; THENCE NORTHERLY ALONG A LINE PARALLEL TO AND DISTANT BY RECTANGULAR MEASUREMENT 66 FEET WESTERLY FROM SAID NORTH AND SOUTH CENTER LINE OF SAID QUARTER SECTION, 691.44 FEET, MORE OR LESS, TO A POINT IN SAID SOUTHERLY RIGHT-OF-WAY LINE OF THE PRESENT 66 FOOT STRIP OF RIGHT-OF-WAY OF THE INDIANA HARBOR BELT RAILROAD COMPANY AT THIS PLACE; THENCE EASTERLY ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AT AN ANGLE OF 91 DEGREES 10 MINUTES WITH THE LAST DESCRIBED LINE 534.85 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

PARCEL 8: THE NORTH 166 FEET OF THE EAST 66 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 7, TOWNSHIP 37 NORTH, RANGE 9 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN THE CITY OF HAMMOND, IN LAKE COUNTY, INDIANA.

PARCEL 9: AN IRREGULAR SHAPED PARCEL OF LAND SITUATED IN THE SOUTHEAST 1/4 OF SECTION 7, TOWNSHIP 37 NORTH, RANGE 9 WEST OF THE SECOND PRINCIPAL MERIDIAN IN THE CITY OF HAMMOND, LAKE COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE NORTH AND SOUTH CENTER LINE OF SAID SECTION 7 AND THE SOUTH LINE OF THE RIGHT-OF-WAY OF THE INDIANA HARBOR BELT RAILROAD COMPANY AS CONVEYED BY CAROLINE M. FORSYTH AND JACOB FORSYTH, HER HUSBAND, TO HAMMOND AND BLUE ISLAND RAILWAY COMPANY OF INDIANA, BY DEED DATED FEBRUARY 29, 1896 AND RECORDED IN THE RECORDERS OFFICE OF LAKE COUNTY, INDIANA ON FEBRUARY 29, 1896 IN DEED RECORD 77, PAGE 68; THENCE EASTERLY ALONG SAID SOUTH LINE OF RIGHT-OF-WAY OF THE INDIANA HARBOR BELT RAILROAD COMPANY 132.13 FEET; THENCE SOUTHEASTERLY ALONG A LINE FORMING AN ANGLE OF 28 DEGREES 53 MINUTES 22 SECONDS DEFLECTED EAST TO, SO FROM SAID SOUTH LINE OF RIGHT-OF-WAY OF THE INDIANA HARBOR

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BELT RAILROAD COMPANY 67.63 FEET TO A POINT OF CURVE; THENCE SOUTHEASTERLY ALONG A CURVED LINE, CONVEX TO THE NORTHEAST HAVING A RADIUS OF 302.94 FEET AND BEING TANGENT TO 1ST DESCRIBED LINE AT SAID POINT OF CURVE, 325.40 FEET TO A POINT OF TANGENCY; THENCE SOUTHERLY ALONG A LINE TANGENT TO THE LAST DESCRIBED CURVED LINE AT SAID POINT OF TANGENCY, 192.11 FEET TO A POINT OF CURVE; THENCE SOUTHEASTERLY ALONG A CURVED LINE, CONVEX TO THE SOUTHWEST, HAVING A RADIUS OF 277.94 FEET AND BEING TANGENT TO LAST DESCRIBED LINE AT SAID POINT OF CURVE, 395.02 FEET TO A POINT IN A LINE PARALLEL TO AND DISTANT 100 FEET SOUTHERLY BY RECTANGULAR MEASUREMENT FROM THE SOUTHLINE OF THE NORTH 1/2 OF THE SAID SOUTHEAST 1/4 OF SECTION 7; THENCE EASTERLY ALONG LAST DESCRIBED PARALLEL LINE 365.43 FEET TO A POINT OF CURVE; THENCE SOUTHEASTERLY ALONG A CURVED LINE, CONVEX TO THE NORTHEAST, HAVING A RADIUS OF 353.94 FEET AND BEING TANGENT TO LAST DESCRIBED LINE AT SAID POINT OF CURVE, 154.05 FEET TO A POINT IN A LINE PARALLEL TO AND DISTANT 133 FEET SOUTHERLY BY RECTANGULAR MEASUREMENT FROM THE SOUTH LINE OF THE NORTH 1/2 OF SAID SOUTHEAST 1/4 OF SECTION 7; THENCE SOUTHEASTERLY ALONG A CURVED LINE, CONVEX TO THE SOUTHWEST, HAVING A RADIUS OF 353.94 FEET AND WHOSE LONG CHORD MAKES AN ANGLE OF 13 DEGREES 09 MINUTES 07 SECONDS WITH THE LAST DESCRIBED PARALLEL LINE, 146.07 FEET TO A POINT IN A LINE DISTANCE SOUTHERLY 166 FEET BY RECTANGULAR MEASUREMENT FROM THE SOUTH LINE OF THE NORTH 1/2 OF THE SAID SOUTHEAST 1/4 OF SECTION 7, SAID POINT BEING THE WESTERLY LINE OF THE FORMER 66 FOOT STRIP OF RIGHT-OF-WAY OF THE INDIANA HARBOR BELT RAILROAD COMPANY, AS CONVEYED BY OLIVER O. FORSYTH, GUARDIAN OF HENRY P. FORSYTH, TO THE INDIANA HARBOR BELT RAILROAD COMPANY BY DEED DATED APRIL 14, 1917 AND RECORDED IN THE RECORDER'S OFFICE OF LAKE COUNTY, INDIANA, ON MAY 3, 1917 IN DEED RECORD 231, PAGE 382; THENCE WESTERLY ALONG A LINE PARALLEL TO AND DISTANT SOUTHERLY BY RECTANGULAR MEASUREMENT 166 FEET FROM THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION 7, 1,243.25 FEET, MORE OR LESS, TO A POINT IN THE NORTH AND SOUTH CENTER LINE OF SAID SECTION 7; THENCE NORTHERLY ALONG SAID CENTER LINE OF SECTION 7, 66 FEET; THENCE EASTERLY, ALONG A LINE PARALLEL TO AND DISTANT SOUTHERLY 100 FEET BY RECTANGULAR MEASUREMENT FROM THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION 7, 514.73 FEET, MORE OR LESS, TO A POINT OF CURVE; THENCE NORTHWESTERLY ALONG A CURVED LINE, CONVEX TO THE SOUTHWEST HAVING A RADIUS OF 297.94 FEET AND BEING TANGENT TO A LINE FORMING AN ANGLE OF 22 DEGREES 54 MINUTES 32 SECONDS DEFLECTED WEST TO NORTH FROM LAST DESCRIBED PARALLEL LINE AT SAID POINT OF CURVE, 351.65 FEET TO A POINT OF TANGENCY; THENCE NORTHERLY ALONG A LINE TANGENT TO LAST DESCRIBED CURVE AT SAID POINT OF TANGENCY, 192.11 FEET TO A POINT OF CURVE; THENCE NORTHWESTERLY ALONG A CURVED LINE CONVEX TO THE NORTHEAST, HAVING A RADIUS OF 282.94 FEET AND BEING TANGENT TO LAST DESCRIBED LINE AT SAID POINT OF CURVE, 296.37 FEET TO A POINT OF TANGENCY; THENCE NORTHWESTERLY ALONG A LINE TANGENT TO LAST DESCRIBED CURVED LINE AT SAID POINT OF TANGENCY, 16.16 FEET TO A POINT OF CURVE; THENCE NORTHWESTERLY ALONG A CURVED LINE CONVEX TO THE NORTHEAST HAVING A RADIUS OF 277.94 FEET AND BEING TANGENT TO LAST DESCRIBED LINE AT SAID POINT OF CURVE 108.64 FEET TO A POINT OF TANGENCY; THENCE NORTHWESTERLY ALONG A LINE TANGENT TO LAST DESCRIBED CURVE LINE AT SAID POINT OF TANGENCY 73.11 FEET TO THE POINT OF BEGINNING. EXCEPTING FROM THE ABOVE 9 PARCELS OF LAND THE FOLLOWING:

1) PART OF THE SOUTHEAST 1/4 OF SECTION 7, TOWNSHIP 37 NORTH, RANGE 9 WEST OF THE SECOND PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE CENTERLINE OF INDIANAPOLIS BOULEVARD WITH THE CENTER LINE OF NEW YORK AVENUE; THENCE SOUTH 0 DEGREES 44 MINUTES 29 SECONDS EAST 329.51 FEET ALONG SAID CENTER LINE OF NEW YORK AVENUE; THENCE SOUTH 88 DEGREES 57 MINUTES 31 SECONDS WEST 38 FEET ALONG A LINE 482.00 FEET SOUTHERLY AND PARALLEL TO THE SOUTH LINE OF THE INDIANA HARBOR BELT RAILROAD COMPANY RIGHT-OF-WAY TO A POINT OF BEGINNING; THENCE CONTINUING SOUTH 88 DEGREES 57 MINUTES 31 SECONDS WEST 15.00 FEET; THENCE

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SOUTH 0 DEGREES 44 MINUTES 29 SECONDS EAST 106.00 FEET; THENCE NORTH 88 DEGREES 57 MUTES 31 SECONDS EAST 15 FEET TO THE WEST RIGHT-OF-WAY LINE OF NEW YORK AVENUE; THENCE NORTH 0 DEGREES 44 MINUTES 29 SECONDS WEST 106.00 FEET ALONG LAST SAID LINE TO THE POINT OF BEGINNING, ALL IN THE CITY OF HAMMOND, LAKE COUNTY, INDIANA.

2) PART OF THE SOUTHEAST 1/4 OF SECTION 7, TOWNSHIP 37 NORTH, RANGE 9 WEST OF THE SECOND PRINCIPAL MERIDIAN AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF INDIANAPOLIS BOULEVARD (FORMERLY INDIANA BOULEVARD) WITH THE SOUTH LINE OF THE RIGHT-OF-WAY OF THE INDIANA HARBOR BELT RAILROAD COMPANY; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID INDIANA HARBOR BELT RAILROAD COMPANY RIGHT-OF-WAY, A DISTANCE OF 1706.77 FEET; THENCE SOUTHEASTERLY ALONG A LINE FORMING AN ANGLE OF 28 DEGREES 53 MINUTES 22 SECONDS DEFLECTED EAST TO SOUTH FROM SAID SOUTH LINE OF THE RIGHT-OF-WAY OF THE INDIANA HARBOR BELT RAILROAD COMPANY, A DISTANCE OF 67.63 FEET TO A POINT OF CURVE; THENCE SOUTHEASTERLY ALONG A CURVED LINE, CONVEX TO THE NORTHEAST, HAVING A RADIUS OF 302.94 FEET AND BEING TANGENT TO THE LAST DESCRIBED LINE AT SAID POINT OF CURVE, AN ARC DISTANCE OF 325.40 FEET TO A POINT OF TANGENCY; THENCE SOUTHERLY ALONG A LINE TANGENT TO THE LAST DESCRIBED CURVED LINE AT SAID POINT OF TANGENCY, A DISTANCE OF 84.00 FEET TO A POINT OF CURVE; THENCE SOUTHEASTERLY ALONG A CURVED LINE, CONVEX TO THE SOUTHWEST HAVING A RADIUS OF 400.00 FEET AND BEING TANGENT TO THE LAST DESCRIBED LINE AT SAID POINT OF CURVE, A DISTANCE OF 98.53 FEET TO A POINT PARALLEL TO AND 482.00 FEET SOUTHERLY, BY RECTANGULAR MEASUREMENT OF THE SOUTH LINE OF SAID INDIANA HARBOR BELT RAILROAD COMPANY RIGHT-OF-WAY LINE; THENCE EASTERLY ALONG THE LAST DESCRIBED LINE A DISTANCE OF 1597.19 FEET TO THE CENTERLINE OF NEW YORK AVENUE; THENCE NORTHERLY ALONG SAID CENTERLINE OF NEW YORK AVENUE, A DISTANCE OF 329.61 FEET, TO A POINT WHICH IS ALSO THE INTERSECTION OF THE CENTERLINE OF SAID NEW YORK AVENUE WITH THE CENTERLINE OF INDIANAPOLIS BOULEVARD; THENCE NORTHWESTERLY ALONG SAID CENTERLINE OF INDIANAPOLIS BOULEVARD, A DISTANCE OF 193.22 FEET TO THE POINT OF BEGINNING, EXCEPTING THE EASTERLY 38.00 FEET THEREOF LYING WITHIN NEW YORK AVENUE AND THE EASTERLY 40.00 FEET THEREOF LYING WITHIN INDIANAPOLIS BOULEVARD, TAKEN FOR PUBLIC STREET RIGHT-OF-WAYS, IN THE CITY OF HAMMOND, LAKE COUNTY, INDIANA.

Magdalena Designated Property

A tract of land situate in the NE¼ of Section 34 and the NW¼ of Section 35, Township 2 South, Range 4 West, NMPM, south of Magdalena, Socorro County, New Mexico, being a portion of those certain tracts of land deeded to Leonard Reichardt by the C. V. Harris and Inez Harris Revocable Trust on September 21, 1993, as recorded in Volume 435, pages 1995-1996, land deeded to Leonard Reichardt by Inez Harris on October 25, 1993, as recorded in Volume 439, page 144, and a portion of the land deeded to Leonard Reichardt by John W. & Betty J. Blackburn on September 22, 1993, as recorded in Volume 435, page 2001, all recorded in the Socorro County Clerk's Office, being the E ½ of the NE¼ of Section 34 and that part of the N½ of Section 35, T. 2 S., R. 4 W., NMPM, situate west of Kelly Road, bounded on the east by the west "use" line of Kelly Road, bounded on the south by land now or formerly standing in the name of American Smelting and Refining Co., and land now or formerly standing in the name of the State of New Mexico, bounded on the north by land now or formerly standing in the names of Doris M. Myers, Cynthia A. White & Albert G. McAdams III and land now or formerly standing in the name of Clark B. Hust, and more particularly described as follows, to-wit:

Beginning at Corner 1, being the US BLM brass cap monument marking the section corner common to Sections 26, 27, 34 & 35, T. 2 S., R. 4 W., NMPM;

thence, S. 89° 10' 15" E., a distance of 1014.59 feet to Corner No. 2, the NE corner, a found 5/8 inch rebar, being a point on the west "use" line of Kelly Road;

thence, S. 28° 36' 00" E., a distance of 2214.18 feet along the west "use" line of Kelly Road to Corner 3, a set ½ inch rebar;

thence, S. 30° 38' 00" E., a distance of 469.55 feet along the west "use" line of Kelly Road to Corner 4, a set ½ inch rebar;

thence, S. 31° 33' 15" E., a distance of 336.26 feet along the west "use" line of Kelly Road to Corner 5, a set ½ inch rebar;

thence, S. 25° 39' 45" E., a distance of 96.84 feet along the west "use" line of Kelly Road to Corner 6, the SE corner, a set ½ inch rebar, being a point on the east-west midsection line of aforementioned Section 35;

thence, N. 87° 44' 15" W., a distance of 2577.41 feet along the aforementioned midsection line to Corner 7, a US BLM brass cap monument marking the ¼ section corner common to Sections 34 and 35, T. 2 S., R. 4 W., NMPM;

thence, S. 88° 49' 00" W., a distance of 1337.85 feet to Corner 8, the SW corner, a set ½ inch rebar (from whence a found 5/8 inch rebar bears N. 12° 24' W., a distance of 13.9 feet);

thence, N. 00° 26' 45" E., a distance of 2622.24 feet to Corner 9, the NW corner, a set ½ inch rebar;

thence, N. 88° 18' 30" E., a distance of 1361.62 feet to Corner 1, the place of beginning.

