

**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.)	

**CONSENT DECREE AND SETTLEMENT AGREEMENT REGARDING THE
MONTANA SITES**

WHEREAS, several sites in Montana set forth and defined in Attachment A (the “Montana Sites”) are owned in whole or part by Debtors and have been or will be the subject of environmental response and natural resource restoration activities; the ASARCO-owned portions of these Montana Sites are identified herein as the Montana Designated Properties (as defined in Paragraph 1);

WHEREAS, the Troy Mine site is a formerly owned ASARCO mining site located near Troy in Lincoln County, Montana (the "Troy Mine Site");

WHEREAS, the United States and the State of Montana, acting through the Montana Department of Environmental Quality (“MDEQ”) and the Montana Department of Justice (“MDOJ”) (the “State”) (collectively, the “Governments”), have alleged that ASARCO LLC, formerly known as ASARCO Incorporated (“ASARCO”), ASARCO Master Inc., and/or certain of the Affiliated Debtors¹ that are Chapter 11 debtors in the

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. 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

Reorganization Cases, as defined below (collectively with the Affiliated Debtors, “Debtors”) are potentially responsible parties with respect to the Montana Sites and the Troy Mine Site, or are otherwise liable for environmental response, natural resource restoration, and natural resource damages with respect to the Montana Sites and the Troy Mine Site;

WHEREAS, prior to filing of the Bankruptcy Case, ASARCO had entered into several administrative and judicial settlements or consent decrees for the payment of costs and/or performance of work under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 et seq. (“CERCLA”) and/or the Resource Conservation and Recovery Act 42 U.S.C. §§ 6901 et seq. (“RCRA”), or other federal or state statutes for one or more of the Montana Sites, including a consent decree entered on April 6, 1998, in United States v. ASARCO Incorporated, Civil Action No: CV 98-3-H-CCL (D. Mt.) (the “East Helena Consent Decree”), the Process Ponds Consent Decree entered on December 27, 1990, CV 90-46-H-CCL (D.Mont.) (the “Process Ponds Consent Decree,” and together with the East Helena Consent Decree, the “Montana Consent Decrees”), and DEQ Administrative Order on Consent, Docket No. HW-07-01 (“DEQ Order”) (collectively, the “Previous Settlements”);

WHEREAS, the United States has alleged that it has incurred past response costs, and/or may incur future response costs, under CERCLA in connection with the Montana Sites for which ASARCO and ASARCO Master Inc. are allegedly liable, and that

later converted to a chapter 7 case, is being administered separately. The 2006 Subsidiary Debtors are: Southern Peru Holdings, LLC; AR Sacaton, LLC, a Delaware limited liability company; and ASARCO Exploration Company, Inc. 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. Collectively, all of these entities are referred to herein as the “Affiliated Debtors.”

ASARCO and ASARCO Master Inc. are liable for response costs and the performance of work pursuant to the Previous Settlements;

WHEREAS, the State has alleged that it has incurred past response costs (including remedial action costs) and natural resource damage assessment and litigation costs, and may incur additional future response costs (including remedial action costs) and natural resource damage assessment and litigation costs, under CERCLA and the Montana Comprehensive Environmental Cleanup and Responsibility Act (“CECRA”), Mont. Code Ann. §§ 75-10-701 et seq., and costs related to reclamation and water treatment, in connection with the Montana Sites and the Troy Mine Site for which ASARCO and ASARCO Master Inc. are allegedly liable, and that ASARCO and ASARCO Master Inc. are liable for environmental response costs and the performance of work pursuant to the Previous Settlements;

WHEREAS, ASARCO filed with the United States Bankruptcy Court for the Southern District of Texas (“Bankruptcy Court”) a voluntary petition for relief under Title 11 of the United States Bankruptcy Code on August 9, 2005 (the “Bankruptcy Case”);

WHEREAS, ASARCO’s Affiliated Debtors filed with the Bankruptcy Court voluntary petitions for relief under Title 11 of the United States Bankruptcy Code at various times in 2005, 2006, and 2008, and these bankruptcy cases are jointly administered with the Bankruptcy Case (collectively with the Bankruptcy Case, the “Reorganization Cases”);

