

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

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

**AMENDED SETTLEMENT AGREEMENT AND CONSENT DECREE
REGARDING RESIDUAL ENVIRONMENTAL CLAIMS FOR THE
COEUR D’ALENE, IDAHO, OMAHA, NEBRASKA, AND
TACOMA, WASHINGTON ENVIRONMENTAL SITES**

WHEREAS, the Coeur d’Alene site, which is also known as the federally designated Bunker Hill Mining and Metallurgical Complex Superfund site, is located within the Coeur d’Alene River basin of northern Idaho and includes mining-contaminated areas in the Coeur d’Alene River corridor, adjacent floodplains, downstream water bodies, tributaries, and fill areas, as well as the 21-square-mile Bunker Hill “Box” located in the area surrounding the historic smelting operations, and contaminated soil, sediments, surface water, groundwater, fish, and migratory birds allegedly impacted by hazardous substance releases from historical mining, milling and smelting operations, as further described in the proofs of claim, and includes any location at which hazardous substances from this site have come to be located (the "Coeur d’Alene Site");

WHEREAS, the Omaha Lead Site is currently a 25 to 30 square mile federal Superfund site consisting of contaminated surface soils present at residential properties, child-care facilities, and other residential-type properties in the City of Omaha, Nebraska, including but not limited to properties in the Final Focus Area, that have been lead-

contaminated as a result of historic air emissions from smelting/refining and other lead industrial operations, as further described in the proofs of claim, and includes any location at which hazardous substances from the Omaha Lead Site have come to be located (the “Omaha Site”);

WHEREAS, the Tacoma site in Washington is a large area-wide site encompassing much of the City of Tacoma, Vashon Island, Pierce County, south King County, and northern Thurston County, that includes contaminated surface soils, which the State of Washington contends has been contaminated as a result of historic air emissions from arsenic and lead sources from a smelter operated by Debtor in Ruston, Washington, as further described in the proofs of claim, and includes any location at which hazardous substances from this property have come to be located (the "Tacoma Site");

WHEREAS, the Coeur d’Alene Site, the Omaha Site, and the Tacoma Site (collectively the “Residual Sites”) are sites which have been or will be the subject of environmental response and/or restoration activities;

WHEREAS, the United States on behalf of the Environmental Protection Agency (“EPA”), Department of Interior (“DOI”), and United States Department of Agriculture Forest Service (“USDA/FS” or “FS”) has alleged that ASARCO LLC, formerly known as ASARCO Incorporated (“ASARCO” or the “Debtor”), is a potentially responsible party with respect to the Coeur d’Alene Site and the Omaha Site;

WHEREAS, the State of Nebraska has alleged that ASARCO is a potentially responsible party with respect to the Omaha Site;

WHEREAS, the State of Washington has alleged that ASARCO is a potentially responsible party with respect to the Tacoma Site;

WHEREAS, the United States has alleged that it has incurred past response costs, and will incur additional future response costs under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (“CERCLA”), 42 U.S.C. §§ 9601 et seq., in connection with the Coeur d’Alene Site and the Omaha Site, and that there are natural resource damages with respect to the Coeur d’Alene Site, for which ASARCO allegedly is liable;

WHEREAS, the State of Washington has alleged that it has incurred past response costs, and will incur additional future response costs under CERCLA and the Model Toxics Control Act (“MTCA”), RCW 70.105D, the State’s analogue to CERCLA, and that there are natural resource damages, with respect to the Tacoma Site, for which ASARCO allegedly is liable;

WHEREAS, the State of Nebraska has alleged that it has incurred past response costs, and will incur additional future response costs under CERCLA, in connection with the Omaha Site, for which ASARCO is allegedly liable;

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”);

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.

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 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 Proofs of Claim Nos. 8375, 11010, 10745, and 10746 in the Bankruptcy Case setting forth, inter alia, claims and causes of action against ASARCO under Section 107 of CERCLA for various past and future response costs and natural resource damages as defined under CERCLA in connection with the Coeur d'Alene Site and the Omaha Site;

WHEREAS, the United States asserted a protective claim in Proof of Claim No. 10746 with respect to ASARCO's obligations under applicable law to perform future work at, inter alia, the Coeur d'Alene Site;

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.

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, ASARCO owns certain portions of the Coeur d'Alene Site as more particularly described in Attachment A hereto ("Coeur d'Alene Owned Properties") and the United States' Proof of Claim No. 10746 protectively set forth claims or causes of action for future response costs and work pursuant to ASARCO's status as a present owner of these parts of the Coeur d'Alene Site;

WHEREAS, on July 9, 2008, Debtors filed a Motion for Order Approving Settlement Agreement Regarding the Coeur d'Alene Box Site ("Box Operable Units") which consists of Operable Units One and Two of the Bunker Hill Mining and Metallurgical Complex Superfund site of the Coeur d'Alene Site (Docket No. 8336);

WHEREAS, the State of Washington filed Proofs of Claim numbered 10716-10733 and 11098-11115 setting forth, inter alia, claims against ASARCO under MTCA and Section 107 of CERCLA for various past and future response costs and natural resource damages as defined under MTCA and CERCLA, in connection with the Tacoma Site;

WHEREAS, on November 27, 2007, the Bankruptcy Court entered its Order Approving Partial Compromise and Settlement Regarding the Tacoma Smelter Plume Site (Docket Nos. 6364, 6137), which provided Washington an allowed claim of \$7 million for past costs and an allowed claim of \$7 million for natural resource damages at the Tacoma Smelter Site (hereafter referred to as the "Separately Settled State Matters");

WHEREAS, the Separately Settled State Matters reserved and did not in any way impact the settlement of the State of Washington's claims for future costs for the Tacoma Site as outlined in this agreement;