Containing 190.09 acres, more or less.

Reserving the north 25 feet of the east 1040 feet of the aforementioned 190.09 acre tract of land for an access easement.

-AND-

A tract of land situate in the SE $\frac{1}{4}$ of Section 35, Township 2 South, Range 4 West, NMPM, south of Magdalena, Socorro County, New Mexico, being the S $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 35, T. 2 S., R. 4 W., NMPM, as deeded to Leonard Reichardt by the C. V. Harris and Inez Harris Revocable Trust on September 21, 1993, as recorded in the Socorro County Clerk's Office in Volume 435, pages 1995-1996, bounded on the east by the east boundary line of aforementioned Section 35, bounded on the south by land now or formerly standing in the name of Leonard Reichardt, bounded on the west and north by land now or formerly standing in the name of American Smelting and Refining Co. (also adjoining a short section of Hop Canyon Road, maintained by the County of Socorro, in the SW corner of this tract), and more particularly described as follows, to-wit:

Beginning at Corner 1, the SE corner, a US BLM brass cap monument marking the SE corner of Section 35, T. 2 S., R. 4 W., NMPM;

thence, N. 89° 33' 45'' W., a distance of 2639.34 feet to Corner 2, the SW corner, being a US BLM brass cap monument marking the south $\frac{1}{4}$ corner of Section 35, T. 2 S., R. 4 W., NMPM;

thence, N. 1° 30' 30'' E., a distance of 1338.98 feet to Corner 3, the NW corner, a set $\frac{1}{2}$ inch rebar;

thence, S. 88° 39' 00'' E., a distance of 2632.32 feet to Corner 4, the NE corner;

thence, S. 1° 13' 00'' W., a distance of 1297.01 feet to Corner 1, the place of beginning.

Containing 79.746, acres more or less.

-AND-

A tract of land situate in the N $\frac{1}{2}$ of Section 35, Township 2 South, Range 4 West, NMPM, south of Magdalena, Socorro County, New Mexico, being a portion of those certain tracts of land deeded to Leonard Reichardt by the C. V. Harris and Inez Harris Revocable Trust on September 21, 1993, as recorded in Volume 435, pages 1995-1996, a portion of the land deeded by John W. and Betty J. Blackburn, as recorded in Volume 435, page 2001, and a portion of the land deeded by Inez Harris on October 25, 1993, as recorded in Volume 439, page 145, all recorded in the Socorro County Clerk's Office, bounded on the east by the east boundary line of aforementioned Section 35, bounded on the south by land now or formerly standing in the name of American Smelting and Refining Co., bounded on the west by the east "use" line of Kelly Road, bounded on the north by the south boundary line of C & R Ranchettes, land now or formerly standing in the name of Lucy E. Wallace, land now or formerly standing in the name of Daniel Berne

Williams (Dakota Extension and Oregon Mineral Surveys), and more particularly described as follows, to-wit:

Beginning at Corner 1, the NE corner, a US BLM brass cap monument marking the section corner common to Sections 25, 26, 35 & 36, T. 2 S., R. 4 W., NMPM;

thence, S. 01° 48' 00'' W., a distance of 2800.59 feet to Corner 2, the SE corner, a ½ inch rebar set next to a found stone marked ¼;

thence, N. 87° 44' 15'' W., a distance of 2615.41 feet along the east-west midsection line of aforementioned Section 35 to Corner 3, the SW corner, a set ½ inch rebar, being a point on the east "use" line of Kelly Road;

thence, N. 25° 39' 45'' W., a distance of 125.89 feet along the east "use" line of Kelly Road to Corner 4, a set ½ inch rebar;

thence, N. 31° 33' 15'' W., a distance of 338.24 feet along the east "use" line of Kelly Road to Corner 5, a set ½ inch rebar;

thence, N. 30° 38' 00'' W., a distance of 468.55 feet to Corner 6, a set ½ inch rebar;

thence, N. 28° 36' 00'' W., a distance of 2185.01 feet to Corner 7, the NW corner, a set ½ inch rebar;

thence, S. 89° 10' 15'' E., a distance of 1576.92 feet to Corner 8, a US BLM brass cap monument marking the ¼ section corner common to Sections 26 and 35, T. 2 S., R. 4 W., NMPM;

thence, S. 89° 54' 00'' E., a distance of 1875.25 feet to Corner 9, a set ½ inch rebar (on the west boundary line of the Dakota Extension Mineral Survey);

thence, S. 24° 35' 15'' E., a distance of 63.42 feet along the west boundary line of the Dakota Extension to Corner 10, a US BLM brass cap monument marking the SW corner of the Dakota Extension;

thence, N. 81° 48' 45'' E., a distance of 399.62 feet along the south boundary line of the Dakota Extension to Corner 11, a set ½ inch rebar;

thence, S. 89° 54' 00'' E., a distance of 343.61 feet to Corner 1, the place of beginning.

Containing 215.16 acres, more or less.

Reserving an existing easement of the AT & SF Railway (Magdalena Branch) of undetermined width, along the west boundary line of the aforementioned 215.16 acre tract of land between Corners 3 and 7.

Deming Designated Property

The Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) in Section Seventeen (17), Township Twenty-three (23) South, Range Nine (9) West of the N.M.P.M., Luna County, New Mexico,

AND

The Northeast Quarter (NE $\frac{1}{4}$) in Section Twenty (20), Township Twenty-three (23) South, Range Nine (9) West, of the N.M.P.M., Luna County, New Mexico,

The Southeast Quarter (SE) in Section Twenty (20), Township Twenty-three (23) South, Range Nine (9) West, of the N.M.P.M., Luna County, New Mexico, EXCEPT that part of said premises occupied by the right of way of The Atchison, Topeka and Santa Fe Railway Company.

SAVE AND EXCEPT THE FOLLOWING TRACT:

A tract of land in the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section Twenty-one (21), and the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Twenty (20), Township Twenty-three (23) South, Range Nine (9) West, N.M.P.M., Luna County, New Mexico, described as follows:

Beginning at a 2" iron pipe which is also the southwest corner of said Section Twenty-one (21), thence S.89°53'15"W, 188.94' along the south line of said Section Twenty (20) to a point on the center line of State Road No. 396, thence along the center line of State Road No. 396, N.28°03'50"W., 759.70' to a point on the center line of State Road No. 396, thence East 1710.67' to a point, thence South, 667.71' to a surv-kap on the south line of said Section Twenty-one (21), thence S.89°53'15"W., 1164.33' along the south line of said Section Twenty-one (21), to the place of beginning.

AND

The Northwest Quarter (NW) in Section Twenty-one (21), Township Twenty-three (23) South, Range Nine (9) West, of the N.M.P.M., Luna County, New Mexico.

All of the Northeast Quarter (NE) in Section Twenty-one (21), Township Twenty-three (23) South, Range Nine (9) West, of the N.M.P.M., Luna County, New Mexico.

The South Half (S $\frac{1}{2}$) of Section Twenty-one (21), Township Twenty-three (23) South, Range Nine (9) West, of the N.M.P.M., Luna County, New Mexico.

SAVE AND EXCEPT THE FOLLOWING TRACT:

Beginning at a stone marking the S.E. corner of the Southeast Quarter (SE $\frac{1}{4}$) of Section Twenty-one (21), T23S., R9W., of the N.M.P.M.; thence S.78°W., 700 feet on section line to a stake; thence N.12°W., 865 feet to a stake in river bed; thence N.78°E., 700 feet to a stake; thence S.12°E., 865 feet on section line to place of beginning,

AND

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The Northeast Quarter (NE) of Section Twenty-nine (29), Township Twenty-three (23) South, Range Nine (9) West, of the N.M.P.M., Luna County, New Mexico, LESS THE RAILROAD RIGHT OF WAY.

AND

Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$) in Section Twenty-nine (29), Township Twenty-three (23) South, Range Nine (9) West, of the N.M.P.M. Luna County, New Mexico.

AND

West Half (W $\frac{1}{2}$) of the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$) in Section Twenty-nine (29), Township Twenty-three (23) South, Range Nine (9) West, of the N.M.P.M., Luna County, New Mexico.

Columbus Designated Property

Situated in the County of Franklin, in the State of Ohio and in the City of Columbus and bounded and described as follows:

TRACT ONE:

Being all of a 29.6 acre tract, (Parcel #2)(Lot 5 Minerva Belknap vs. Horatio Atcheson, et al., Complete Record 166, page 312, and Deed Book 275, page 9), and all of a 10 acre tract (Parcel #1) (Part of Lot B Windsor Atcheson's Land, Complete Record 84, page 145, and Plat Book 3, page 268), conveyed to American Zinc Oxide Co., shown of record in Deed Book 642, page 466, Recorder's Office, Franklin County, Ohio, and being more particularly described as follows:

Beginning at a spike found on the centerline of Joyce Avenue (60 feet wide) at the southeasterly corner of said 10 acre tract (Parcel 1), and at the northeasterly corner of a 10 acre tract, more or less, conveyed to Max Tennebaum, shown of record in Deed Book 1488, page 610; thence North 86 degrees 30 minutes 30 seconds West, along the southerly line of said 10 acre tract (Parcel 1) and along the northerly line of said Max Tennebaum tract, and along an existing wood fence approximately 8 feet high, a distance of 1477.21 feet to an iron pin found at the southwesterly corner of said 10 acre tract (Parcel #1) and at the northwesterly corner of said Max Tennebaum tract, and on the easterly line of the Penn Central Railroad, passing an iron pin found on the westerly line of said Joyce Avenue at 30.00 feet; thence North 13 degrees 59 minutes East, along easterly line of the Penn Central Railroad, and along a line 33 feet easterly of, measured at right angles to the centerline of said Penn Central Railroad, and along the westerly line of said 10 acre tract (Parcel 1), and along the westerly line of said 29.6 acre tract, a distance of 1342.01 feet to an iron pin at the northwesterly corner of said 29.6 acre tract (northwesterly corner of said Lot 5), and on the original northerly line of Windsor Avenue, passing an iron pin at the northwesterly corner of said 10 acre tract (Parcel #1)(southwesterly corner of said 29.6 acre tract), a distance of 307.66 feet; thence South 84 degrees 00 minutes East, along the northerly line of said 29.6 acre tract (northerly line of said Lot 5), and along a line 16.5 feet northerly of, measured at right angles to the centerline of said Windsor Avenue (the centerline of Windsor Avenue is shown on Sheet #3 of the Road Plans, Engineer's Office, Franklin County, Ohio), a distance of 1238.62 feet to a point on the centerline of said Joyce Avenue at the northeasterly corner of said 29.6 acre tract (northeasterly corner of said Lot 5); thence South 3 degrees 42 minutes West, along the centerline of said Joyce Avenue, and along the easterly line of said 29.6 acre tract (easterly line of said Lot 5), and along the easterly line of said 10 acre tract (Parcel 1), passing a spike found at the intersection of the centerlines of Windsor Avenue and Joyce Avenue at 16.51 feet, and passing a bolt found at the southeasterly corner of said 29.6 acre tract (southeasterly corner of said Lot 5) (northeasterly corner of said 10 acre tract, Parcel #1) at 962.87 feet, a total distance of 1265.37 feet to the place of beginning, containing 40.350 acres,

subject however to all highways and easements of record, and of easements, records, and restrictions in the respective utility offices.

Last deed transfer Deed Book 642, page 466.