WHEREAS, the United States filed Proofs of Claim Nos. 8375, 10745, 10746, and 11009, in the Bankruptcy Case setting forth, inter alia, claims against ASARCO and

ASARCO Master Inc. under Section 107 of CERCLA for various past and future response costs as defined under CERCLA in connection with the Montana Designated Properties and/or the Montana Sites, and protectively setting forth claims for future environmental response costs and work and natural resource damages pursuant to the Previous Settlements based on the status of ASARCO, ASARCO Master Inc., and their affiliated predecessors in interest ASARCO Consulting, Inc. and American Smelting and Refining Company as past and present owners of the Montana Designated Properties;

WHEREAS, the State filed Proofs of Claim No. 10524, 10525, 10526, 10527, 10841, 10842 and 10843, in the Bankruptcy Case setting forth, inter alia, claims against ASARCO, ASARCO Master Inc., ASARCO Consulting, Inc., and American Smelting and Refining Company under CERCLA and CECRA for various past and future response costs (including remedial action costs and reclamation costs) and natural resource damages as defined under CERCLA and CECRA in connection with the Montana Designated Properties and/or Montana Sites, and protectively setting forth claims for future response costs (including remedial action costs), natural resource damages (including compensatory natural resource damages), natural resource restoration, costs related to reclamation and water treatment, and work pursuant to the Previous Settlements and pursuant to ASARCO's and ASARCO Master Inc.'s status as past and present owners of the Montana Designated Properties;

WHEREAS, the State's Proofs of Claim include a compensatory natural resource damage claim for the East Helena Site (the "East Helena Site Compensatory Natural Resource Damage Claim");

WHEREAS, ASARCO has disputed the claims and protective claims with respect to the Montana Sites filed by the United States and the State as set forth in their respective Proofs of Claim and/or various expert reports submitted by the United States and the State;

WHEREAS, ASARCO has previously entered into settlement agreements, approved in the Bankruptcy Case, for the payment of costs and performance of work under CERCLA and CECRA and other federal and state statutes related to three of the Montana Sites, specifically the Settlement Agreement Regarding the Iron Mountain Site (Docket Numbers 7987 and 8235) (“Iron Mountain Settlement Agreement”), the Settlement Agreement Regarding the Upper Blackfoot Mining Complex Site² (Docket Numbers 7538 and 7792) (“Upper Blackfoot Mining Complex Settlement Agreement”), and the Settlement Agreement Regarding Response Costs at the East Helena Superfund Site (Docket Numbers 9231, 10288, and 10392) (“Separately Settled East Helena Matters”);

WHEREAS, the Iron Mountain Settlement Agreement and Upper Blackfoot Mining Complex Settlement Agreement obligated ASARCO to perform certain actions related to the Iron Mountain Designated Property (as defined herein) and the Mike Horse Designated Property (as defined herein);

WHEREAS, the Separately Settled East Helena Matters resolved claims for the payment of costs under CERCLA related to contaminated soils on those portions of the East Helena Superfund Site that are not currently owned by Debtors;

² The Upper Blackfoot Mining Complex Site is also known as the Mike Horse Site. The ASARCO-owned portion of this site is referred to in this Settlement Agreement as the Mike Horse Designated Property, as defined in Paragraph 1(b).

WHEREAS, the United States and ASARCO are entering into a separate settlement agreement in the Bankruptcy Case which resolves the United States Forest Service's claims at property near the Black Pine Designated Property that is not owned by Debtors ("Amended Settlement Agreement Regarding Miscellaneous Federal and State Environmental Sites" or "Miscellaneous Sites Settlement Agreement");

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 a proposed resolution of the claims for the Montana Sites;

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

WHEREAS, the Debtors, the United States, and the State wish to enter into a consent decree and settlement agreement for the Montana Sites ("Settlement Agreement") which will place the Montana Designated Properties into environmental custodial trusts, and is in accord with the Iron Mountain Settlement Agreement, the Upper Blackfoot Mining Complex Settlement Agreement, the Miscellaneous Sites Settlement Agreement, and the Separately Settled East Helena Matters, as contemplated herein;