WHEREAS, the State of Nebraska filed Proofs of Claim numbered 10500 and 10501 setting forth, inter alia, claims against ASARCO under Section 107 of CERCLA for various past and future response costs as defined under CERCLA in connection with the Omaha Site;

WHEREAS, on March 23, 2007, the Bankruptcy Court entered a Case Management Order for the estimation of certain of ASARCO's environmental liabilities;

WHEREAS, on August 6-9 and 15, 2007, the Bankruptcy Court held a hearing to estimate the United States' and Nebraska's Proofs of Claim for the Omaha Site;

WHEREAS, on September 24-27, 2007, the Bankruptcy Court held a hearing to estimate the State of Washington's Proof of Claim for future costs for the Tacoma Site;

WHEREAS, on October 9-12, 2007, the Bankruptcy Court held a hearing to estimate the United States' Proofs of Claim for the Coeur d'Alene Site other than for the Box Operable Units;

WHEREAS, the United States' and Nebraska's Proofs of Claim, as updated by the United States' expert reports and proffers in connection with the estimation hearing, estimated ASARCO's liability for the Omaha Site to be over \$406 million to the United States on behalf of EPA and over \$2.3 million to the State of Nebraska (see United States' and State of Nebraska's Post-Hearing Submissions Regarding the Omaha Lead Superfund Site (Docket No. 5808) and United States' and State of Nebraska's Proposed Order Estimating Claims for the Omaha Lead Superfund Site (Docket No. 5951));

WHEREAS, the United States' Proof of Claim, as updated by the United States' expert reports and proffers in connection with the estimation hearing, estimated past costs plus certain interest for the Coeur d'Alene Site (other than for the Box Operable Units) to

be over \$180 million (*see* Post-Hearing Brief of the United States of America With Respect to the Coeur d'Alene Basin Site in Idaho at 1 (Docket No. 6219));

WHEREAS, the United States' Proof of Claim, as updated by the United States' expert reports and proffers in connection with the estimation hearing, estimated the cost of the performance of future response work for the Coeur d'Alene Site (other than for the Box Operable Units) to be over \$2 billion (*see* Post-Hearing Brief of the United States of America With Respect to the Coeur d'Alene Basin Site in Idaho at 1 (Docket No. 6219));

WHEREAS, the United States' Proof of Claim, as updated by the United States' expert reports and proffers in connection with the estimation hearing, estimated natural resource damages including assessment costs for the Coeur d'Alene Site collectively to be over \$330 million;

WHEREAS, the State of Washington's Proof of Claim, as updated by the State's expert reports and proffers in connection with the estimation hearing, asserted a claim of \$112.66 million for future costs for the Tacoma Site (*see* State of Washington's Pre-Trial Brief for the Tacoma Smelter Plume at 13 (Docket No. 5873));

WHEREAS, the Bankruptcy Court has not provided any estimation ruling with respect to the Coeur d'Alene, Omaha, and Tacoma Sites;

WHEREAS, Debtors on July 31, 2008, as amended on September 12, 2008 and September 25, 2008, filed a proposed a plan of reorganization (the "2008 Plan") that incorporated in the 2008 Plan Exhibit 12 a resolution of the Proofs of Claim (as updated) of: (A) the United States for (i) the Coeur d'Alene Site (other than with respect to EPA's claims and causes of action for the Box Operable Units which are being resolved separately and are hereafter referred to as the "Separately Settled Federal Matters") and

(ii) the Omaha Site; (B) the Proof of Claim (as updated) of Washington for future costs at the Tacoma Site (other than with respect to the Separately Settled State Matters); and (C) the Proof of Claim of Nebraska for the Omaha Site, which were collectively denominated as the Residual Environmental Claims in the 2008 Plan;

WHEREAS, on September 22, 2008, the United States published notice of the proposed Residual Environmental Claims settlement agreement in the Federal Register at 73 Fed. Reg. 54620 (Sept. 22, 2008);

WHEREAS, the United States received one public comment on the proposed Residual Environmental Claims settlement agreement;

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

WHEREAS, the parties to this Settlement Agreement have agreed that the Coeur d'Alene Owned Properties will be placed into an environmental custodial trust, the Successor Coeur d'Alene Custodial and Work Trust;

WHEREAS, the parties have agreed that the Successor Coeur d'Alene Custodial and Work Trust will, as successor in interest to ASARCO for this limited purpose, perform work approved by EPA for the Coeur d'Alene Site in satisfaction and fulfillment of all liability of ASARCO to perform work pursuant to CERCLA;

WHEREAS, the Debtors, the United States, and the States of Washington and Nebraska wish to enter into a settlement agreement for the Residual Environmental Claims that is separate from and not dependent on confirmation of any particular plan of reorganization;

WHEREAS, the parties hereto desire to settle, compromise and resolve their disputes without the necessity of a ruling by the Bankruptcy Court estimating the Residual Environmental Claims;

WHEREAS, this Settlement Agreement is intended to serve as a comprehensive settlement of the claims and causes of action by the United States against ASARCO with respect to all past costs and potential future costs, natural resource damages, and the performance of any work relating to or in connection with the Coeur d'Alene Site and the Omaha Site other than the Separately Settled Federal Matters;

WHEREAS, this Settlement Agreement is intended to serve as a comprehensive settlement of the claims by the State of Washington against ASARCO with respect to all potential future costs and the performance of any work relating to or in connection with the Tacoma Site other than the Separately Settled State Matters;

WHEREAS, this Settlement Agreement is intended to serve as a comprehensive settlement of the claims by the State of Nebraska against ASARCO with respect to all past costs and potential future costs and the performance of any work relating to or in connection with the Omaha Site;

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 ("Settlement Agreement"); and

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

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. “Environmental Actions” shall mean any response, removal, remedial, investigation, remediation, reclamation, closure, post-closure, corrective actions, institutional controls, operation and maintenance activities selected and approved by the EPA, the State of Nebraska, and the State of Washington, as applicable.