TRACT TWO:

Being situated in the Fourth Quarter Township 1, Range 18, United States Military Lands, and being a part of a 14 acre tract, a one acre tract, a 6.5 acre tract, a 1.88 acre tract, and a part of a 2 acre tract deeded to The Farmers Fertilizer Company in Deed Book 571, page 375, and Deed Book 592, page 118, and Deed Book 600, page 198, Recorder's Office, Franklin County, Ohio, and being more particularly described as follows:

Commencing at an iron pin at the southwesterly corner of said 14 acre tract, said iron pin being in a line 16.5 feet (measured at right angle) northerly of and parallel to the present centerline of Windsor Avenue (50 feet wide) as shown on sheet 3 of a set of plans prepared by the office of the Franklin County Surveyor in July 1930, said iron pin being in a line 8.5 feet (measured at right angle) southerly of and parallel to the present northerly right-of-way line of said Windsor Avenue; thence South 84° 0' East, along the southerly line of said 14 acre tract, and along a line 16.5 feet (measured at right angle) northerly of and parallel to the present centerline of said Windsor Avenue, a distance of 137.18 feet to an iron pin in the centerline of an existing railroad siding, said railroad siding shown on Plat 550-24 Office of Division Engineer, Pennsylvania Railroad, Columbus, Ohio, dated 1920, and the true point of beginning of this description, passing an iron pin on line in the westerly right-of-way line of the Cleveland, Akron and Cincinnati Railway Company (Pennsylvania Railroad Co.) right-of-way (66 feet wide), at 66.30 feet, passing a spike on line in the centerline of the main line track of said Cleveland, Akron and Cincinnati Railway, at 99.62 feet, and passing a spike on line in the easterly right-of-way line of said Cleveland, Akron and Cincinnati Railway at 132.94 feet; thence North 29° 12' East, across said 14 acre tract, and along the centerline of said existing railroad siding, a distance of 72.36 feet to a nail at a point of curve, passing an iron pin on line in the present northerly right-of-way line of said Windsor Avenue, at 9.26 feet; thence continuing across said 14 acre tract and continuing along the centerline of said existing railroad siding, and along a curve to the right, having a radius of 390.31 feet, a delta angle of 14° 36', a tangent of 50.0 feet, a chord which bears North 36° 30' East, a chord distance of 99.19 feet to a nail at a point of tangent; thence continuing across said 14 acre tract, and continuing along the centerline at said existing railroad siding, and along the centerline of said railroad siding produced, North 43° 48' East, a distance of 198.50 feet to an iron pin; thence North 29° 28' East, across said 14 acre tract, a distance of 70.00 feet to an iron pin; thence North 23° 0' East, across said 14 acre tract, a distance of 150.00 feet to an iron pin, said last described iron pin being in a line 533.00 feet (measured at right angles) northerly of and parallel to the present centerline of said Windsor Avenue; thence South 84° 0' East, across said 14 acre tract, 8.5 acre tract, 1 acre tract, and 1.88 acre

tract, and along a line 533.00' (measured at right angle) northerly of and parallel to the present centerline of said Windsor Avenue, a distance of 443.90' to an iron pin in the easterly line of said 1.88 acre tract, and in the westerly line of the F.C. Wenger 9.93 acre tract (Deed Book 1140, page 46); thence South 3° 12' West, along the easterly line of said 1.88 acre tract, and along the westerly line of said 9.93 acre tract, and across said 2 acre tract, a distance of 208.7 feet to an iron pin, passing an iron pin on line at the southwesterly corner of said 9.93 acre tract on line at 138.60 feet; thence North 83° 57' West, across said 2 acre tract, 1 acre tract, and 6.5 acre tract, a distance of 309.10 feet to an iron pin in said 6.5 acre tract; thence South 3° 57' West, across said 6.5 acre tract, a distance of 308.50 feet to an iron pin in the southerly line of said 6.5 acre tract, and in a line 16.5 feet (measured at right angle) northerly of and parallel to the present centerline of said Windsor Avenue; passing an iron pin on line at 0.5 feet, passing an iron pin on line in the present northerly right-of-way line of said Windsor Avenue, at 300.0 feet; thence North 84° 0' West, along a line 16.5 feet (measured at right angle) northerly of the present centerline of said Windsor Avenue, and along the southerly line of said 6.5 acre tract and the southerly line of said 14 acre tract, a distance of 428.27 feet to the place of beginning, containing 4.672 acres, subject to the public right-of-way in that part of said premises lying within the boundaries of Windsor Avenue.

Together with an easement for railroad switch track purposes being 10.5 feet wide, to the west of and parallel with the westerly boundary of the property hereby conveyed and extending in a northeasterly direction for a distance of approximately 336.55 feet, as reflected upon that certain easement plat prepared by Myers Surveying Company, Bexley, Ohio, dated October 17, 1968.

Last deed transfer: Deed Book 2950, page 656.

TRACT THREE:

Being in the Fourth Quarter Township 1, Range 18, United States Military Lands, and being a part of a 6.5 acre tract, and part of a 1 acre tract and part of a 2 acre tract deeded to The Farmers Fertilizer Company in Deed Book 600, page 198, Recorder's Office, Franklin County, Ohio, and all of a 1/2 acre tract deeded to The Farmers Fertilizer Company in Deed Book 724, page 115, Recorder's Office, Franklin County, Ohio, and being more particularly described as follows:

Commencing at an iron pin at the southwesterly corner of a 14 acre tract deeded to The Farmers Fertilizer Company in Deed Book 571, page 375, and Deed Book 592, page 118, said iron pin being at the southeasterly earner of the Thompson Conie Realty Co. tract (Deed Book 2118, page 56), said iron pin being in a line 16.5 feet (measured at right angle) northerly of and parallel to the present centerline of Windsor Avenue (50 feet wide) as shown on sheet 3 of a set of plans prepared by the Office of the Franklin County Surveyor dated July, 1930; thence South 84° 0' East, along a line 16.5 feet (measured at right angle) northerly of and parallel to the present centerline of said

Windsor Avenue, and along the southerly line of said 14 acre tract, and along the southerly line of said 6.5 acre tract, a distance of 565.45 feet to an iron pin and the true point of beginning of this description, passing an iron pin on line in the westerly right-of-way line of the Cleveland, Akron and Cincinnati Railway (Pennsylvania Railroad Co.), right-of-way (66 feet wide) at 66.30 feet, passing a spike on line in centerline of the main line track of said Cleveland, Akron and Cincinnati Railway at 99.62 feet, passing a spike on line in the easterly right-of-way of said Cleveland, Akron and Cincinnati Railway right-of-way, at 132.94 feet, passing an iron pin on line at 137.18 feet; thence North 3° 57' East, across said 6.5 acre tract, a distance of 308.50 feet to an iron pin, passing an iron pin on line in the present northerly right-of-way line of said Windsor Avenue, at 8.50 feet, passing an iron pin on line at 308.00 feet; thence South 83° 57' East, across said 6.5 acre tract, and across said 1 acre tract, and across said 2 acre tract, a distance of 309.10 feet to an iron pin in said 2 acre tract, said last described iron pin being in the easterly line of said 1.88 acre tract produced southerly and in the westerly line of the F.C. Wenger 9.93 acre tract (Deed Book 1140, page 46) produced southerly; thence North 3° 12' East, across said 2 acre tract and along the easterly line of said 1.88 acre tract, produced southerly, and along the westerly line of said 9.93 acre tract produced southerly, a distance of 70.10 feet to an iron pin at the southwesterly corner of said 9.93 acre tract, and the southeasterly corner of said 1.88 acre tract; thence South 84° 03' East, along the southerly line of said 9.93 acre tract, and along the northerly line of said 2 acre tract and of said 1/2 acre tract, a distance of 173.25 feet to an iron pin at the northwesterly corner of the S. Handler 0.503 acre tract (D.B. 1651, page 396); thence South 3° 28' West, along the westerly line of said 0.503 acre tract, a distance of 378.60 feet to an iron pin in a line 16.5 feet (measured at right angles) northerly of and parallel to the present centerline of said Windsor Avenue, and at the southwesterly corner of said 0.503 acre tract, passing an iron pin on line in the present northerly right-of-way line of Windsor Avenue, at 370.10 feet, said iron pin in the present northerly right-of-way line of said Windsor Avenue being North 84° 0' West along the present northerly right-of-way line of Windsor Avenue, a distance of 291.8 feet from the intersection of the present northerly right-of-way line of said Windsor Avenue, with the present westerly right-of-way line of Joyce Avenue (60 feet wide) the present northerly right-of-way line of said Windsor Avenue, being 25 feet measured at right angle northerly of and parallel to the present centerline of said Windsor Avenue; thence North 84° 0' West, along a line 16.5 feet (measured at right angles) northerly of and parallel to the present centerline of said Windsor Avenue, and along the southerly line of said 1/2 acre tract and 2 acre tract, and southerly line of said 1 acre tract, and the southerly line of said 6.5 acre tract, a distance of 484.60 feet to the place of beginning, containing 3.697 acres, subject, however, to all legal highways and easements of record.

Last deed transfer: Deed Book 2517, page 449.

Sand Springs Designated Property

A part of the East half of the Southeast Quarter of the Southeast Quarter (E1/2 SE1/4 SE1/4) of Section Ten (10), Township Nineteen (19) North, Range Eleven (11) East, lying south of the centerline of the Missouri, Kansas & Texas Railroad right-of-way, AND a part of the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of Section Eleven (11), Township Nineteen (19) North, Range Eleven (11) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the United States Government Survey thereof, being more particularly described as follows:

COMMENCING at the Southwest Corner of said Section Eleven (11);
THENCE North 01°23'15" West a distance of 25.00 feet to the POINT OF BEGINNING;
THENCE South 88°43'02" West, parallel to and 25.00 feet distant from the south line of said Section Ten (10), a distance of 609.10 feet;
THENCE North 01°21'17" West, parallel to and 50.00 feet distant from the west line of said East half of the Southeast Quarter of the Southeast Quarter (E1/2 SE1/4 SE 1/4) of said Section Ten (10), a distance of (MEAS) 1227.56 feet (REC 1228.10 feet) to a point on the centerline of the M.K.&T. Railroad;
THENCE Southeasterly along said centerline on a curve to the left having a radius of 2864.93 feet (said curve subtended by a chord which bears South 60°25'08" East a distance of 667.43 feet) and an arc distance of 668.95 feet to a point on the west line of said Section Eleven (11);
THENCE South 01°23'15" East a distance of 299.60 feet;
THENCE South 88°36'40" West a distance of 1019.00 feet to a point on the Westerly right-of-way of State Highway 97;
THENCE along the Westerly right-of-way for State Highway 97 the following 4 courses:
 1. South 06°44'02" West a distance of 170.45 feet;
 2. South 18°53'33" West a distance of 69.79 feet;
 3. South 44°15'49" West a distance of 16.23 feet;
 4. South 07°31'21" West a distance of 111.55 feet;
THENCE South 86°13'31" West a distance of 582.35 feet;
THENCE South 88°36'40" West a distance of 360.00 feet to the west line of said Section Eleven (11);
THENCE South 01°23'15" East, along said west line, a distance of 275.00 feet to the POINT OF BEGINNING.

Containing 1,021,158 square feet or 23.44 acres, more or less.

Belshazzar Designated Property

Property situated in State of Utah, Salt County in the Big Cottonwood Mining District:

The following patented mining claim as described and set forth in the patent therefore:

Belshazzar-Lot 110, portion of the un-surveyed public domain.

Gold Hill Designated Property

Property situated in State of Utah, Tooele County in the Clifton Mining District:

The following patented mining claims as described and set forth in the patents therefore:

Bonanza King, Bonanza Queen, New Years-Lot 60, embracing portion un-surveyed public domain, excepting therefrom Lot 48A.

Calaveras, Calaveras No. 2-M.S. 4383, embracing portion un-surveyed public domain.

Carrie-Lot 48A, embracing portion un-surveyed public domain, excepting therefrom Lot 37.

Dottie, Grand Cross-Lot 62, embracing portion un-surveyed public domain, excepting therefrom Lot 48A and Alvorado Lot 59.

Dottie No. 2 Amended-M.S. 6428, embracing a portion of, approximately, T8S R17W, excepting M.S. 4381, M.S. 5417, Lot 59, Lot 62.

Export-M.S. 4380, embracing portion un-surveyed public domain.

Gilberson-Lot 37, embracing portion un-surveyed public domain.

Gold Hill Mng Claim No. 2-M.S. 6426, embracing a portion of T8S R17W, excepting M.S. 4381, Lot 37, Lot 48A, Lot 62, Gem and Gem No. 2, M.S. 5417, New Years and Bonanza Queen, Lot 60.

Golden Gem-M.S. 4381, embracing portion un-surveyed public domain, excepting therefrom Lot 48A, Lot 62.

Ochre Spring-Lot 69, embracing portion un-surveyed public domain, excepting therefrom Lot 49B.

Union-M.S. 4394, embracing portion un-surveyed public domain, excepting therefrom M.S. 4383.

Murray Designated Property

Property located in Salt Lake County, Utah more particularly described as follows:

Beginning at a point 2613.92 feet North and 725.24 feet West from the Southeast corner of Section 12, Township 2 South, Range 1 West, Salt Lake Base and Meridian, which point is on the Westerly right-of-way line of the proposed North-South Corridor, said point also being the Northeasterly corner of property conveyed to Asarco, Incorporated in that certain Special Warranty Deed, recorded July 17, 1998, as Entry No. 7030209 in Book 8039 at Page 542 of Official Records, and the Southeasterly corner of property conveyed to Chimney Ridge, L.C., in that certain Special Warranty Deed, recorded October 28, 1998, as Entry No. 7133569 in Book 8140 at Page 617 of Official Records; thence North 70°01'00" West (North 70°02'46" West by said Chimney Ridge, L.C. deed) 134.58 feet along the Northerly line of the said Asarco, Incorporated property; thence North 13°22'55" East 0.63 feet to a point on the arc of a 32.00 foot radius curve to the right; thence Northeasterly 56.06 feet along the arc of said 32.00-foot radius curve (Note: Chord for said 32.00-foot radius curve bears North 63°34'30" East for a distance of 49.16 feet); thence South 66°13'28" East 97.47 feet to a point on said Westerly right-of-way line; thence South 13°16'22" West 29.99 feet to the point of beginning.

(Note: Basis of Bearings is the Monument line for State Street between 5300 South and Vine Street bears North 00°05'15" East for 3056.71 feet.)

McFarland Designated Property

TRACT C OF M. S. DREW'S PLAT, ACCORDING TO PLAT RECORDED IN
VOLUME 1 OF PLATS, PAGE 16, RECORDS OF PIERCE COUNTY AUDITOR;

LESS TRIANGLE IN THE SOUTHWEST CORNER OF SAID TRACT C, AND LESS
RAILROAD RIGHT OF WAY AND SPURS;
SITUATE IN THE CITY OF TACOMA, COUNTY OF PIERCE, STATE OF
WASHINGTON.

Equipment and Other Personal Property

None.

ENVIRONMENTAL CUSTODIAL TRUST AGREEMENT

(Multi-State)

BY AND AMONG

**ASARCO LLC,
AR SACATON, LLC
and
ASARCO MASTER, INC.
as Settlers,**

**Le Petomane XXV, Inc., not individually but solely in its representative capacity as Multi-
State Custodial Trustee,**

AND

_____,
_____, and
_____,
as Beneficiaries

As of _____, 2008

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ENVIRONMENTAL CUSTODIAL TRUST AGREEMENT

(Multi-State)

This Environmental Custodial Trust Agreement (the "Agreement") is made this _____ day of _____, 2008, by and among ASARCO LLC ("ASARCO") and its wholly owned subsidiaries, ASARCO MASTER, INC., AR SACATON, LLC, CAPCO PIPE COMPANY, INC., and ALTA MINING AND DEVELOPMENT COMPANY, as debtors and debtors in possession in the Bankruptcy Case (defined below) (collectively, "Settlors") and Le Petomane XXV, Inc., not individually but solely in its representative capacity as Multi-State Custodial Trustee of the ASARCO Multi-State Custodial Trust established hereby (the "Multi-State Custodial Trust"), and the Beneficiaries (defined below).