WHEREAS, the Debtors, the United States, and the State desire to settle, compromise and resolve their disputes relating to the Montana Sites and the Troy Mine Site;

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 work and past costs and any potential future costs incurred by the

Governments and all natural resource damages relating to or in connection with the Montana Sites (except as specifically provided herein for the Iron Mountain Settlement Agreement, the Upper Blackfoot Mining Complex Settlement Agreement, the Miscellaneous Sites Settlement Agreement, and the Separately Settled East Helena Matters) and the Troy Mine Site;

WHEREAS, nothing in this Settlement Agreement shall affect the allowed claims and payments under the Iron Mountain Settlement Agreement, the Upper Blackfoot Mining Complex Settlement Agreement, the Miscellaneous Sites Settlement Agreement, and the Separately Settled East Helena Matters;

WHEREAS, the Miscellaneous Sites Settlement Agreement, the Iron Mountain Settlement Agreement, and the Upper Blackfoot Mining Complex Settlement Agreement include, *inter alia*, allowed claims and payments for actions on Forest Service property at or related to the Black Pine Designated Property, the Iron Mountain Designated Property and the Mike Horse Designated Property;

WHEREAS, in consideration of, and in exchange for, the promises and covenants herein, the Debtors, the United States, the State, and the Custodial Trustee (for itself and the Custodial Trust Parties) (collectively “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, is in the public interest, 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. For purposes of this Settlement Agreement, the Montana Designated Properties consist of the following:
 - a. The Black Pine Designated Property, consisting of all property at or near the Black Pine Mine complex near Philipsburg, Montana that is currently owned by Debtors, including the Combination Mine, the Combination Mill, other mining facilities, the 38 acres adjacent to the Black Pine Mine recently acquired by Debtors, and the associated unpatented mining and mill site claim properties, all as more particularly described in Attachment B substantially in the form attached hereto (the “Black Pine Designated Property ”), and the Debtors and the Governments agree to cooperate in good faith to finalize this legal description as soon as practicable;
 - b. The Mike Horse Designated Property, consisting of those portions of the Upper Blackfoot Mining Complex near Lincoln, Montana that are currently owned by Debtors, including the associated unpatented mining and mill site claim properties, all as more particularly described in Attachment B substantially in the form attached hereto (the “Mike Horse Designated Property”), and the Debtors and the Governments agree to cooperate in good faith to finalize this legal description as soon as practicable;

- c. The Iron Mountain Designated Property, consisting of those portions of the Iron Mountain/Flat Creek Mine complex near Superior, Montana that are currently owned by Debtors, all as more particularly described in Attachment B substantially in the form attached hereto (the “Iron Mountain Designated Property”), and the Debtors and the Governments agree to cooperate in good faith to finalize this legal description as soon as practicable;
 - d. The East Helena Designated Property, consisting of all property at or near East Helena, Montana that is currently owned by Debtors, all as more particularly described in Attachment B substantially in the form attached hereto (the “East Helena Designated Property,” collectively with the Black Pine Designated Property, the Mike Horse Designated Property, and Iron Mountain Designated Property, the “Montana Designated Properties”), and the Debtors and the Governments agree to cooperate in good faith to finalize this legal description as soon as practicable; and
2. “Environmental Actions” shall mean any and all environmental activities related to the Montana Designated Properties, including but not limited to response or remedial actions, removal actions, corrective action, closure, or post-closure care, natural resource restoration, reclamation, investigations, studies, remediation, interim actions, final actions, emergency actions, water treatment, implementation of engineered structures and controls, obtaining and maintaining reasonable financial assurance, monitoring, repair and replacement of engineered structures, monitoring equipment and controls, operation and maintenance, and implementation, operation and maintenance of institutional

controls, coordination and integration of reuse and remedial efforts and initiatives (including, without limitation, multi-stakeholder communications), and, if appropriate, long-term stewardship and perpetual custodial care activities. “Environmental Actions” also include activities related to releases of hazardous substances, hazardous waste, or hazardous constituents from any portion of the Montana Designated Properties, including all areas affected by natural migration of such hazardous substances, hazardous waste, or hazardous constituents from the Montana Designated Properties.