2. “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.

3. Terms not otherwise defined shall, as applicable, have the meanings provided for in CERCLA or otherwise applicable environmental law. In the case of a conflict between a term under CERCLA and otherwise applicable environmental law, CERCLA shall apply.

II. JURISDICTION

4. 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

5. 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. TERMS OF SETTLEMENT

6. In settlement and full satisfaction of all claims and causes of action against Debtors of the United States with respect to any and all costs of response incurred, or to be incurred, work to be performed and natural resource damages in connection with the Coeur d'Alene Site (including but not limited to the liabilities and other obligations asserted in the United States' Proofs of Claim (as updated) and other pleadings filed by the United States or evidence or matters presented to the Bankruptcy Court relating to the Coeur d'Alene Site but not including the Separately Settled Federal Matters):

- a. The United States on behalf of EPA shall have an allowed general unsecured claim of \$41.464 million for past costs and future oversight costs for the Site. Distributions received by the United States on behalf of EPA under this Subparagraph 6(a) shall be deposited in a Site-specific special account with respect to the Coeur d'Alene Site within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substances Superfund;
- b. The Successor Coeur d'Alene Custodial and Work Trust described in Paragraphs 16-30 below shall have an allowed general unsecured claim of \$359.179 million. The Successor Coeur d'Alene Custodial and Work Trust shall create two subaccounts as follows: (i) one general work account funded initially with distributions on an allowed general unsecured claim of \$330.25 million held by the Successor Coeur d'Alene Custodial and Work Trust which shall be used to perform work at the

Coeur d'Alene Site selected by EPA and (ii) a specialized work account funded initially with distributions on an allowed general unsecured claim of \$28.929 million held by the Successor Coeur d'Alene Custodial and Work Trust which shall be used to perform work selected by EPA as part of its comprehensive remedy at the Coeur d'Alene Site and prioritized by DOI and USDA/FS as co-Natural Resource Trustees;

- c. The Successor Coeur d'Alene Custodial and Work Trust described in Paragraphs 16-30 below shall have an allowed administrative expense claim of \$14 million (except as reduced in Paragraph 6(e) below) which shall be used to perform work and pay future environmental costs and administrative costs with respect to the Coeur d' Alene Owned Properties. The allowed administrative expense claim shall be paid simultaneously with the transfer of the Coeur d' Alene Owned Properties to the Successor Coeur d'Alene Custodial and Work Trust as provided in Paragraph 16 below; and
- d. The United States, on behalf of DOI and USDA/FS, as co-Natural Resources Trustees, shall have an allowed general unsecured claim of \$67.5 million to be deposited into the DOI Natural Resource Damages Account 14X5198.
- e. The amount of the administrative claim in favor of the Coeur d'Alene Custodial and Work Trust in Subparagraph 6(c) shall be reduced to reflect actual expenditures by Debtors at the Coeur d'Alene Owned Properties for

Capital Expenditure Response Costs⁵ 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 EPA. Debtors shall include an estimate of the expenditures in any such request. EPA shall seek to respond within 10 business days of any requests for approval of expenditures. If EPA has ordered or otherwise directed that ASARCO perform specific remediation at the Coeur d'Alene Owned Properties between February 1, 2009 and the Effective Date, but rejects ASARCO's proposed plan and related Capital Expenditure Response Costs for such work, EPA 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 EPA and, either EPA fails to respond within 10 business days of any requests for approval of expenditures or EPA fails to provide an alternative within 10 business days, and EPA does not indicate or otherwise agree that ASARCO should delay work until EPA 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 such work; provided, however, this Paragraph is subject to Paragraph 14. Following completion of any work under this Paragraph, the Debtor shall provide documentation to EPA of the exact amount of the expenditure. No reduction shall be made

⁵ "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 consistent with the

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.

7. In settlement and full satisfaction of all claims and causes of action against Debtors of the United States with respect to any and all costs of response incurred, or to be incurred, in connection with the Omaha Site (including but not limited to the liabilities and other obligations asserted in the United States' Proofs of Claim (as updated) and other pleadings filed by the United States or evidence or matters presented to the Bankruptcy Court relating to the Site), the United States on behalf of EPA shall have an allowed general unsecured claim of \$186.5 million for the Site. Distributions received by the United States on behalf of EPA under this Paragraph 7 shall be deposited in a Site-specific special account with respect to the Omaha Site within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site. If any proceeds remain in the EPA's Site-specific special account after all work at the Omaha Site is completed, the money will be paid to the State of Nebraska pursuant to Paragraph 8 of this Settlement Agreement, with any remaining funds then transferred to the Hazardous Substance Superfund.

8. In settlement and full satisfaction of all claims and causes of action against Debtors of the State of Nebraska with respect to any and all costs of response incurred, or to be incurred, in connection with the Omaha Site (including but not limited to the liabilities and other obligations asserted in Nebraska's Proof of Claim (as updated) and other pleadings filed by Nebraska or evidence or matters presented to the Bankruptcy Court relating to the Site), the State of Nebraska shall have an allowed general unsecured

claim of \$1 million for the Site. In addition, in the event that any proceeds from Debtors remain in EPA's Site-specific account for the Omaha Site when the cleanup at that site is complete, EPA shall pay to Nebraska 3.5% of such remaining proceeds.

9. In settlement and full satisfaction of all claims and causes of action against Debtors of the State of Washington with respect to any and all costs of response incurred, or to be incurred, work to be performed and natural resource damages in connection with the Tacoma Site (including but not limited to the liabilities and other obligations asserted in the State's Proof of Claim (as updated) and other pleadings filed by the State or evidence or matters presented to the Bankruptcy Court relating to the Site but not including the Separately Settled State Matters), the State of Washington shall have an allowed general unsecured claim of \$80.357 million.