RECITALS:

WHEREAS, on August 9, 2008, ASARCO filed its voluntary petition for relief under chapter 1 of title 11 of the United States Code, 11 U.S.C. § 101 *et seq.*, as amended (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of Texas, Corpus Christi Division ("Bankruptcy Court") and on April 11, 2005, August 26, 2005, September 1, 2005 and October 13, 2005, various subsidiaries of ASARCO, including ASARCO MASTER, INC. filed voluntary petitions for relief in the Bankruptcy Court, which cases have been jointly administered under Case No. 05-21207 (the "Reorganization Cases");

WHEREAS, on _____, 2008, the Court entered the Confirmation Order (Docket No. _____), pursuant to which the Bankruptcy Court confirmed the Joint Plan of Reorganization for the Debtors (Docket No. _____) (as the same may be amended from time to time, the "Plan");

WHEREAS, the Confirmation Order approved the Consent Decree and Settlement Agreement Establishing a Custodial Trust For Certain Owned Sites in Alabama, Arizona, Arkansas, Colorado, Illinois, Indiana, New Mexico, Ohio, Oklahoma, Utah, and Washington (the "Settlement Agreement") by and among ASARCO, ASARCO Master, Inc., AR SACATON, LLC, CAPCO Pipe Company, Inc., Alta Mining and Development Company,, Alabama, Arizona, Arkansas, Colorado, Illinois, Indiana, New Mexico, Ohio, Oklahoma, Utah, Washington and the United States dated _____, 2008 with respect to Sites as defined therein (the portions of such Sites owned by Settlers being referred to in the Settlement Agreement and herein collectively as the "Designated Properties") located in the States of Alabama, Arizona, Arkansas, Colorado, Illinois, Indiana, New Mexico, Ohio, Oklahoma, Utah, and Washington;

WHEREAS, the Plan provides for the transfer of the Designated Properties, including the Assigned Transitional Property Contract, and Attendant Property Interests to the Multi-State Custodial Trust to be by administered by the Custodial Trustee pursuant to this Agreement and the Settlement Agreement;

WHEREAS, in accordance with Article VII of the Plan and Article IV of the Settlement Agreement, the Multi-State Custodial Trust is established for the purposes of (a) owning the Designated Properties and carrying out administrative and property management functions related to the Designated Properties, (b) managing and/or funding the implementation of future Environmental Actions with respect to the Designated Properties and Sites, (c) paying certain future oversight costs, and (d) ultimately selling, transferring or otherwise disposing of the Designated Properties, if possible;

WHEREAS, the Multi-State Custodial Trust is to be funded in the amount set forth in the Settlement Agreement;

WHEREAS, the Confirmation Order and/or other orders of the Court memorialized the Court's approval of the Funding of all the Custodial Trust Accounts and approved and provided for the implementation of the Settlement Agreement;

WHEREAS, all conditions to the Effective Date, as set forth in the Plan and the Confirmation Order, have been satisfied or waived;

WHEREAS, in accordance with the Plan and the Confirmation Order and the Settlement Agreement, this Agreement governs the Multi-State Custodial Trust, which is created pursuant to, and to effectuate, the Plan and the Settlement Agreement;

WHEREAS, upon its formation the Multi-State Custodial Trust is intended to qualify as a qualified settlement fund (for which no grantor trust election has been made) pursuant to section 1.468B-1 of the Treasury Regulations promulgated under the Internal Revenue Code ("Treasury Regulations"); and

WHEREAS, the Multi-State Custodial Trust shall be the exclusive holder of the assets described herein for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3);

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements contained herein and in the Plan, the Settlement Agreement and Confirmation Order, the Parties hereby agree as follows:

**ARTICLE 1
DEFINITIONS**

1.1 Definitions.

Capitalized terms used but not otherwise defined in this Agreement shall have the respective meanings given, as applicable, in the Plan or the Confirmation Order. The following terms as used in this Agreement shall have the definitions given below:

1.1.1 "Agreement" has the meaning as given in the preamble.

1.1.2 "ASARCO Environmental Custodial Trusts" shall mean the other environmental custodial trusts created pursuant to Article VII of the Plan.

Attachment D
Multi-State Custodial
Trust Settlement Agreement

- 1.1.3 “Assigned Transitional Property Contract” means that certain Purchase and Sale Agreement with respect to the Globe Designated Property dated effective October 26, 2006, as amended by amendments dated effective November 3, 2006, April 6, 2007, February 15, 2008 and June 20, 2008.
- 1.1.4 “Attendant Property Interests” means all appurtenances, rights, easements, rights-of-way, mining rights (including unpatented mining claims, mill site claims, and placer claims), mineral rights, mineral claims, appurtenant groundwater rights, associated surface water rights, claims, and filings or other interests related to the Designated Properties except a) anything Debtors are required to transfer to the purchaser of the operating assets under the Plan; b) equipment and other items of personal property listed in Exhibit “D” to this Agreement; c) records, a forklift, and core samples at the Sacaton Site.
- 1.1.5 “Bankruptcy Court” means the United States Bankruptcy Court for the Southern District of Texas Corpus Christi Division.
- 1.1.6 “Beneficiary” means any one of the United States and States of Alabama, Arizona, Arkansas, Colorado, Illinois, Indiana, New Mexico, Ohio, Oklahoma, Utah, and Washington.
- 1.1.7 “CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 *et seq.*, as amended.
- 1.1.8 “Confirmation Order” means _____.
- 1.1.9 “Court” means the Bankruptcy Court or if the Bankruptcy Court abstains from exercising jurisdiction or is otherwise without jurisdiction over any matter arising out of this Agreement, a United States District Court having competent jurisdiction with respect to such matters.
- 1.1.10 “Custodial Trust Account” has the meaning given in Section 2.1.3 hereof.
- 1.1.11 “Custodial Trust Administrative Account” means the Custodial Trust Account established to hold funds to pay real estate taxes, insurance, and other costs incurred in administering the Multi-State Custodial Trust.
- 1.1.12 “Custodial Trust Assets” means (a) those assets and properties, including the Funding, the Designated Properties and Attendant Property Interests, and the Transferred Contracts, to be transferred to the Multi-State Custodial Trust pursuant to the Plan, the Confirmation Order, and the Settlement Agreement and (b) such other assets acquired or held by the Multi-State Custodial Trust from time to time pursuant to this Agreement, the Plan, the Confirmation Order, the Settlement Agreement, or an order of the Court including, but not limited to, the right to draw on the Deming Bond an amount up to \$850,000 for a period of two months after the

Effective Date as provided in Paragraph 9(e)(xii) of the Settlement Agreement; and the “Columbus Onsite Agreements” as provided in Paragraph 8(a) of the Settlement Agreement.

- 1.1.13 “Custodial Trust Environmental Cost Account” means each of the Custodial Trust Accounts established pursuant to Section 2.1.3 to hold funds to pay Environmental Costs for each Designated Property.
- 1.1.14 “Custodial Trust Parties” shall mean the Multi-State Custodial Trust, the Multi-State Custodial Trustee, the Multi-State Custodial Trustee’s shareholders, officers, directors, employees, consultants, agents, or other professionals employed by the Multi-State Custodial Trust or the Multi-State Custodial Trustee. Each of the Custodial Trust Parties is, individually, a Custodial Trust Party.
- 1.1.15 “Custodial Trust Proceeds” means the proceeds of any liquidation, sale, lease, recovery or other disposition of or other proceeds in respect of the Custodial Trust Assets.
- 1.1.16 “Debtors” shall have the meaning given in the Plan.
- 1.1.17 “Deming Bond” shall mean surety bond number 386149 as referred to in Paragraph 9(e)(xii) of the Settlement.
- 1.1.18 “Designated Properties” means the portions of the Sites owned by Settlor, as set forth and defined in Exhibit “B” to this Agreement including, without limitation, all fixtures, improvements, and equipment located thereon as of the Effective Date except a) anything Debtors are required to transfer to the purchaser of the operating assets under the Plan; b) equipment and other items of personal property listed in Exhibit “D” to this Agreement; c) records, a forklift, and core samples at the Sacaton Site.
- 1.1.19 “Effective Date” means the effective date of this Agreement, which shall be the first business day after the later of (i) the date this Agreement is executed by all parties to this Agreement; (ii) the date the Plan Effective Date has occurred; and (iii) the date the Settlement Agreement Effective Date has occurred.
- 1.1.20 “Environmental Action” means any response, investigation, remediation, reclamation, closure, post-closure, corrective action, institutional controls, and operation and maintenance activities selected and approved by the Lead Government Agency with respect to a Designated Property. Environmental Actions may also include restoration or other actions related to Natural Resource Damages but only with respect to Designated Properties other than the Alton, Beckemeyer, and Taylor Springs Sites.

- 1.1.21 “Environmental Costs” mean the costs and expenses of implementing Environmental Actions and the costs of payment of certain oversight costs of any Beneficiary with respect to a Designated Property and the related Site.
- 1.1.22 “Environmental Law” means any applicable federal, tribal state or local law, statute, ordinance, rule, regulation or code, any license, permit, authorization, administrative or court order, judgment, decree or injunction, including all common law, related to pollution, protection or restoration of health, safety or the environment, reclamation of mined lands, or the use, storage, recycling, treatment, generation, transportation, processing, handling, labeling, production, release or disposal of pollutants or Hazardous Substances, including, without limitation, CERCLA; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6901, *et seq.*; the Clean Air Act, 42 U.S.C. Section 7401, *et seq.*; the Federal Water Pollution Control Act, 33 U.S.C. Section 1251, *et seq.*; the Toxic Substances Control Act, 15 U.S.C. Section 2601, *et seq.*; the Emergency Planning and Community Right to Know Act, 42 U.S.C. Section 11001, *et seq.*; the Safe Drinking Water Act, 42 U.S.C. Section 300f, *et seq.*; the Oil Pollution Act of 1990, 33 U.S.C. Section 2701 *et seq.*; and the Occupational Safety and Health Act, 29 U.S.C. 651, *et seq.*, and any applicable tribal, state, or local law counterparts, as the same may be reauthorized or amended from time to time.
- 1.1.23 “Excluded Matters” means costs incurred with respect to a Designated Property prior to the Plan Effective Date.
- 1.1.24 “Funding” shall have the meaning given in Section 2.1.2 hereof.
- 1.1.25 “Hazardous Substances” shall mean all materials, substances, or wastes defined, designated, regulated or classified as hazardous, toxic or radioactive, under any Environmental Laws, whether by type or by quantity, and shall include petroleum or any derivative or by-product thereof and asbestos containing materials.
- 1.1.26 “Lead Government Agency” with respect to a Designated Property shall mean the Beneficiary with primary oversight authority over such Designated Property as specified in Paragraph 9(k) of the Settlement Agreement.
- 1.1.27 “Multi-State Custodial Trust” shall mean the trust established pursuant to this Agreement and has the same meaning as the term “Custodial Trust” as defined in the Settlement Agreement.
- 1.1.28 “Multi-State Custodial Trustee” shall mean the Multi-State Custodial Trust by and through its trustee not individually but solely in its representative capacity.

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- 1.1.29 “Natural Resource Damages” means damages for injury to, destruction of, or loss of natural resources as defined in 42 U.S.C. § 101(16) and includes natural resource damages assessment costs and restoration actions.
- 1.1.30 “Parties” shall mean the Settlers, the Multi-State Custodial Trustee, and the Beneficiaries.
- 1.1.31 “Person” means any individual, corporation, limited liability company, partnership, joint venture, association, joint-stock company, trust, charitable foundation, unincorporated organization, government or any agency or political subdivision thereof or any other entity.
- 1.1.32 “Plan” means the Joint Plan of Reorganization for the Debtors under Chapter 11 of the United States Bankruptcy Court dated _____ approved by order of the Bankruptcy Court on _____.
- 1.1.33 “Plan Effective Date” shall have the same meaning as the term “Effective Date” as such term is defined in the Plan.
- 1.1.34 “Reorganization _____ Cases” means _____.
- 1.1.35 “Reorganized ASARCO” shall have the meaning given in the Plan.
- 1.1.36 “Sacaton License” shall have the same meaning as the term “License” as such term is defined in Paragraph 8(e) of the Settlement Agreement.
- 1.1.37 “Settlement Agreement” means that certain Settlement Agreement Establishing a Custodial Trust for Certain Owned Sites in Alabama, Arizona, Arkansas, Colorado, Illinois, Indiana, New Mexico, Ohio, Oklahoma, Utah, and Washington executed by Beneficiaries and Settlers on _____, 2008 and approved by the Bankruptcy Court.
- 1.1.38 “Settlement Agreement Effective Date” shall have the same meaning as the term “Effective Date” as such term is defined in the Settlement Agreement.
- 1.1.39 “Sites” means the sites set forth in Exhibit “A” to this Settlement Agreement.
- 1.1.40 “States” means the States of Alabama, Arizona, Arkansas, Colorado, Illinois, Indiana, New Mexico, Ohio, Oklahoma, Utah, and Washington.
- 1.1.41 “Superfund” means the “Hazardous Substance Superfund” established by 26 U.S.C. § 9507 or, in the event such Hazardous Substance Superfund no

longer exists, any successor fund or comparable account of the Treasury of the United States to be used for removal or remedial actions to address releases or threats of releases of hazardous substances.

1.1.42 “Transferred Contracts” means those contracts and agreements relating to the Designated Properties listed in Exhibit “C” to this Agreement.

1.1.43 “United States” means the United States of America on behalf of agencies and departments named in the Settlement Agreement.

1.1.44 “USEPA” means the United States Environmental Protection Agency and any successor departments or agencies of the United States.