II. JURISDICTION

3. 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

4. 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 debtors under a confirmed plan of reorganization in the Reorganization Cases (the “Reorganized Debtors”), and any trustee, examiner or receiver appointed in the Bankruptcy Case.

IV. FORMATION AND PURPOSES OF THE CUSTODIAL TRUST

5. 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 Accounts under Subparagraph 6.b., a Custodial Trust (“Custodial Trust”) shall be established and Debtors will transfer all of their right, interest in, and title to, including without limitation, all of their fee ownership in and

to the Montana Designated Properties and any of their interests in all appurtenances, rights, easements, rights-of-way, mining rights (including unpatented mining claims, mill site claims, and placer claims), mineral rights, mineral claims, riparian rights, water rights, water claims, and water allocations, permits, and other interests related to the Montana Designated Properties to the Custodial Trust; the property to be conveyed shall include, without limitation, all fixtures, improvements, equipment, and personal property located thereon as of the date of execution by Debtors of the Settlement Agreement and owned by the Debtors with the exception of the equipment and other items of personal property specified in Attachment C of this Settlement Agreement that have been removed from the Montana Designated Property prior to the Effective Date, and this Attachment C may be modified by agreement of the Debtors, the United States, the State, and the Trustee up to the Effective Date. After the Effective Date, Debtors shall retain no ownership or other interest whatsoever in the Montana Designated Properties. The transfer of ownership shall be by quit claim deed, substantially in the form of Attachment F, and personal property bill of sale without warranty of all of the Debtors' right, title and interests and shall be free and clear of all claims, liens, and interests against the Debtors or, to the extent created by Debtors and affecting Debtors' interest in the Montana Designated Properties, claims and liens against the Montana 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 (except as provided in Subparagraphs 5.b. and 5.c. below), such as property taxes, or other monetary claims asserted in the Reorganization Cases, provided that Debtors shall pay all property taxes relating to the Montana Designated Properties prorated through the Effective Date. 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 execute and record releases of any liens or security interests held by any of the Debtors against any Montana Designated Property. After Debtors execute this Settlement Agreement, Debtors shall not further encumber the Montana 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, and ASARCO reserves the right to enter into a contract relating to the sale of slag on the East Helena Designated Property, subject to the following conditions: (1) the contract must be signed prior to 10 business days before the hearing for approval of this Settlement Agreement; and (2) prior to signing said

contract, the Governments must be provided with a copy of the proposed contract and the Lead Agency, after consultation with other governmental agencies pursuant to Subparagraph 6.k., must indicate in writing within 5 business days that they are satisfied that the contract will not interfere with Environmental Actions at the East Helena Designated Property; and (3) the slag buyer/operator, at its sole cost and expense, obtains or provides evidence of appropriate general liability insurance coverage reasonably satisfactory to the Custodial Trustee and naming the Custodial Trust and the Custodial Trustee as additional insureds for so long as the slag buyer/operator has the right to remove the slag. If the Lead Agency fails to respond within 5 business days, ASARCO may seek approval of the Bankruptcy Court instead, which shall be deemed to satisfy the second condition, provided however, that the United States and the State retain the right to object during the bankruptcy proceeding. The Custodial Trustee shall pay premiums for policies of title insurance for any of the Montana Designated Properties if requested jointly by the State and the United States Department of Justice (“USDOJ”), provided however, that nothing in this Paragraph shall require ASARCO to provide any deed or other documentation other than a quit claim deed and personal property bill of sale without warranty for any Montana Designated Property. The purpose of the Custodial Trust shall be to own the Montana Designated Properties, carry out administrative and property management functions related to the Montana Designated Properties as set forth herein, manage