10. All allowed claims and payments required under this Settlement Agreement shall not be subordinated to other general unsecured claims pursuant to any provisions of the Bankruptcy Code or other applicable law that may be contended to authorize or provide for subordination of allowed claims, including without limitation Sections 105 and 510 of the Bankruptcy Code.

11. Although the claims granted to the United States in Subparagraphs 6(a), 6(d), and 7, above, are described as general unsecured claims, this description is without prejudice to the United States' alleged secured right of set-off against ASARCO's claim for tax refunds and nothing in this Settlement Agreement shall modify or waive such alleged secured claim of set-off.

12. Nothing in this Settlement Agreement shall be construed to preclude, impair, reduce, or adversely affect any recovery of post-petition interest on allowed claims under any plan of reorganization.

13. With respect to the allowed unsecured claims set forth in Subparagraphs 6(a), 6(d), 7, 8, and 9, above, for the United States on behalf of EPA, DOI, and FS, for the State of Washington, and for the State of Nebraska, only the amount of cash received respectively by each such agency or each such State for such allowed unsecured claims (and net cash received by each such agency or each such State on account of any non-cash distributions) in the Bankruptcy Case, and not the total amount of the allowed unsecured claims, shall be credited by each such agency or each such State to its account for a particular site, which credit shall reduce the liability to such agency or such State of non-settling potentially responsible parties (or responsible parties that have only partially settled their liability) for the particular site by the amount of the credit.

14. It is the express intent of the parties that Debtors' total financial obligations at the Coeur d'Alene Owned Properties shall not exceed the amount of funding provided for the Trust in Subparagraph 6(c); 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 Federal Matters; (iii) does not limit the United States' and States' reservation of rights for liability in Paragraph 42, subpart (iii); (iv) does not impair in any way the allowed general unsecured claims under Subparagraphs 6(a) and 6(b) or preclude EPA, in its sole discretion, from using or requesting the use of, as applicable, any part of such proceeds from those allowed claims at the Coeur d'Alene Owned Properties; and (v) does not limit the amount of penalties

relating to Debtors' conduct occurring between February 1, 2009 and the Effective Date pursuant to Paragraph 31; and (vi) does not apply to any costs required to be incurred prior to the Effective Date that are not Capital Expenditure Response Costs.

15. The United States, the State of Nebraska, and the State of Washington (collectively, 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 C, 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 Smelter, the Amarillo Copper Refinery, 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 C 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 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.

V. THE SUCCESSOR COEUR D'ALENE CUSTODIAL AND WORK TRUST

16. On the effective date of the plan of reorganization that is ultimately confirmed by the Bankruptcy Court (hereinafter, the effective date of such plan shall be referred to as the "Effective Date"), and simultaneously with the initial distribution in respect of the administrative claim for the Successor Custodial and Work Trust ("Trust"), the Trust shall be established and shall own and take title to the Coeur d'Alene Owned Properties and Debtors will transfer any related permits to the Trust. The purposes of the Trust will be to: (a) act as a successor to ASARCO solely for the purpose of performing, managing, and funding implementation of Environmental Actions selected by EPA for the portions of the Coeur d'Alene Site that are not owned by ASARCO and the portions that are owned by ASARCO, (b) own the Coeur d'Alene Owned Properties, (c) carry out administrative functions related to the performance of work by the Trust at both the not owned and owned portions of the Coeur d'Alene Site and other administrative functions with respect to the Coeur d'Alene Owned Properties as set forth herein, and (d) ultimately to sell or transfer all or part of the Coeur d'Alene Owned Properties, if possible. Assets of the Trust shall be held in trust solely for all of the above

purposes. EPA shall be the sole beneficiary of the Trust. The Trust shall be funded as specified in Subparagraphs 6(b) and (c) above and the Trustee shall establish and fund the general work account and specialized work account as provided in Subparagraphs 6(b) and (c). On the Effective Date, when the Trust is established and distributions are made in respect of the administrative claim for the Trust, the Coeur d'Alene Owned Properties shall be conveyed by the Debtors to the Trust by quit claim deed and the Debtors shall retain no ownership or other interest whatsoever in the Coeur d'Alene Owned Properties. 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.

17. On the Effective Date of the plan of reorganization that is ultimately approved, Dan Silver (the "Trustee"), not individually but solely in the representative capacity of trustee, shall be appointed as the Trustee to administer the Trust in accordance with a Trust Agreement substantially in the form attached hereto as Attachment B.

18. Upon his appointment, the Trustee shall at all times seek to have the Trust treated as a "qualified settlement fund" as that term is defined in Treasury Regulation section 1.468B-1. Approval of the Bankruptcy Court shall be sought, and the Bankruptcy Court shall retain continuing jurisdiction over the Trust sufficient to satisfy the requirements of Treasury Regulation section 1.468B-1. The Trustee shall not elect to have the Trust treated as a grantor trust. The Trust will be treated as a separate taxable entity. The Trustee shall cause any taxes imposed on earnings of the Trust to be paid out

of such earnings and shall comply with all tax reporting and withholding requirements imposed on the Trust under applicable tax laws. The Trustee shall be the “administrator” of the Trust pursuant to Treasury Regulation section 1.468B-2(k)(3).

19. The Trustee shall use all Trust funding (including any interest earned thereon) to implement Environmental Actions selected and approved by EPA for the Coeur d’Alene Site and any administrative costs of the Trust. By January 1 of each year following the Effective Date of the plan of reorganization that is ultimately approved, the Trustee shall provide to EPA a balance statement, proposed budget, proposed work plan, and schedule for work to be performed for the coming year. EPA shall have the authority to approve or disapprove the proposed budget, proposed work plan, and schedule. The Trustee shall expend funds consistently with the approved budget, approved schedule and EPA approved work plans. The Trustee and EPA may enter into consent decrees or administrative orders on consent for the performance of work.