ARTICLE 2
THE MULTI-STATE CUSTODIAL TRUST

2.1 Creation of and Transfer of Assets to the Multi-State Custodial Trust.

2.1.1 Pursuant to the Plan, the Confirmation Order, and the Settlement Agreement, the Parties hereby establish, on behalf of the Beneficiaries named herein, and Settlers hereby transfer, assign, and deliver to, the Multi-State Custodial Trust, on behalf of the Beneficiaries, all fee ownership or other interests of Settlers in and to the Custodial Trust Assets and the Assigned Transitional Property Contract. Debtors shall retain no ownership or other interest whatsoever in the Designated Properties (except to the extent provided by Paragraphs 8(a)(i), (ii), and (iii), 8(e) and (f), and 9(n) of the Settlement Agreement). The transfer of ownership shall be by quit claim deed, in a form substantially similar to the quit claim deed attached as Exhibit “E” to this Agreement, of all of the Debtors’ rights, title and interests and shall be free and clear of all claims, liens, and interests against the Debtors other than any liability to the Governments under this Settlement Agreement, but subject to any existing *in rem* claims other than liens for the payment of monetary claims such as property taxes or other monetary claims asserted or that could have been asserted in the Reorganization Cases. Debtors shall pay all property taxes relating to the Designated Properties prorated through the Effective Date. The transfer of the Columbus Designated Property to the Multi-State Custodial Trust shall be subject to that certain Environmental Covenant filed in the Office of the Franklin County Recorder. Further, as part of the conveyance of the Columbus Designated Property to the Multi-State Custodial Trust, ASARCO agrees to transfer, and the Multi-State Custodial Trustee agrees to accept transfer of, the Operation and Maintenance Agreement and Escrow Agreement for the Columbus Site (the “Columbus Onsite Agreements”) if such agreements have been executed at the time of conveyance. If the Columbus Onsite Agreements

and the related Environmental Covenant for the Columbus Site have not been executed and recorded, the Multi-State Custodial Trust agrees to make a good faith, best effort to finalize and execute the Columbus Onsite Agreements and the Environmental Covenant. The Multi-State Custodial Trust hereby accepts and agrees to hold the Custodial Trust Assets in the Multi-State Custodial Trust for the benefit of the Beneficiaries for the purposes described in Section 2.2 below, subject to the terms of the Plan, Confirmation Order, Settlement Agreement, this Agreement, and any applicable orders of the Court

2.1.2 Transfer of Funding and Consideration to the Multi-State Custodial Trustee

2.1.2.1 The Funding. On the Effective Date, the Settlers shall cause to be transferred to or at the direction of the Multi-State Custodial Trustee cash in the amount of \$70,955,493, which constitutes the “Funding” and represents the aggregate amounts approved by the Court in the Confirmation Order as sufficient to pay the Environmental Costs and the costs of administering the Multi-State Custodial Trust.

2.1.2.2 The Deming Bond. Pursuant to the Settlement Agreement, ASARCO and St. Paul Travelers have consented to the Multi-State Custodial Trustee’s right to draw on the Deming Bond in the amount of \$850,000 in exchange for a full and final release of the Bond within two months after the Effective Date to fund future Environmental Costs with respect to the Deming Site, and the funds from the Deming Bond will be deposited in the Custodial Trust Environmental Cost Account for that Site. The Multi-State Custodial Trustee shall initiate all appropriate efforts to draw upon the Deming Bond in order to obtain said funds within thirty days of the Effective Date and shall obtain said funds within two months of the Effective Date or have initiated appropriate legal actions to obtain said funds. To draw on the Deming Bond, the Multi-State Custodial Trustee shall provide notice to St. Paul Travelers in writing at the following address: Robert L. Scanlon, St. Paul Travelers Bond, One Tower Square, 2S2A, Hartford, CCT 06183, Fax: 860-277-5722; with a copy to: Andrew Rosenblatt, Esq., Chadbourne & Parke LLP, 30 Rockefeller Plaza, New York, New York 1011, Fax: 212-541-5369. Within five business days of its receipt of payment from St. Paul Travelers of the proceeds of the Deming Bond, the Multi-State Custodial Trustee shall notify the Plan Administrator of the allowance of the St. Paul Travelers’ claim as set forth in Paragraph 9(e)(xii) of the Settlement Agreement. As of the Effective Date, only the Multi-State Custodial Trustee may draw on the Deming Bond and the State of

New Mexico, the obligee under the Deming Bond by its execution hereof, waives any and all rights with respect to the Deming Bond including the ability to assert a claim against the Deming Bond. If the Multi-State Custodial Trustee fails to draw on the Deming Bond within two months after the Effective Date, the Deming Bond shall be automatically deemed released, and all claims against the Deming Bond shall be forever waived, provided, however, that, in accordance with Paragraph 9(e)(xii) of the Settlement Agreement, St. Paul Travelers' failure to pay the Multi-State Custodial Trustee's timely request for a draw on the Bond shall not result in any waiver.

- 2.1.3 Upon receipt of the Designated Properties and the Funding, the Multi-State Custodial Trustee shall set aside in separate segregated trust accounts (each a "Custodial Trust Environmental Cost Account"), the Funding for Environmental Costs with respect to each Designated Property. The Multi-State Custodial Trustee shall also set aside the Funding provided for general administration in a separate Custodial Trust Administrative Account, which account shall not include any of Designated Properties. The separate accounts are referred to in this Agreement individually as a "Custodial Trust Account" and collectively as the "Custodial Trust Accounts." The initial Funding of each of the Custodial Trust Accounts shall be as set forth in the Settlement Agreement. Subject to Section 2.12, the income and gains from any investment of the Custodial Trust Assets shall be allocated, paid and credited to such Custodial Trust Account.
- 2.1.4 Without limiting the foregoing, the Multi-State Custodial Trust shall at all times maintain at least one Custodial Trust Environmental Cost Account for each of the Properties and its related Site to fund Environmental Costs for that Designated Property and related Site; except that the Custodial Trust Environmental Cost Account for (a) the Trench Mine Site and Salero Site in Arizona and (b) the Gold Hill Site and Belshazzar Site in Utah shall cover both Sites respectively as provided in the Settlement Agreement. Funds designated by the Settlement Agreement for a particular Designated Property and related Site shall be held and distributed from its respective Custodial Trust Environmental Cost Account as set forth therein, and Funding from a Custodial Trust Environmental Cost Account may not be used for another Designated Property and related Site except as otherwise expressly provided by and in accordance with Section 2.4.3 of this Agreement. Without limiting the foregoing, the Multi-State Custodial Trust shall at all times maintain at least one Custodial Trust Administrative Account.
- 2.1.5 Each Custodial Trust Account may be divided into such number of trust subaccounts dedicated for specific uses as may be deemed necessary in the sole discretion of the Multi-State Custodial Trustee (each, a "Trust

Subaccount”) to comply with the terms of, and implement, the Settlement Agreement, the Plan and this Agreement.

- 2.1.6 For all federal income tax purposes, the Multi-State Custodial Trustee and Settlers shall treat the transfer of the Custodial Trust Assets by Settlers to the Multi-State Custodial Trust as a transfer to a qualified settlement fund pursuant to section 468B of the Internal Revenue Code and related Treasury Regulations. The Multi-State Custodial Trustee will seek to have the Multi-State Custodial Trust treated as a “qualified settlement fund” as that term is defined in Treasury Regulation section 1.468B-1. The Multi-State Custodial Trustee will not elect to have the Multi-State Custodial Trust treated as a grantor trust. The Multi-State Custodial Trust will be treated as a separate taxable entity. The Multi-State Custodial Trustee shall cause any taxes imposed on the earnings of the Multi-State Custodial Trust to be paid out of such earnings and shall comply with all tax reporting and withholding requirements imposed on the Multi-State Custodial Trust under applicable tax laws.

2.2 Objective and Purpose.

- 2.2.1 The exclusive purposes and functions of the Multi-State Custodial Trust are to own the Designated Properties, carry out administrative and property management functions related to the Designated Properties, manage and/or fund implementation of future Environmental Actions approved by the Lead Government Agencies with respect to the Designated Properties and Sites, pay certain future oversight costs, and ultimately to sell, transfer or otherwise dispose of all or part of the Designated Properties, if possible, all as provided in the Settlement Agreement, with no objective or authority to engage in any trade or business.
- 2.2.2 The Multi-State Custodial Trust is established pursuant to Article VII of the Plan and approved by the Bankruptcy Court for the sole purpose of resolving claims asserting environmental liabilities of Settlers with respect to the Properties. The Bankruptcy Court shall retain continuing jurisdiction over the Multi-State Custodial Trust. The Multi-State Custodial Trust satisfies all the requirements of, and is intended by the Parties to be classified as, a qualified settlement fund (for which no grantor trust election has been made) pursuant to section 468B of the Internal Revenue Code and related Treasury Regulations.

2.3 Holder of Custodial Trust Assets.

The Multi-State Custodial Trust shall be the exclusive holder of the Custodial Trust Assets and Custodial Trust Accounts described herein for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012 (b)(3).

2.4 Management of Custodial Trust Assets

- 2.4.1 Consistent with the Plan, this Agreement, and the Settlement Agreement, the Multi-State Custodial Trust shall fund future Environmental Actions and oversight costs approved by the Lead Government Agency pursuant to CERCLA, RCRA, or similar state or federal statutes applicable to a particular Designated Property. The Multi-State Custodial Trust shall use the Custodial Trust Administrative Account to fund the administrative costs of the Multi-State Custodial Trust that have been approved by the United States after consultation with States that are Lead Government Agencies.
- 2.4.2 The Multi-State Custodial Trustee may enter into a consent decree or consent order with the United States and/or a State in which a Designated Property is located, and may perform work pursuant to Unilateral Administrative Orders issued by USEPA, to facilitate implementation of Section 2.4 with respect to such Designated Property.
- 2.4.3 Upon the completion of all final actions and disbursement of all final costs for a Designated Property and related Site, any funds remaining in the Custodial Trust Environmental Cost Account for such Designated Property and related Site shall be transferred in the following order: (1) first, in accordance with instructions provided by the United States Department of Justice and the respective State (or, in the case of Arizona, in accordance with instructions provided by Arizona after consultation with EPA) to any of the other Custodial Trust Environmental Cost Accounts established under this Agreement for a Designated Property in that State with remaining actions to be performed and a need for additional trust funding; (2) second, then in accordance with instructions provided by the United States Department of Justice after consultation with the States, to any of the other Custodial Trust Environmental Cost Accounts established under this Agreement or under any other ASARCO Environmental Custodial Trust for a Designated Property in another State with remaining actions to be performed and a need for additional trust funding; and (3) third, then to the Superfund. In addition, the United States and the State in which a Designated Property is located may agree in writing at any time after one year from the Effective Date that based on new information about the estimated cost of cleanup or the assumption of liability by a buyer or other party for a Designated Property, the funding in a Custodial Trust Environmental Cost Account is more than is conservatively projected to be needed. Upon such an agreement, the United States Department of Justice, after consultation with the States, may instruct the Multi-State Custodial Trustee to transfer any such excess funding to one or more of the other Custodial Trust Accounts established under this Agreement or any other ASARCO Environmental Custodial Trust for a Designated Property with remaining actions to be performed

and a need for additional trust funding (giving priority first to Custodial Trust Accounts in the same State). By no later than seven years after the Effective Date, the Multi-State Custodial Trustee shall provide the United States Department of Justice and the States an update of anticipated future Administrative Costs of the Multi-State Custodial Trust. The United States Department of Justice may thereafter instruct in writing after consultation with the States and the Multi-State Custodial Trustee that any conservatively projected surplus funding in the Custodial Trust Administrative Account be transferred to one or more of the other Custodial Trust Accounts established under this Agreement or any other ASARCO Environmental Custodial Trust for a Designated Property (as defined herein or in such other trust, as applicable) with remaining actions to be performed and a need for additional funding.

2.5 Work Performed and Disbursements by the Multi-State Custodial Trust.

Payments from the Multi-State Custodial Trust shall be made as provided in accordance with Subparagraphs 9.i and 9.j of the Settlement Agreement.

2.6 Investment and Safekeeping of Custodial Trust Assets.

2.6.1 The Custodial Trust Assets, until sold as provided herein and in the Plan and the Settlement Agreement, shall be held in trust and segregated. The Multi-State Custodial Trustee shall be under no liability for interest or producing income on any moneys received by the Multi-State Custodial Trust hereunder and held for distribution or payment as provided in this Agreement, except as such interest shall actually be received by the Multi-State Custodial Trust. Investments of any moneys held by the Multi-State Custodial Trust shall be administered in a manner consistent with the standards and requirements applicable to a trustee in connection with a Chapter 7 liquidation; provided, however, that the right and power of the Multi-State Custodial Trust to invest the Custodial Trust Assets, the Custodial Trust Proceeds, or any income earned by the Multi-State Custodial Trust, shall be limited to the right and power to invest such assets (pending periodic distributions in accordance with Article 3 hereof) in demand and time deposits, such as certificates of deposit, in banks or other savings institutions whose deposits are federally insured, or other liquid investments, such as Treasury bills; and provided further, that the scope of any such permissible investments shall be limited to include only those investments, or shall be expanded to include any additional investments, as the case may be, that a liquidating trust, within the meaning of Treasury Regulation section 301.7701-4(d), may be permitted to hold, pursuant to Treasury Regulations, or any modification in the IRS guidelines, whether set forth in IRS rulings, other IRS pronouncements or otherwise (although the Parties acknowledge and agree that the Multi-State Custodial Trust is properly characterized for federal tax purposes as

a qualified settlement fund within the meaning of Section 1.468B-1 of the Treasury Regulations, and not as a liquidating trust under Section 301.7701-4(d) of the Treasury Regulations).

- 2.6.2 The Multi-State Custodial Trustee is expressly prohibited from holding any or all of the Funding in a common, commingled or collective trust fund and from holding any or all of the Funding in a common, commingled or collective trust fund with the assets of any other entity.
- 2.6.3 Nothing in this Section 2.6 shall be construed as authorizing the Multi-State Custodial Trustee to cause the Multi-State Custodial Trust to carry on any business or to divide the gains therefrom, including without limitation, the business of an investment company, a company “controlled” by an “investment company,” required to register as such under the Investment Company Act of 1940, as amended. The sole purpose of this Section 2.6 is to authorize the investment of the funds in the Custodial Trust Accounts or any portions thereof as may be reasonably prudent pending use of the proceeds for the purposes of the Multi-State Custodial Trust.
- 2.6.4 The Custodial Trust Parties shall not incur any liability for following any written direction or order to act (or to refrain to act) from any Beneficiary so long as such written direction is not inconsistent with this Agreement and the Settlement Agreement.