and/or fund implementation of future Environmental Actions approved by the Lead Agency with respect to the Montana Designated Properties (or approved by DOI for the Custodial Trust NRD Accounts), pay certain future oversight costs, and ultimately to sell, transfer, facilitate the reuse of, or otherwise dispose or provide for the long-term stewardship of all or part of the Montana Designated Properties, if possible, all as provided herein and in the Custodial Trust Agreement. Debtors and the Lead Agency for each Montana Designated Property shall exchange information and reasonably cooperate to determine the appropriate disposition of any executory contracts or unexpired leases that relate to the relevant Montana Designated Property. The Custodial Trust and the 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 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 Custodial Trust. The Custodial Trust and the Custodial Trustee shall not take any actions or fail to take any actions that would cause the 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 of 1986, as amended (the “Internal Revenue Code”) and the related Treasury Regulations. The Custodial Trust shall be funded as specified in

Subparagraph 6.b (subject to any credit pursuant to Subparagraphs 6.c. and 6.d).

- b. The Black Pine Designated Property shall be transferred to the Custodial Trust subject to the lien held by the MDEQ under the Hardrock Reclamation Property Bond, DEQ # 002516-HR, filed for record on September 24, 2002, as Document # 045174 in the Records of Granite County, Montana, and the MDEQ will not be treated as a secured creditor under any plan of reorganization with respect to this lien, and the claim is satisfied and withdrawn by this Settlement Agreement.
- c. The East Helena Designated Property shall be transferred to the Custodial Trust subject to the lien held by the United States Environmental Protection Agency (“US EPA”) arising under Section 107(1) of CERCLA, and recorded on April 8, 2002 with the Lewis and Clark County Recorder’s Office, and the US EPA will not be treated as a secured creditor under any plan of reorganization with respect to this lien, and the claim is satisfied and withdrawn by this Settlement Agreement. Such lien shall not be applied to the Separately Settled East Helena Matters.
- d. Montana Environmental Trust Group, LLC, not individually but solely in the representative capacity as Custodial Trustee, is appointed as the Custodial Trustee to administer the Custodial Trust and the Custodial Trust Accounts, in accordance with this Settlement Agreement and a Custodial Trust Agreement executed by the Parties substantially in the form attached hereto as Attachment D.

- e. No later than the earlier of (i) the Effective Date or (ii) 90 days after the Closing Date, the Debtors shall provide to the Custodial Trustee all environmental information and/or data regarding the Montana Designated Properties in possession of Debtors or their contractors in the state and condition in which such information or data is found.
6. The Custodial Trust Accounts.
- a. The Custodial Trustee shall create segregated Custodial Trust Cleanup Accounts for each of the Montana Designated Properties. The purpose of the Custodial Trust Cleanup Accounts shall be to provide funding and proceeds for future Environmental Actions as selected, approved, and authorized by the Lead Agency (as defined in subparagraph 6.j. below) and certain future oversight costs of the Governments as provided herein with respect to each Montana Designated Property. The Custodial Trustee shall create Segregated Custodial Trust Federal Natural Resource Damage Accounts (“Custodial Trust NRD Accounts”) for the Iron Mountain Designated Property, Black Pine Designated Property, and East Helena Designated Property as provided herein. A separate Custodial Trust Administrative Account shall be created to fund the administration of the Custodial Trust. Assets of the Custodial Trust Accounts shall be held in trust solely for these purposes. The Governments shall be the sole beneficiaries of the Custodial Trust Accounts.
 - b. In settlement and full satisfaction of all claims against Debtors related to the Montana Designated Properties and the Montana Sites as provided