20. Upon the completion of Environmental Actions and reimbursement of any costs therefore for the Coeur d’Alene Site, any funds remaining in the Trust shall be transferred: (a) first, in accordance with instructions provided by the United States Department of Justice to any of the other custodial trusts established pursuant to the global environmental settlement agreements⁶ in the Reorganization Cases with remaining remediation or restoration to be performed and a need for additional trust funding; (b) second, to the Superfund.

⁶ These settlement agreements consist solely of the 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; Consent Decree and Settlement Agreement Regarding the Montana Sites; and the Consent Decree and Settlement Agreement Establishing a Custodial Trust for the Owned Smelter Site in El Paso, Texas and the Owned Zinc Smelter Site in Amarillo, Texas.

21. In the event that the Trust exacerbates conditions at the Coeur d'Alene Site, is seriously or repeatedly deficient or late in performance of the work or violates the provisions of this Agreement, the Trust Agreement or other related implementation agreements including any consent decrees or administrative orders on consent, the United States Department of Justice may direct that all remaining funds in the Trust be paid to an EPA special account for the Coeur d'Alene Site for use consistent with the terms of this Settlement Agreement.

22. The United States and the Debtors shall not be deemed to be an owner, operator, trustee, partner, agent, shareholder, officer, or director of the Trust or the Trust Parties (as defined below), or to be an owner or operator of the Coeur d'Alene Site on account of this Settlement Agreement or actions contemplated thereby.

Trust Parties

23. The Trust, the Trustee, and the Trustee's shareholders, officers, directors, employees, consultants, agents or other parties, professionals or representatives employed by the Trust or Trustee (the "Trust Parties") shall be deemed to have resolved their civil liability under CERCLA to the United States and have contribution protection to the maximum extent permitted by law for matters addressed in this Settlement Agreement with respect to the Coeur d'Alene Site. The matters addressed in this Settlement Agreement with respect to the Trust Parties include all costs of response incurred or to be incurred and natural resource damages relating to or in connection with the Coeur d'Alene Site. In no event shall the Trust Parties be held liable to any third parties for any liability, action, or inaction of Debtors or any other Party, including each other.

24. The Trust and Trustee shall take such actions and execute such documents as are reasonably requested by Debtors with respect to effectuating the transactions contemplated herein, provided that such actions are not inconsistent with the terms of this Settlement Agreement. To the extent that Debtors request the Trust and the Trustee to take such an action, the Trust and the Trustee shall do so at the sole expense of Debtors.

25. The Trust Parties shall not be personally liable unless the Bankruptcy Court, by a final order, finds that they were negligent or committed fraud or willful misconduct after the Effective Date of the plan of reorganization that is ultimately approved in relation to the Trustee's duties. The Trust Parties shall be indemnified, defended and held harmless from and against all claims, causes of action, liabilities, obligations, losses, costs, judgments, damages or expenses (including attorney's fees) to the fullest extent permitted by applicable law (and any judgment and costs of defense shall be paid from the Trust funds without the Trust Parties having to first pay from their 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 they were negligent or committed fraud or willful misconduct in relation to the Trust or the Trustee's duties.

26. The Trust Parties are exculpated by all persons, including without limitation, holders of claims or other parties in interest, of and from any and all claims, causes of action and other assertions of liability relating in any way to Debtors or arising out of the ownership of Trust assets and the discharge of the powers and duties conferred upon the Trust and/or Trustee by this Settlement Agreement or any order of court entered pursuant to or in furtherance of this Settlement Agreement, or applicable law or otherwise. No person, including without limitation, holders of claims and other parties in

interest, will be permitted to pursue any claims or causes of action against any 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 any plan of reorganization, this Settlement 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, the Trust Agreement or other related implementation agreements, including any consent decrees or administrative orders on consent against the Trust Parties.

27. Except as may otherwise be provided herein: (a) the 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 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 omitted to be taken in accordance with the advice thereof; and (c) persons dealing with the Trust Parties shall look only to the Trust assets that may be available to them consistent with the Settlement Agreement to satisfy any liability incurred by the Trust Parties to such person in carrying out the terms of this Agreement or any order of the Bankruptcy Court and the Trust Parties shall have no personal obligations to satisfy any such liability.

Coeur d'Alene Owned Properties

28. The Trust shall implement any institutional controls or deed restrictions requested by EPA with respect to the Coeur d'Alene Owned Properties.

29. The Trust shall provide the United States and the State of Idaho and their representatives access to the Coeur d'Alene Owned Properties at all reasonable times for the purposes of conducting response actions, investigations, sampling, assessment, planning, restoration planning, restoration activities, or related activities at or near the Coeur d'Alene Owned Properties. The Trust shall execute and record with the appropriate recorder's office any easements or deed restrictions requested by EPA for restrictions on use of the Coeur d'Alene Owned Properties in order to protect public health or safety or ensure non-interference with or protectiveness of response action.

30. The United States or a governmental unit that is a designee thereof, may at any time propose in writing to take title to any of the Coeur d'Alene Owned Properties or any part thereof. Any such proposed transfer and the terms thereof are subject to approval in writing by EPA. The Trustee may at any time seek the approval of EPA for the sale or lease or other disposition of all or part of the Coeur d'Alene Owned Properties. In the event of any approved sale or lease or other disposition under this Paragraph, the net proceeds from the sale or lease or other disposition shall be used only in accordance with the requirements for other Trust funds.