2.7 Insurance Policy to Cover Future Response Actions.

Only at the direction of the United States and the States in which the relevant Designated Properties are located, shall the Multi-State Custodial Trustee investigate the possible purchase of an insurance policy to cover future Environmental Actions at one or more of the Designated Properties. If, and only if, the United States and the States in which the relevant Designated Properties are located unanimously direct the Multi-State Custodial Trustee in writing to purchase such insurance, shall the Multi-State Custodial Trustee use Custodial Trust Assets to purchase such insurance.

2.8 Access and Deed Restrictions.

The Multi-State Custodial Trust shall provide the United States and the respective States and their representatives and contractors with reasonable access at all reasonable times to the Designated Properties for the purposes of conducting Environmental Actions or related activities at or near the Designated Properties. The Multi-State Custodial Trustee shall implement any institutional controls or deed restrictions requested by the Governments with respect to any of the Designated Properties. The Multi-State Custodial Trust shall execute and record in the appropriate local real estate records any easements or deed restrictions restricting the use of the Designated Properties requested by the Beneficiaries in order to protect public health, welfare or safety or the environment or ensure non-interference with or protectiveness of any action. Nothing in the Settlement Agreement or this Agreement is intended to or shall be construed to

terminate or otherwise amend any easements or deed restrictions of record as to any Designated Property existing prior to the Effective Date. The Multi-State Custodial Trustee shall abide by the terms of any institutional controls or deed restrictions in place or of record as to any Designated Property.

2.9 Accounting.

The Multi-State Custodial Trustee shall maintain proper books, records, and accounts relating to all transactions pertaining to the Multi-State Custodial Trust, and the assets and liabilities of, and claims against or assumed by, the Multi-State Custodial Trust in such detail and for such period of time as may be necessary to enable the Multi-State Custodial Trustee to make full and proper accounting in respect thereof in accordance with Article 6 below and to comply with applicable provisions of law and good accounting practices. Except as otherwise provided herein or by the Settlement Agreement, the Multi-State Custodial Trustee shall not be required to file any accounting or seek approval of the Court with respect to the administration of the Multi-State Custodial Trust, or as a condition for making any payment or distribution out of the Custodial Trust Assets. Beneficiaries shall have the right upon fourteen (14) days' prior written notice delivered to the Multi-State Custodial Trustee to inspect such books and records.

2.10 Liability.

As provided in Sections VI, VII, and VIII of the Settlement Agreement, the Custodial Trust Parties are deemed to have resolved their civil liability under CERCLA and State environmental statutes to the United States and the States, and have protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2) or similar state law for matters addressed in the Settlement Agreement. The Custodial Trust Parties shall have the benefits of the covenants not to sue as set forth in Section VI of the Settlement Agreement and of contribution protection as set forth in Section VIII of the Settlement Agreement. However, in the event that the Court finds that the Multi-State Custodial Trustee in any material respect exacerbates conditions at any of the Properties, is seriously or repeatedly deficient or late in performance of the work, or violates the provisions of this Agreement, the Settlement Agreement, or other related implementation agreements, the United States and the State in which the relevant Designated Property is located may jointly direct that (i) the Multi-State Custodial Trustee be replaced in accordance with this Agreement or (ii) that all remaining funds and future proceeds or income, if any, attributable to the Custodial Trust Assets in the Multi-State Custodial Trust be paid to the USEPA and/or to the States to be used in accordance with the terms of this Agreement and the Settlement Agreement; provided, however, so long as title to any Designated Property remains in the name of the Multi-State Custodial Trust or the Multi-State Custodial Trustee, funds deemed reasonably sufficient by the applicable Beneficiaries to cover property taxes and other property management costs to be paid by the Multi-State Custodial Trust for any such Designated Property shall be left in the Custodial Trust Administrative Cost Account.

2.11 Termination.

Consistent with the terms of the Settlement Agreement, the Multi-State Custodial Trustee shall not unduly prolong the duration of the Multi-State Custodial Trust and shall at all times

endeavor to resolve, settle, or otherwise dispose of all claims against Custodial Trust Assets and to effect the distribution of Custodial Trust Assets and other receipts relating thereto to the Beneficiaries and the others who receive distributions hereunder in accordance with the terms hereof, and to terminate the Multi-State Custodial Trust as soon as practicable consistent with the Plan, this Agreement, and the Settlement Agreement.

2.12 Property Disposition.

2.12.1 The United States, the State in which a Designated Property is located, or a governmental unit that is a designee thereof, may at any time propose in writing to take ownership of any of the Designated Properties or any part thereof. Any such proposed transfer and the terms thereof are subject to approval in writing by USEPA and the State in which the Designated Property is located. The Multi-State Custodial Trustee may at any time seek the approval of USEPA and the applicable State for the sale or lease or other disposition of all or part of a Designated Property; provided no such approval shall be required for the sale or transfer of the Globe Designated Property pursuant to the terms of the Assigned Transitional Property Contract. In the event of any approved sale or lease or other disposition under this Paragraph, any net proceeds from the sale or lease or other disposition shall be paid to the Custodial Trust Environmental Cost Account for that Designated Property and/or to the Custodial Trust Administrative Cost Account (subject to the provisions of Section 2.4.3 herein) in a proportion approved by the US EPA and the State in writing.

2.12.2 In the event of transfer of the fee interest in the Globe Designated Property, the Funding allocated thereto shall be reallocated in accordance with Section 2.4.3.

2.12.3 The Multi-State Custodial Trustee shall hold unpatented mining claims, mill site claims, and placer claims consistent with the 1872 Mining Law, 30 U.S.C. § 22 et seq., and the Federal Land Policy and Management Act, 43 U.S.C. § 1701 et seq., or shall abandon such unpatented mining claims in accordance with applicable law. Any actions by the Multi-State Custodial Trustee on property administered by any federal agency can only be taken after the written concurrence of the federal agency.

ARTICLE 3
WORK AND DISTRIBUTIONS

3.1 Custodial Trust Accounts.

The Multi-State Custodial Trustee shall establish, maintain and hold trust accounts consistent with the Settlement Agreement and Sections 2.1.3 and 2.1.4 of this Agreement, to administer the Custodial Trust Assets and distributions therefrom. The Multi-State Custodial Trustee shall also maintain a dedicated Custodial Trust Administrative Account for

administrative funds, which shall be used solely to pay the costs of administering the Multi-State Custodial Trust as set forth herein.

3.2 Payments by the Multi-State Custodial Trust.

On January 1 of each calendar year, or within 60 days after the Effective Date in the case of the first such period, the Multi-State Custodial Trustee shall provide the United States and the Lead Government Agency with balance statements and proposed budgets as described in Sections 3.2.1 and 3.2.3 of this Agreement. The Multi-State Custodial Trustee shall not pay any expense that has not been provided for in the applicable budget and approved by the Lead Government Agency except that claims by a governmental agency shall be paid in accordance with Paragraph 9(i) of the Settlement Agreement.

3.2.1 Administrative Expenses of the Multi-State Custodial Trust.

On or before January 1 of each year, or within 60 days after the Effective Date in the case of the first such period, the Multi-State Custodial Trustee shall provide the United States and the States with a balance statement and an annual budget for administration of the Multi-State Custodial Trust for that calendar year, which may be approved or disapproved in whole or in part by the United States and States that are Lead Government Agencies. If disapproved, such budget shall be revised and resubmitted as expeditiously as possible. No administrative expenses may be incurred or paid by the Multi-State Custodial Trustee that are inconsistent with the approved budget, unless the United States and States that are Lead Government Agencies approve a revised budget. Each annual budget shall include a future year forecast of administrative expenditures, with annual details for at least the next three years (or such longer period as the United States and States that are Lead Government Agencies shall reasonably request). The Multi-State Custodial Trust shall regularly, but not less often than annually, and otherwise upon the reasonable request of the United States or the States, provide documentation to the United States and the States to substantiate compliance with the applicable approved budget and application of Custodial Trust Assets consistently with the terms of the Plan, this Agreement and the Settlement Agreement. The approved budget shall be funded by the transfer of the approved amount from Custodial Trust Assets.

3.2.2 Remuneration for Multi-State Custodial Trustee's Start-Up Fees and Expenses.

The Multi-State Custodial Trustee shall be entitled to remuneration from the Custodial Trust Administrative Account of up to \$_____ for its fees and expenses in connection with the formation of the Multi-State Custodial Trust prior to the Effective Date.

3.2.3 Environmental Expenses of the Multi-State Custodial Trust.

The Multi-State Custodial Trustee shall prepare balance statements and annual budgets of projected expenditures from each of the Custodial Trust Environmental Cost Accounts. The first budget for the remainder of the current calendar year and the next calendar year shall be prepared within sixty (60) days following the Effective Date and annual budgets shall be prepared thereafter on or before each January 1 prior to the beginning of the subject

calendar year during the term of the Multi-State Custodial Trust. The Lead Government Agency shall have the authority to approve or disapprove the proposed budget for the relevant Custodial Trust Environmental Cost Account after consultation with the other governmental agency (*i.e.*, the State in which the Designated Property is located for a Site for which USEPA is the Lead Government Agency and vice versa). If disapproved, a budget shall be revised and resubmitted as expeditiously as possible. No expenses may be incurred or paid by the Multi-State Custodial Trustee that are inconsistent with an approved budget, unless the Lead Government Agency after consultation with the other governmental agency approves a revised budget; provided, however, that the Multi-State Custodial Trustee may incur or pay ongoing or recurring expenses approved in the prior year's budget that occur between the time a proposed annual budget is submitted and the time it is approved. Further, by January 1 of each year during the term of the Multi-State Custodial Trust and within nine (9) months after termination of the Multi-State Custodial Trust, the Multi-State Custodial Trustee shall prepare and submit to the Beneficiaries an annual report with respect to each of the Custodial Trust Environmental Cost Accounts. The annual report shall pertain to the prior calendar year, or if the report is a final report, such period from the most recent annual report to the termination of the Custodial Trust Environmental Cost Accounts. If the Globe Designated Property has not been sold by the Debtors prior to the Effective Date, then unless and until the sale contemplated by the Assigned Transitional Property Contract fails and is without any further effect, the Multi-State Custodial Trustee shall not use any funding for Environmental Actions with respect to the Globe Site that would otherwise be assumed by the buyers under the Assigned Transitional Property Contract without the written approval of both the United States Department of Justice and the State of Colorado.

3.3 Liens by Government.

Notwithstanding anything to the contrary in this Article 3, the Multi-State Custodial Trust hereby grants to the Multi-State Custodial Trustee, the United States, and the respective States a first-priority lien on and security interest in the Custodial Trust Assets to secure the payment of all amounts owed to, accrued or reserved on account of the Multi-State Custodial Trust or to be retained by the Multi-State Custodial Trustee hereunder or otherwise due hereunder; provided such lien shall not attach to the Globe Designated Property in the event such property is sold pursuant to the Assigned Transitional Property Contract. However, only the Multi-State Custodial Trustee shall have a first-priority lien and security interest in Custodial Trust Administrative Account and only the United States and the respective States shall have a first-priority lien on and security interest in the Custodial Trust Environmental Cost Accounts. The Multi-State Custodial Trust agrees to take appropriate actions and execute appropriate documents to perfect the Multi-State Custodial Trustee's, United States', and respective States' liens and security interest hereunder.

3.4 Manner of Payment.

Cash payments made by the Multi-State Custodial Trust pursuant to the Settlement Agreement and this Agreement shall be in United States dollars by checks drawn on a domestic bank whose deposits are federally insured selected by the Multi-State Custodial Trustee, or by wire transfer from such a domestic bank, at the option of the Multi-State Custodial Trustee.

3.5 Unclaimed Distributions.

In the event that funds remain in the Multi-State Custodial Trust at its termination, the amounts remaining shall be transferred, as directed by the United States in consultation with all affected States, to any of the other ASARCO Environmental Custodial Trusts with remaining remediation or restoration to be performed and a need for additional trust funding or to the Superfund.

ARTICLE 4
THE MULTI-STATE CUSTODIAL TRUSTEE

4.1 Appointment.

4.1.1 The ASARCO Entities, after approval by the United States, hereby appoint Le Petomane XXV, Inc., not individually but solely in its representative capacity as Multi-State Custodial Trustee, by and through Jay A. Steinberg, not individually but solely in his representative capacity as president of the Multi-State Custodial Trustee, to serve as the Multi-State Custodial Trustee, and the Multi-State Custodial Trustee hereby accepts such appointment and agrees to serve in such representative capacity, effective upon the Effective Date of this Agreement. Subject to the provisions of Section 4.10 herein, the term of the Multi-State Custodial Trustee shall be for ten years at which time the Multi-State Custodial Trustee may be re-appointed or terminated. Any successor Multi-State Custodial Trustee shall be appointed by the Beneficiaries in accordance with Section 4.11 of this Agreement. If the Multi-State Custodial Trustee is not reappointed and no successor Multi-State Custodial Trustee is appointed by the expiration of the Multi-State Custodial Trustee's term, the Court may reappoint the Multi-State Custodial Trustee or appoint a successor Multi-State Custodial Trustee.

4.1.2 After consultation with the United States and the States, the Multi-State Custodial Trust is authorized to obtain the services of an environmental consultant to implement the future Environmental Actions (the "Consultant"). The Consultant shall obtain environmental, general and professional liability insurance in the sum of \$25,000,000 or such lesser amount as agreed to by the Multi-State Custodial Trust after consultation with the United States and States. The beneficiary of the insurance policies shall be the Multi-State Custodial Trust and shall cover negligence committed by the Consultant in implementing the future Environmental Actions or any other negligence committed by the Consultant. The legal relationship of the Consultant to the Multi-State Custodial Trust and Multi-State Custodial Trustee is that of an independent contractor professional, not that of an entity employed by the Multi-State Custodial Trust or the Multi-State Custodial Trustee. The Consultant shall not be deemed a Custodial Trust Party.

4.2 Generally.

The Multi-State Custodial Trustee's powers are exercisable solely in a fiduciary capacity consistent with, and in furtherance of, the purposes of the Multi-State Custodial Trust and the Settlement Agreement and not otherwise. The Multi-State Custodial Trustee shall have the authority to bind the Multi-State Custodial Trust, and any successor Multi-State Custodial

Trustee, or successor or assign of the Multi-State Custodial Trust, but shall for all purposes hereunder be acting in its representative capacity as Multi-State Custodial Trustee and not individually. Notwithstanding anything to the contrary contained herein, the Multi-State Custodial Trustee shall not be required to take action or omit to take any action if, after the advice of counsel, the Multi-State Custodial Trustee believes in good faith such action or omission is not consistent with the Multi-State Custodial Trustee's fiduciary duties.