VI. OUTSTANDING OBLIGATIONS

31. All obligations of Debtors to perform work pursuant to any outstanding Consent Decree, Unilateral Administrative Order, or Administrative Order on Consent regarding any of the Residual Sites (other than the Box Operable Units and any liabilities to the United States for the Tacoma Site which are dealt with by separate settlements), and any statutory, stipulated, or other penalties allegedly due from Debtors as of the

Effective Date (except as provided in this Paragraph below and in Paragraph 43), 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 Paragraph 16); provided, however, that all requirements to retain records shall remain in full force and effect until the confirmation of a plan of reorganization, 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 EPA, the DOI, USDA/FS, or any State with respect to a Site as to which such State is a party to any order or consent decree, in accordance with the terms of Paragraph 32. A government agency may not impose any other 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 Coeur d'Alene Owned Properties 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 Debtor's allegedly actionable conduct occurred. 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.

32. Between the date this Settlement Agreement is lodged with the Bankruptcy Court and the date a plan of reorganization is confirmed by the Bankruptcy Court, EPA, DOI, USDA/FS, or any State may request Debtors provide or make available any records that have been retained pursuant to any Order or Decree to which such agency or State is a party. Debtors shall produce such records, or make such records

available for production in the state and condition in which such records are found, to the requesting party within thirty (30) days of any such request and in any event prior to the confirmation of a plan of reorganization.

VII. COVENANTS NOT TO SUE

33. With respect to the Coeur d'Alene Site (including releases of hazardous substances from any portion of such Site, and all areas affected by natural migration of such substances from such Site) and except for the Separately Settled Federal Matters and as specifically provided in Section VIII (Reservation of Rights), the United States, on behalf of EPA, DOI, and USDA/FS, covenants not to sue or assert any civil claims or causes of action against Debtors, Reorganized Debtors, and the Trust Parties pursuant to Sections 106, 107(a), of CERCLA, 42 U.S.C. §§ 9606, 9607(a); RCRA § 7003, 42 U.S.C. § 6973, Clean Water Act § 311, 33 U.S.C. § 1321; any similar state law; or any liabilities or obligations asserted in the United States' Proofs of Claim (as updated).

34. With respect to the Omaha Site (including releases of hazardous substances from any portion of such Site, and all areas affected by natural migration of such substances from such Site) and except as specifically provided in Section VIII (Reservation of Rights), the United States, on behalf of EPA, and the State of Nebraska covenant not to sue or assert any civil claims or causes of action against Debtors, Reorganized Debtors, and the Trust Parties pursuant to Sections 106 or 107(a) of CERCLA, 42 U.S.C. §§ 9606, 9607(a); RCRA § 7003, 42 U.S.C. § 6973; any similar state law; or any liabilities or obligations asserted in the United States' Proofs of Claim (as updated).

35. With respect to the Tacoma Site (including releases of hazardous substances from any portion of such Site, and all areas affected by natural migration of such substances from such Site) and except for the Separately Settled State Matters and as specifically provided in Section VIII (Reservation of Rights), the State of Washington covenants not to sue or assert any civil claims or causes of action against Debtors, Reorganized Debtors, and the Trust Parties pursuant to Sections 107(a) of CERCLA, 42 U.S.C. § 9607(a); RCRA § 7002, 42 U.S.C. § 6972; Clean Water Act § 311, 33 U.S.C. § 1321; MTCA, RCW 70.105D; any similar state law; or any liabilities or obligations asserted in the State's Proof of Claim (as updated).

36. This Settlement Agreement in no way impairs the scope and effect of the 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.

37. Without in any way limiting the covenants not to sue (and the reservations thereto) set forth in Paragraphs 33-35 and notwithstanding any other provision of this Settlement Agreement, such covenants not to sue shall also apply to Debtors', Reorganized Debtors', and the Trust Parties' 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, Reorganized Debtors, and the Trust Parties is based solely on its status as and in its capacity as a successor, assign, officer, director, employee, or trustee of Debtors, Reorganized Debtors, and the Trust Parties.

38. The covenants not to sue contained in Paragraphs 33-35 of this Settlement Agreement extend only to Debtors, Reorganized Debtors, and the Trust Parties and the

persons described in Paragraph 37 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, Reorganized Debtors, and the Trust Parties, the Governments, and the persons described in Paragraph 37. The Governments, Debtors, Reorganized Debtors, and the 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 Governments, Debtors, Reorganized Debtors, or the Trust Parties may have against all other persons, firms, corporations, entities, or predecessors of ASARCO for any matter arising at or relating in any manner to the Coeur d'Alene, Omaha, and Tacoma Sites and/or the Residual Environmental Claims addressed herein.

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

40. Debtors, Reorganized Debtors, and the Trust Parties covenant not to sue and agree not to assert any claims or causes of action against the United States, and Debtors and the Reorganized Debtors covenant not to sue and agree not to assert claims

or causes of action against the Trust Parties, except as specifically provided in Section VIII (Reservation of Rights) with respect to the Coeur d'Alene Site (other than for the Separately Settled Federal Matters), and against the United States and State of Nebraska with respect to the Omaha Site, including but not limited to: any direct or indirect claim for reimbursement from the Hazardous Substance 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, including any of their departments, agencies or instrumentalities, under Section 107 or 113 of CERCLA, 42 U.S.C. §§ 9607, 9613; and any claims arising out of the response activities at the Coeur d'Alene and Omaha 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).

41. Debtors and Reorganized Debtors covenant not to sue and agree not to assert any claims or causes of action, except as specifically provided in Section VIII (Reservation of Rights), against the State of Washington with respect to the Tacoma Site (other than for the Separately Settled State Matters), including but not limited to: any direct or indirect claim for reimbursement under state law; any claims against the State, including any of its departments, agencies or instrumentalities, under Section 107 or 113 of CERCLA, 42 U.S.C. §§ 9607, 9613; and any claims arising out of the response activities at the Tacoma Site.

VIII. RESERVATION OF RIGHTS

42. The covenants not to sue set forth in Section VII do not pertain to any matters other than those expressly specified therein. The Governments reserve, and this Settlement Agreement is without prejudice to, all rights against the Debtors, Reorganized Debtors, and the Trust Parties or other persons with respect to all other matters, including but not limited to: (i) Separately Settled Federal Matters and Separately Settled State Matters; (ii) any action to enforce the terms of this Settlement Agreement or the Trust Agreement; and (iii) liability for response costs, natural resource damages (including natural resource damage assessment costs), and injunctive relief under CERCLA Sections 106 and 107, or similar state laws, for Debtors' or Reorganized Debtors' future acts creating liability under CERCLA, or similar state laws, that occur after the Closing Date. Debtors' or Reorganized Debtors' future acts creating liability under CERCLA or similar state laws do not include continuing releases related to Debtors' conduct prior to the Closing Date. Nothing in this Settlement Agreement shall affect or waive any rights, claims, or causes of action of the United States for the Tacoma Site. Nothing in this Settlement Agreement shall affect or waive any covenant not to sue or contribution protection Debtors or Reorganized Debtors have regarding the Tacoma Site.

43. Subject to the provisions of Paragraph 6(e) hereof, the United States reserves its rights against Debtors related to the Coeur d'Alene Owned Properties until the Effective Date; provided, however, this Paragraph is subject to Paragraph 14.

44. Debtors and the Reorganized Debtors reserve, and this Settlement Agreement is without prejudice to all rights against the United States and the States with respect to (a) all matters other than those set forth in Paragraphs 40-41, and (b) any action to enforce their rights under the terms of this Settlement Agreement. In addition,

Debtors' and the Reorganized Debtor's covenant not to sue under Paragraphs 40-41 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 42 (i) and (iii), but only to the extent that Debtors' or the Reorganized Debtor's claims arise from the same response action, response costs, or damages that the United States or the state is seeking pursuant to the applicable reservations.

45. 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.

IX. CONTRIBUTION PROTECTION

46. The parties hereto agree that, as of the Closing Date, Debtors and Reorganized Debtors 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), RCW 70.105D.040(d), or similar state law for matters addressed in this Settlement Agreement, except with respect to the allowed claims of Hecla Limited ("Hecla") with respect to the Box Operable Units pursuant to Debtor's separate settlement with Hecla. The matters addressed in this Settlement Agreement include all costs of Environmental Actions and natural resource damages incurred or to be incurred by the United States, the States, or any other person relating to or in connection with the Coeur d'Alene and Omaha Sites (other than the Separately Settled Federal Matters or the past costs of Hecla), and all costs of Environmental Actions incurred or to be incurred by the State of Washington or any other person relating to or in connection with the Tacoma Site other than the Separately Settled State Matters and the costs incurred or to be incurred by the United States for the

Tacoma Site (the United States' costs for the Tacoma Site are addressed separately in the Amended Settlement Agreement regarding Miscellaneous Federal and State Environmental Sites.)

X. PUBLIC COMMENT

47. This Settlement Agreement will be subject to a supplemental public comment period following notice published in the Federal Register, which may take place concurrent with the judicial approval process under Paragraph 48 hereof. The United States reserves the right to withdraw or withhold its 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 supplemental public comment period, the United States will provide the Court with copies of any public comments and its response thereto.

XI. JUDICIAL APPROVAL

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

XII. RETENTION OF JURISDICTION

49. 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.

XIII. CLOSING DATE

50. This Settlement Agreement shall be effective after the close of the supplemental public comment period in Paragraph 47 hereof, and upon approval by the Bankruptcy Court pursuant to Paragraphs 47 and 48 of this Settlement Agreement.

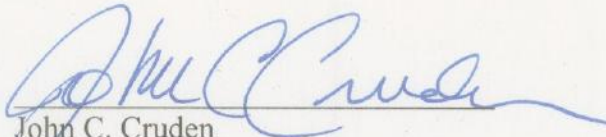
XIV. SIGNATORIES/SERVICE

51. 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.

THE UNDERSIGNED PARTIES ENTER INTO THIS SETTLEMENT AGREEMENT

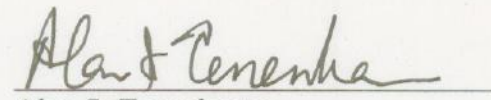
FOR THE UNITED STATES

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

Date: _____

Michelle L. Pirzadeh
Acting Regional Administrator, Region 10
U.S. Environmental Protection Agency

Date: _____

William W. Rice
Acting Regional Administrator, Region 7
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

Date: _____

Michelle L. Pirzadeh
Acting Regional Administrator, Region 10
U.S. Environmental Protection Agency

Date: _____

William W. Rice
Acting Regional Administrator, Region 7
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

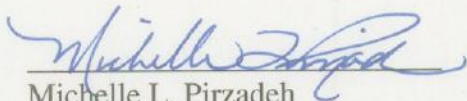
Date: _____

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

Date: _____

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

Date: 2/25/09



Michelle L. Pirzadeh
Acting Regional Administrator, Region 10
U.S. Environmental Protection Agency

Date: _____

William W. Rice
Acting Regional Administrator, Region 7
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

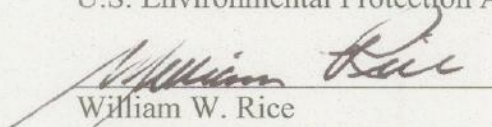
Date: _____

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

Date: _____

Michelle L. Pirzadeh
Acting Regional Administrator, Region 10
U.S. Environmental Protection Agency