4.3 Powers.

In connection with the administration of the Multi-State Custodial Trust, except as otherwise set forth in this Agreement, the Plan, or the Settlement Agreement, the Multi-State Custodial Trustee is authorized to perform any and all acts necessary to accomplish the purposes of the Multi-State Custodial Trust. The powers of the Multi-State Custodial Trust shall, without any further Court approval or order, include, without limitation, each of the following: (i) to receive, manage, invest, supervise and protect the Custodial Trust Assets, withdraw, make distributions and pay taxes and other obligations owed by the Multi-State Custodial Trust or the Custodial Trust Accounts from funds held by the Multi-State Custodial Trustee and/or the Multi-State Custodial Trust (or the Custodial Trust Accounts) in accordance with the Plan and Settlement Agreement, and withhold and pay to the appropriate taxing authority any withholding taxes on distributions from the Multi-State Custodial Trust; (ii) to engage employees and professional Persons to assist the Multi-State Custodial Trust and/or the Multi-State Custodial Trustee with respect to the responsibilities described herein; (iii) to make distributions of the Custodial Trust Assets from the Custodial Trust Accounts for the purposes contemplated in the this Agreement, the Plan, and the Settlement Agreement; and (iv) to effect all actions and execute all agreements, instruments and other documents necessary to implement this Agreement, including to exercise such other powers as may be vested in or assumed by the Multi-State Custodial Trust and/or the Multi-State Custodial Trustee pursuant to this Agreement and any order of the Court or as may be necessary and proper to carry out the provisions of the Plan and the Settlement Agreement. No Person dealing with the Multi-State Custodial Trust shall be obligated to inquire into the authority of the Multi-State Custodial Trustee in connection with the protection, conservation or disposition of Custodial Trust Assets. The Multi-State Custodial Trustee is authorized to execute and deliver all documents on behalf of the Multi-State Custodial Trust to accomplish the purposes of the Plan, this Agreement, and the Settlement Agreement.

4.4 Other Professionals.

The Multi-State Custodial Trustee shall have the authority, after approval by the United States, to retain on behalf of the Multi-State Custodial Trust and pay such third parties as the Multi-State Custodial Trustee (in accordance with a budget approved by the United States and the States) may deem necessary or appropriate to assist the Multi-State Custodial Trustee in carrying out its powers and duties under the Plan, this Agreement, and the Settlement Agreement, including, without limitation, (i) counsel to the Multi-State Custodial Trust and/or Multi-State Custodial Trustee, (ii) a public accounting firm to perform such reviews and/or audits of the financial books and records of the Multi-State Custodial Trust as may be appropriate in the Multi-State Custodial Trustee's reasonable discretion and to prepare and file any tax returns or informational returns for the Multi-State Custodial Trust or the Custodial Trust

Accounts as may be required, and (iii) environmental consultants, custodians, security personnel, engineers, surveyors, brokers, contractors, and clerks. The Multi-State Custodial Trustee may pay all such Persons compensation for services rendered and expenses incurred in accordance with a budget approved as provided in Section 3.2.

4.5 Limitation of the Multi-State Custodial Trustee's Authority.

The Multi-State Custodial Trust and the Multi-State Custodial Trustee shall not and are not authorized to engage in any trade or business with respect to the Custodial Trust Assets or any proceeds therefrom except as and to the extent the same is deemed in good faith by the Multi-State Custodial Trustee to be reasonably necessary or proper for the conservation or protection of the Custodial Trust Assets, or the fulfillment of the purposes of the Multi-State Custodial Trust. The Multi-State Custodial Trust and the Multi-State Custodial Trustee shall not take any actions or fail to take any actions that would cause the Multi-State Custodial Trust to fail to qualify as a qualified settlement fund (for which no grantor trust election has been made) under Section 468B of the Internal Revenue Code and the related Treasury Regulations.

4.6 Reliance by the Custodial Trust Parties.

Except as may otherwise be provided herein: (a) the Custodial Trust Parties may rely, and shall be protected in acting upon, any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, or other paper or document believed by them to be genuine and to have been signed or presented by the proper party or parties; (b) the Custodial Trust Parties may consult with legal counsel, financial or accounting advisors and other professionals to be selected by them, and the Custodial Trust Parties shall not be personally liable for any action taken or omitted to be taken by them in accordance with the advice thereof; and (c) Persons dealing with the Custodial Trust Parties shall look only to the Custodial Trust Assets to satisfy any liability incurred by the Custodial Trust Parties to such Person in carrying out the terms of this Agreement, the Plan, the Settlement Agreement, or any order of the Court and the Custodial Trust Parties shall have no personal obligation to satisfy any such liability.

4.7 Compensation of the Multi-State Custodial Trustee.

The Multi-State Custodial Trust shall pay its own reasonable and necessary costs and expenses, and shall reimburse the Multi-State Custodial Trustee for the actual reasonable out-of-pocket fees and expenses to the extent incurred by the Multi-State Custodial Trustee in connection with the Multi-State Custodial Trustee's duties hereunder, including, without limitation, necessary travel, lodging, office rent (to be paid directly by the Multi-State Custodial Trust), postage, photocopying, telephone and facsimile charges upon receipt of periodic billings, all in accordance with an annual budget or fee schedule approved by the Beneficiaries. The Multi-State Custodial Trustee and employees of the Multi-State Custodial Trust and the Multi-State Custodial Trustee who perform services for the Multi-State Custodial Trust shall be entitled to receive reasonable compensation for services rendered on behalf of the Multi-State Custodial Trust in accordance with an annual budget or fee schedule approved by the Beneficiaries.

The Custodial Trust Assets shall be subject to the claims of the Multi-State Custodial Trustee, and the Multi-State Custodial Trustee shall be entitled to reimburse itself out of any available cash in the Custodial Trust Administrative Account, and the Multi-State Custodial Trust shall be obligated to pay, for actual out-of-pocket expenses and for actual hours worked.

All compensation and other amounts payable to the Multi-State Custodial Trustee shall be paid from the Custodial Trust Assets.

4.8 Liability of Custodial Trust Parties.

In no event shall the Custodial Trust Parties be held liable to any third parties for any liability, action, or inaction of any other party including each other. The Custodial Trust Parties shall, further, be indemnified and exculpated in accordance with Section 4.9 of this Agreement.

4.9 Exculpation and Indemnification.

The Custodial Trust Parties shall be exculpated and indemnified, consistent with the provisions of 4.9.1 and 4.9.2, for any claims, causes of action, or other assertions of liability arising out of or in connection with:

(a) The ownership of Custodial Trust Assets.

(b) The discharge of duties and powers conferred upon the Multi-State Custodial Trust and/or Trustee by this Agreement, the Plan, the Settlement Agreement, any order of the Court, or applicable law or otherwise, including the making of payments in accordance with this Agreement, the Plan, the Settlement Agreement, or any order of court, and the implementing of the provisions of this Agreement, the Plan, the Settlement Agreement or any order of court.

(c) Any claim against Settlers.

4.9.1 Exculpation

No Custodial Trust Party shall be personally liable unless the Court finds, by a final order, that the Custodial Trust Party committed fraud or willful misconduct after the Effective Date in relation to the Multi-State Custodial Trustee's duties that are alleged to be the basis for liability. Each Custodial Trust Party shall be and hereby is exculpated by all Persons, including, without limitation, holders of claims and other parties in interest, of and from any and all claims, causes of action, and other assertions of liability arising out of or in connection with the matters contained in the provisions of Section 4.9 (a), (b) and (c). No person, including without limitation, holders of claims and other parties in interest, will be allowed to pursue any claims or cause of action against any Custodial Trust Party for the matters contained in the provisions of Section 4.9 (a), (b), and (c). However, nothing in this paragraph or this Agreement shall preclude the

Governments (as defined in the Settlement Agreement) from enforcing the terms of the Settlement Agreement against the Parties.

4.9.2 Indemnification

The Multi-State Custodial Trust shall indemnify, defend and hold harmless (without the Custodial Trust Parties having to first pay from their personal funds) the Custodial Trust Parties from and against any and all claims, causes of action, liabilities, obligations, losses, costs, judgments, damages or expenses (including attorneys' fees) and any other assertion of liability arising out of or in connection with the matters contained in the provisions of Section 4.9 (a), (b) and (c), to the fullest extent permitted by applicable law, provided that such indemnification shall be limited to funds in the Custodial Trust Environmental Cost Account for the relevant property or the Custodial Trust Administrative Account. Without limiting the foregoing, any such judgment against a Custodial Trust Party and any such costs of defense relating to any Custodial Trust Party shall be paid by the Multi-State Custodial Trust consistent with the terms and conditions of this Section 4.9.2. Notwithstanding the foregoing, to the extent fraud or willful misconduct of any Custodial Trust Party is alleged and the Court finds, by a final order, that such Custodial Trust Party committed fraud or willful misconduct after the Effective Date in relation to the Multi-State Custodial Trustee's duties, there shall be no indemnification, of that Custodial Trust Party, for any judgments arising from such allegations of fraud or willful misconduct. It shall be an irrebuttable presumption that any action taken, or inaction, consistent with Court approval shall not constitute willful misconduct or fraud.

4.10 Termination.

The duties, responsibilities and powers of the Multi-State Custodial Trustee will terminate on the date the Multi-State Custodial Trust is dissolved under applicable law in accordance with the Plan and the Settlement Agreement, or by an order of the Court; provided that Sections 2.10, 4.6, 4.8 and 4.9 above shall survive such termination, dissolution and entry. The Multi-State Custodial Trustee may resign by giving not less than thirty (30) days prior written notice thereof to the Court, the United States, and the States. The Multi-State Custodial Trustee may be terminated a) upon completion of any ten (10) year term; b) by order of the Court, immediately upon notice and the appointment of a temporary or permanent successor, for gross negligence, fraud or willful misconduct, (c) by order of the Court, immediately upon notice and the appointment of a temporary or permanent successor, for having in any material respect exacerbated conditions at any of the Designated Properties, being seriously or repeatedly deficient or late in performance of the work, or violating the provisions of this Agreement, the Settlement Agreement, or other related implementation agreements, or for official misconduct; or d) otherwise as provided in the Settlement Agreement.

4.11 Appointment of Successor Multi-State Custodial Trustees.

Any successor Multi-State Custodial Trustee shall be proposed by the United States and the States and appointed by the Court. Any successor Multi-State Custodial Trustee appointed hereunder shall execute an instrument accepting such appointment hereunder and shall file such acceptance with the Multi-State Custodial Trust records. Thereupon, such successor Multi-State Custodial Trustee shall, without any further act, become vested with all the estates, properties, rights, powers, trusts and duties of its predecessor in the Multi-State Custodial Trust with like effect as if originally named herein; provided, however, that a removed or resigning Multi-State Custodial Trustee shall, nevertheless, when requested in writing by the successor Multi-State Custodial Trustee, execute and deliver an instrument or instruments conveying and transferring to such successor Multi-State Custodial Trustee under the Multi-State Custodial Trust all the estates, properties, rights, powers, and trusts of such predecessor Multi-State Custodial Trustee.

4.12 No Bond.

Notwithstanding any state law to the contrary, the Multi-State Custodial Trustee, including any successor Multi-State Custodial Trustee, shall be exempt from giving any bond or other security in any jurisdiction.

ARTICLE 5
BENEFICIARIES

5.1 Beneficiaries.

Beneficial interests in the Multi-State Custodial Trust shall be held by each of the Beneficiaries.

5.2 Identification of Beneficiaries.

5.2.1 In order to determine the actual names and addresses of the authorized representatives of a Beneficiary, the Multi-State Custodial Trust and the Multi-State Custodial Trustee shall be entitled to rely conclusively on the name and address of the authorized representative for such Beneficiary listed below in this Section 5.2.1, who may from time to time provide additional or replacement names and addresses of authorized representatives, or listed in any written notice provided to the Multi-State Custodial Trustee in the future by an authorized representative of such Beneficiary.

[insert names, addresses and authorized representatives]

5.2.2 The Multi-State Custodial Trustee shall send copies of all reports, budgets, annual balance statements, and other documents that the Multi-State Custodial Trustee is required to submit to a Beneficiary under the Settlement Agreement, this Agreement, the Plan, and related implementation documents including any unilateral administrative orders, consent decrees, or administrative orders on consent to the following person(s), as applicable:

[insert names, addresses]

5.3 Non-Beneficiaries

Upon the Effective Date of this Agreement, the Settlers shall have no interests including, without limitation, any reversionary interest, in the Multi-State Custodial Trust or any Custodial Trust Assets.

5.4 Transfer of Beneficial Interests

The interest of the Beneficiaries in the Multi-State Custodial Trust, which are reflected only on the records of the Multi-State Custodial Trust maintained by the Multi-State Custodial Trust, are not negotiable and may be transferred only after written notice to the Multi-State Custodial Trust, by order of the Court or by operation of law. The Multi-State Custodial Trust shall not be required to record any transfer in favor of any transferee which, in the sole discretion of the Multi-State Custodial Trust, is or might be construed to be ambiguous or to create uncertainty as to the holder of the interest in the Multi-State Custodial Trust. Until a transfer is in fact recorded on the books and records maintained by the Multi-State Custodial Trust for the purpose of identifying Beneficiaries, the Multi-State Custodial Trust, whether or not in receipt of documents of transfer or other documents relating to the transfer, may nevertheless make distributions and send communications to Beneficiaries, as though it has no notice of any such transfer, and in so doing the Multi-State Custodial Trust and Multi-State Custodial Trustee shall be fully protected and incur no liability to any purported transferee or any other Person.

ARTICLE 6
REPORTING AND TAXES

6.1 Reports.

As soon as practicable after the end of each calendar quarter beginning with the quarter ended after assets are first received by the Multi-State Custodial Trust and ending as soon as practicable upon termination of the Multi-State Custodial Trust, the Multi-State Custodial Trust shall submit to the Beneficiaries a written report, including: (a) financial statements of the Multi-State Custodial Trust at the end of such calendar quarter or period and the receipts and disbursements of the Multi-State Custodial Trust for such period; and (b) a description of any action taken by the Multi-State Custodial Trust in the performance of its duties which, as determined by outside counsel, accountants or other professional advisors, materially and adversely affects the Multi-State Custodial Trust and of which notice has not previously been given to the Beneficiaries. The Multi-State Custodial Trust shall promptly submit additional reports to the Beneficiaries whenever, as determined by outside counsel, accountants or other professional advisors, an adverse material event or change occurs which affects either the Multi-State Custodial Trust or the rights of the Persons receiving distributions (including, without limitation, the Beneficiaries) hereunder. The Multi-State Custodial Trust shall also provide the reports or information required by Section 3.2 of this Agreement.