Date: _____



William W. Rice
Acting Regional Administrator, Region 7
U.S. Environmental Protection Agency

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

FOR THE STATE OF NEBRASKA

Date: _____

Jon Bruning
Nebraska Attorney General

Katherine J. Spohn
Assistant Attorney General

Date: _____

Annette Kovar
Legal Counsel
and Special Assistant Attorney General
Nebraska Department of Environmental
Quality

FOR THE STATE OF WASHINGTON

Robert M. McKenna
Attorney General

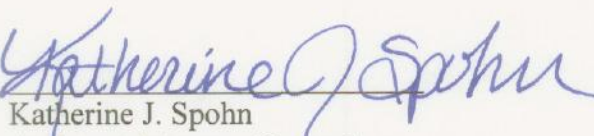
Date: _____

Elliott Furst
Senior Counsel
Attorney General of Washington
Ecology Division

FOR THE STATE OF NEBRASKA

Jon Bruning
Nebraska Attorney General

Date: 2/18/09

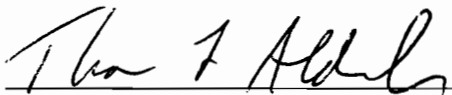

Katherine J. Spohn
Assistant Attorney General

Date: 2-19-09


Annette Kovar
Legal Counsel
and Special Assistant Attorney General
Nebraska Department of Environmental
Quality

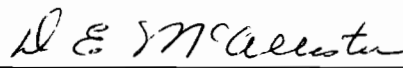
FOR ASARCO LLC; GOVERNMENT GULCH MINING CO., LTD.; AMERICAN SMELTING AND REFINING CO.; ENCYCLE, INC.; ALC, INC.; BRIDGEVIEW MANAGEMENT CO.; ASARCO CONSULTING, INC.; AR MEXICAN EXPLORATIONS INC.; AR SACATON, LLC; ASARCO MASTER, INC.; ASARCO OIL AND GAS CO.; COVINGTON LAND CO.; AND SALERO RANCH, UNIT III, COMMUNITY ASSOCIATION, INC.

Date: March 13, 2009



Thomas L. Aldrich
Vice President, Environmental Affairs

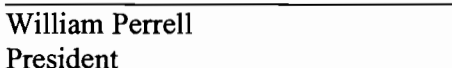
Date: March 13, 2007



Douglas E. McAllister
Executive Vice President, General Counsel

FOR LAC D' AMIANTE DU QUEBEC LTEE (F/K/A LAKE ASBESTOS OF QUEBEC, LTD.); LAQ CANADA, LTD.; CAPCO PIPE COMPANY, INC. (F/K/A CEMENT ASBESTOS PRODUCTS COMPANY); AND CEMENT ASBESTOS PRODUCT COMPANY

Date: _____



William Perrell
President

FOR ASARCO LLC; GOVERNMENT GULCH MINING CO., LTD.; AMERICAN SMELTING AND REFINING CO.; ENCYCLE, INC.; ALC, INC.; BRIDGEVIEW MANAGEMENT CO.; ASARCO CONSULTING, INC.; AR MEXICAN EXPLORATIONS INC.; AR SACATON, LLC; ASARCO MASTER, INC.; ASARCO OIL AND GAS CO.; COVINGTON LAND CO.; AND SALERO RANCH, UNIT III, COMMUNITY ASSOCIATION, INC.

Date: _____

Thomas L. Aldrich
Vice President, Environmental Affairs

Date: _____

Douglas E. McAllister
Executive Vice President, General Counsel

FOR LAC D' AMIANTE DU QUEBEC LTEE (F/K/A LAKE ASBESTOS OF QUEBEC, LTD.); LAQ CANADA, LTD.; CAPCO PIPE COMPANY, INC. (F/K/A CEMENT ASBESTOS PRODUCTS COMPANY); AND CEMENT ASBESTOS PRODUCT COMPANY

Date: 3-13-09



William Perrell
President

FOR THE TRUSTEE:

Daniel J. Silver, not individually, but solely
in his fiduciary capacity as CdA Trustee of
the CdA Trust

By: /S/ Daniel J. Silver
Dan J. Silver, not individually, but solely in
his fiduciary capacity as Trustee of the
Successor Coeur d'Alene Custodial and
Work Trust



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 SETTLEMENT
AGREEMENT AND CONSENT DECREE REGARDING RESIDUAL
ENVIRONMENTAL CLAIMS FOR THE COEUR D' ALENE, IDAHO,
OMAHA, NEBRASKA, AND TACOMA, WASHINGTON SITES
[DOCKET NOS. 10534, 10541, 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 Residual Environmental Settlement Agreement¹, which was filed on March 13, 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

ORDERED that the Residual Environmental Settlement Agreement, which sets forth a settlement of environmental claims by and between the United States, ASARCO, and the States of Washington and Nebraska, is approved; and it is further

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

ORDERED that, the Debtors are authorized to enter into and implement the Residual Environmental Settlement Agreement; and it is further

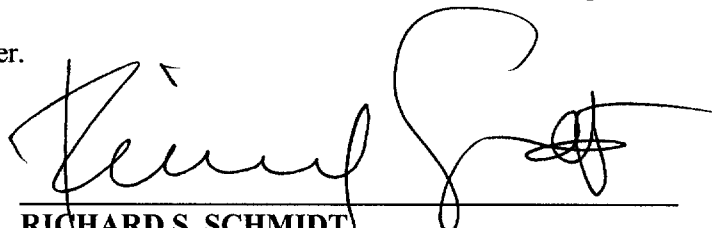
ORDERED that the Residual Environmental Settlement Agreement is fair, reasonable, and consistent with environmental law; and it is further

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 Residual Environmental 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:

5 June 2009



RICHARD S. SCHMIDT
UNITED STATES BANKRUPTCY JUDGE