6.2 Other.

The Multi-State Custodial Trust shall also file (or cause to be filed) any other statements, returns or disclosures relating to the Multi-State Custodial Trust, that are required by any applicable governmental unit.

6.3 Reports in Support of Insurance Claims.

The Multi-State Custodial Trust shall also file (or cause to be filed) reports and cost analyses in support of claims against insurance carriers at the request of the United States and the States and shall provide the United States and the States a copy of any such reports and cost analyses.

6.4 Taxes.

The Multi-State Custodial Trustee shall be the “administrator,” within the meaning of Treasury Regulations Section 1.468B-2(k)(3), of the Multi-State Custodial Trust. Subject to definitive guidance from the Internal Revenue Service or a judicial decision to the contrary, the Custodial Trustee shall file tax returns and pay applicable taxes with respect to the Multi-State Custodial Trust in a manner consistent with the provisions of Treasury Regulations Section 1.468B-2. All such taxes shall be paid from the Custodial Trust Assets.

ARTICLE 7
MISCELLANEOUS PROVISIONS

7.1 Amendments and Waivers.

Any provision of this Agreement may be amended or waived by mutual written consent of the Multi-State Custodial Trust, the United States, and the States; provided, however, that no change shall be made to this Agreement that would alter the provisions of Section 7.2 hereof or adversely affect the federal income tax status of the Multi-State Custodial Trust as a “qualified settlement fund” for which no grantor trust election has been made (in accordance with Section 2.1.6 hereof), or, unless agreed to in writing by the affected Custodial Trustee, the rights of the Multi-State Custodial Trustee. Technical amendments to this Agreement may be made as necessary, to clarify this Agreement or enable the Multi-State Custodial Trustee to effectuate the terms of this Agreement, in a manner consistent with the Settlement Agreement and the Plan with the mutual consent of the Multi-State Custodial Trust, the United States, and the States.

7.2 Tax Treatment.

The Multi-State Custodial Trust created by this Agreement is intended to be treated as a qualified settlement fund (for which no grantor trust election has been made) pursuant to section 468B of the Internal Revenue Code and related Treasury Regulations for federal income tax purposes, and to the extent provided by law, this Agreement shall be governed and construed in all respects consistent with such intent. In no event shall the Settlers or the Multi-State Custodial Trustee take the position that any portion of the Multi-State Custodial Trust or any portion of a Custodial Trust Account is a grantor trust owned by any or all of the Settlers.

7.3 Cooperation.

- 7.3.1 Within 30 days after the Effective Date, the Settlers shall provide the Multi-State Custodial Trustee with copies of such of their books and records relating to the Designated Properties for the purpose of performing its duties and exercising its powers hereunder, including all environmental information and/or data in the state and condition in which such records are found regarding the Designated Properties in possession of Debtors or their contractors. The Multi-State Custodial Trust and Multi-State Custodial Trustee shall take such actions and execute such documents as are reasonably requested by Debtors with respect to effectuating the Plan and the transactions contemplated thereby, provided that such actions are not inconsistent with this Agreement or the Settlement Agreement. To the extent that Debtor requests the Multi-State Custodial Trust and/or the Multi-State Custodial Trustee to take such an action, the Multi-State Custodial Trust and Multi-State Custodial Trustee shall do so at the sole expense of the Debtor. The Multi-State Custodial Trustee, Debtor, and the Lead Government Agency for each of the Designated Properties will exchange information and reasonably cooperate to determine the appropriate disposition of any executory contracts or unexpired leases that relate to the relevant site.
- 7.3.2 The Multi-State Custodial Trustee hereby grants and shall cooperate with the Debtor with respect to the Sacaton License. The Multi-State Custodial Trustee (or the purchaser in the event the property is sold), shall, at the sole cost and expense of the Multi-State Custodial Trustee from the Custodial Trust Administrative Account (or of the purchaser in the event that the property is sold), provide all utilities to the Warehouse Space (as that term is defined in Paragraph 8(e) of the Settlement Agreement) necessary to facilitate ASARCO's use of the Warehouse Space, including but not limited to, heating, ventilation and air conditioning and gas, water, sewer, and electrical utilities for up to one year. After the Multi-State Custodial Trustee (or the purchaser in the event the property is sold) has paid these expenses for the first year, Reorganized ASARCO and the Plan Administrator shall pay any further utilities, including but not limited to, heating, ventilation, air conditioning, and gas, water, sewer, and electric costs so long as ASARCO retains the Sacaton License. ASARCO, its successors or assigns shall obtain appropriate insurance coverage related to the Licensees' use of and activities at the Designated Property reasonably satisfactory to the Multi-State Custodial Trustee and naming the Multi-State Custodial Trustee as an additional insured for so long as ASARCO retains the Sacaton License at its sole cost and expense.
- 7.3.3 ASARCO and the Multi-State Custodial Trustee hereby acknowledge that ASARCO is involved in a lawsuit filed against AMC, Tri-Point Development, LLC, CRM/Casa Grande, LLC, Vanguard Properties, Inc.,

and First American Exchange Company, LLC, Adversary Proceeding No. 07-02071 (the "Lawsuit") regarding certain real property located adjacent to the Sacaton Site and subject to the Lawsuit (the "Sacaton Adjacent Property"). Prior to the earlier to occur of (i) 270 days after the date of the final resolution of the Lawsuit and (ii) 5 years after the Effective Date (the "Option Period"), the Multi-State Custodial Trustee, its successors or assigns, shall not lease or sell to any party, nor enter into any agreements that restrict the right of Multi-State Custodial Trustee, its successors or assigns, to lease or sell, all or any portion of the Sacaton Site, the minerals located on or under the Sacaton Site, appurtenant groundwater rights, or associated surface water rights, claims, or filings. The Multi-State Custodial Trustee hereby grants to ASARCO or its assigns an exclusive option to lease (the "Option") the mineral rights and interests located on and under the Sacaton Site, and any associated surface water rights, claims and filings, and appurtenant groundwater rights, and the rights of access, exploration, development and mining in connection with such lease (collectively, the "Option Property") from the Multi-State Custodial Trustee, its successors or assigns, on the terms and conditions specified in Paragraph 8(f)(i)-(vi) of the Settlement Agreement.

7.4 Situs of the Multi-State Custodial Trust.

The situs of the Multi-State Custodial Trust herein established is [Texas], and the laws of [Texas] shall control with respect to the construction, administration, and validity of the Multi-State Custodial Trust and to the construction and interpretation of this Agreement, without giving effect to rules governing the conflict of law.

7.5 Severability.

If any provision of this Agreement or application thereof to any Person or circumstance shall be finally determined by the Court to be invalid or unenforceable to any extent, the remainder of this Agreement, or the application of such provision to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and such provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

7.6 Sufficient Notice.

Any notice or other communication hereunder shall be in writing and shall be deemed to have been sufficiently given, for all purposes, if deposited, postage prepaid, in a post office or letter box addressed to the Person for whom such notice is intended, to the name and address set forth in the case of a Beneficiary in Section 5.2 of this Agreement or such other address provided in writing to the Multi-State Custodial Trust by an authorized representative of the respective Beneficiary.

7.7 Headings.

The section headings contained in this Agreement are solely for convenience of reference and shall not affect the meaning or interpretation of this Agreement or any term or provision hereof.

7.8 Actions Taken on Other Than Business Day.

If any payment or act under the Settlement Agreement is required to be made or performed on a date that is not a business day, then the making of such payment or the performance of such act may be completed on the next succeeding business day, but shall be deemed to have been completed as of the required date. For the purposes of this agreement, a business day shall be any of the days Monday through Friday excluding national holidays.

7.9 Consistency of Agreements and Construction.

To the extent reasonably possible, the provisions of this Agreement shall be interpreted in a manner consistent with the Settlement Agreement. Where the provisions of this Agreement are irreconcilable with the provisions of the Settlement Agreement, the provisions of the Settlement Agreement shall prevail, with the exception of Article 4, in which case this Agreement controls.

7.10 Compliance with Laws.

Any and all distributions of Custodial Trust Assets shall be in compliance with applicable laws, including, but not limited to, applicable federal and state securities laws.

7.11 Preservation of Privilege.

In connection with the rights, claims, and causes of action that constitute the Custodial Trust Assets, any attorney-client privilege, work-product privilege, or other privilege or immunity attaching to any documents or communications (whether written or oral) transferred to the Multi-State Custodial Trust shall vest in the Multi-State Custodial Trust and its representatives, and the Parties are authorized to take all necessary actions to effectuate the transfer of such privileges.

THE UNDERSIGNED PARTIES ENTER INTO THIS SETTLEMENT AGREEMENT

FOR THE UNITED STATES

Date: _____

Ronald J. Tenpas
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

Date: _____

Alan S. Tenenbaum
David L. Dain
Eric D. Albert
Environment and Natural Resources Division
Environmental Enforcement Section
U.S. Department of Justice

Date: _____

Granta Y. Nakayama
Assistant Administrator
Office of Enforcement and Compliance
Assurance
U.S. Environmental Protection Agency

FOR ASARCO LLC

Date: _____

Thomas L. Aldrich
Vice President, Environmental Affairs

Date: _____

Douglas E. McAllister
Executive Vice President, General Counsel

FOR ASARCO Master, Inc.

Date: _____

Thomas L. Aldrich
Vice President, Environmental Affairs

Date: _____

Douglas E. McAllister
Executive Vice President, General Counsel

FOR AR Sacaton LLC

Date: _____

Thomas L. Aldrich
Vice President, Environmental Affairs

Date: _____

Douglas E. McAllister
Executive Vice President, General Counsel

FOR CAPCO Pipe Company, Inc.

Date: _____

Thomas L. Aldrich
Vice President, Environmental Affairs

Date: _____

Douglas E. McAllister
Executive Vice President, General Counsel

FOR Alta Mining and Development Company

**Attachment D
Multi-State Custodial
Trust Settlement Agreement**

Date: _____

Thomas L. Aldrich
Vice President, Environmental Affairs

Date: _____

Douglas E. McAllister
Executive Vice President, General Counsel

FOR THE STATE ALABAMA

Troy King
Attorney General
State of Alabama

Date: _____

By: Robert Tambling
Assistant Attorney General

FOR THE STATE OF ARIZONA

Date: _____

Amanda E. Stone
Director of Waste Programs Divisions
Arizona Department of Environmental
Quality

FOR THE STATE OF ARKANSAS

Dustin McDaniel
Attorney General

Date: _____

By: Kendra Akin Jones
Assistant Attorney General
Office of the Attorney General
323 Center Street, Suite 400
Little Rock, AR 72201

FOR THE STATE OF COLORADO

Date: _____

James B. Martin, Executive
Director of Colorado Department
Of Public Health and Environment
For Colorado Hazardous Materials
And Waste Management
Division

FOR THE STATE OF ILLINOIS

FOR THE PEOPLE OF THE STATE OF ILLINOIS *ex rel.*
LISA MADIGAN,
Attorney General of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

Date: _____ BY:

THOMAS DAVIS, Chief
Environmental Bureau

FOR THE ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

DOUGLAS P. SCOTT, Director
Illinois Environmental Protection Agency

BY: _____
ROBERT A. MESSINA
Chief Legal Counsel

FOR THE STATE OF INDIANA

STEVE CARTER
Attorney General of Indiana

Date: _____

By: _____
Timothy J. Junk
Deputy Attorney General
Indianapolis, IN

FOR THE STATE OF NEW MEXICO

Date: _____

Ron Curry
Secretary, New Mexico Department
of the Environment

Date: _____

Joanna Prukop
Secretary, New Mexico Energy, Minerals,
and Natural Resources Department

Gary King
New Mexico Attorney General

By: _____

Stephen R. Farris
Assistant Attorney General

FOR THE STATE OF OHIO

Date: _____

Michelle T. Sutter
Assistant Attorney General
Environmental Enforcement Section
30 E. Broad Street, 25th Floor
Columbus, OH 43215

FOR THE STATE OF OKLAHOMA

Date: _____

Trevor Hammons
Assistant Attorney General
Oklahoma Office of the Attorney General
Environmental Protection Unit
313 N.E. 21st Street
Oklahoma City, Oklahoma 73105
Office: (405) 522-4448
Fax: (405) 522-0608

Date: _____

Miles Tolbert
Oklahoma Secretary of the Environment
3800 Classen Boulevard
Oklahoma City, Oklahoma 73118

FOR THE STATE OF UTAH

Date: _____ By: _____
____Richard W. Sprott, Executive Director

Utah Department of Environmental Quality
168 North 1950 West
P.O. Box 144810
Salt Lake City, Utah 84114-4810

FOR THE STATE OF WASHINGTON

Robert M. McKenna
Attorney General

Date: _____

Elliott Furst
Senior Counsel
Attorney General of Washington
Ecology Division

FOR THE CUSTODIAL TRUSTEE

Le Petomane XXV, Inc., not individually but solely
in the representative capacity as Trustee of the
Custodial Trust

Date: _____ By: _____

Jay A. Steinberg, not individually but solely
in the representative capacity as President
of the Trustee of the Custodial Trust

EXHIBIT "A"

List of Sites

EXHIBIT "B"

List of Designated Properties

EXHIBIT “C”

List of Transferred Contracts

[To Be Agreed Upon]

EXHIBIT "D"

List of Non-Transferred Equipment and Other Items of Personal Property

None.

**Attachment D
Multi-State Custodial
Trust Settlement Agreement**

EXECUTED effective as of the _____ day of _____, 200_.

GRANTOR:

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

STATE OF _____ §

COUNTY OF _____ §

This instrument was acknowledged before me on _____, 200_, by _____, the _____ of _____, a _____, the _____ of _____, a _____, on behalf of said _____.

NOTARY PUBLIC

STATE OF _____ §

COUNTY OF _____ §

This instrument was acknowledged before me on _____, 200_, by _____, the _____ of _____, a _____, the _____ of _____, a _____, on behalf of said _____.

NOTARY PUBLIC