herein (including but not limited to the liabilities and other obligations asserted in the United States' and State's proofs of claim and other pleadings filed as evidence presented to the Bankruptcy Court relating to the Montana Designated Properties and the Montana Sites), Debtors shall pay a total of \$138,300,000 (which shall be reduced as provided in Subparagraphs 6.c. and 6.d. below) to the Custodial Trust Accounts on the Effective Date (as defined in Paragraph 5.a.) and simultaneously with the transfer of the Montana Designated Properties, to be allocated as follows: (i) payment of \$8.9 million to establish the Custodial Trust and to fund the Custodial Trust Administrative Account for the purposes of administration of the Custodial Trust; (ii) payment of \$17.439 million to fund future Environmental Actions and certain future oversight costs of the Governments with respect to the Black Pine Designated Property, which the Custodial Trustee shall deposit in the Custodial Trust Cleanup Account for the Black Pine Designated Property; (iii) payment of \$61,000 to fund United States Department of Interior ("DOI") natural resource restoration and future oversight costs with respect to the Black Pine Designated Property, which the Custodial Trustee shall deposit in a segregated Custodial Trust NRD Account for the Black Pine Designated Property; (iv) payment of \$10 million to fund future Environmental Actions and certain future oversight costs of the Governments with respect to the Mike Horse Designated Property, which the Custodial Trustee shall deposit in the Custodial Trust Cleanup Account for the Mike Horse Designated

Property; (v) payment of \$1.864 million to fund future Environmental Actions and certain future oversight costs of the Governments with respect to the Iron Mountain Designated Property, which the Custodial Trustee shall deposit in the Custodial Trust Cleanup Account for the Iron Mountain Designated Property; (vi) payment of \$36,000 to fund DOI natural resource restoration and future oversight costs with respect to the Iron Mountain Designated Property, which the Custodial Trustee shall deposit in a segregated Custodial Trust NRD Account for the Iron Mountain Designated Property; (vii) payment of \$99.294 million to fund future Environmental Actions and certain future oversight costs of the Governments with respect to the East Helena Designated Property, which the Custodial Trustee shall deposit in the Custodial Trust Cleanup Account for the East Helena Designated Property; and (viii) payment of \$706,000 to fund DOI natural resource restoration and future oversight costs with respect to the East Helena Designated Property, which the Custodial Trustee shall deposit in a segregated Custodial Trust NRD Account for the East Helena Designated Property. The payments set forth in this Subparagraph (b) shall, for purposes of the Chapter 11 case, be accorded the status of expenses of administration.

- c. The amount of payment for any Montana Designated Property under Subparagraphs 6.b(ii), 6.b(iv), 6.b(v) and 6.b(vii) shall be reduced to reflect actual expenditures by Debtors at a Montana Designated Property

for Capital Expenditure Response Costs³ for work performed between February 1, 2009 and the Effective Date. Such costs shall not be associated with the Prepetition ASARCO Environmental Trust.⁴ Such response costs must be approved in writing in advance by the Lead Agency for the Montana 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 Montana 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

³ "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 Contingency Plan or in compliance with applicable law being administered by the Lead Agency at the Designated Property.

⁴ The 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.

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 8(h). Following completion of any work under this Paragraph, the Debtors 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.

- d. Debtors contend there is no existing obligation for Debtors to perform natural resource restoration and/or rehabilitation activities at the Montana Designated Properties or Montana Sites. If, however, the government orders or requires such activities, and Debtors actually perform such activities (Debtors deny they have any obligations to perform such activities and reserve all related rights and defenses), the amount of damages for any Montana Designated Property under Subparagraphs 6.b(iii), 6.b(vi), and 6.b(viii) shall be reduced to reflect restoration credits earned by Debtors at a Montana Designated Property for completion of approved natural resource restoration and/or rehabilitation activities (“restoration activities” in this Subparagraph) between February 1, 2009 and the Effective Date. Such restoration activities, the amount of restoration credit, and resulting damages reduction must be approved in writing in advance by DOI for the Montana Designated Property. Debtors shall include a description of the restoration activities and location(s)

proposed in any such request. DOI shall seek to respond within 10 business days of any requests for restoration credit. If DOI rejects ASARCO's proposed plan for restoration activities, DOI may provide an alternative plan to accomplish the restoration within 10 business days after the rejection. If, in the case of an order or other direction by DOI and, either DOI fails to respond within 10 business days of any requests for approval of expenditures or DOI fails to provide an alternative within 10 business days and DOI does not indicate or otherwise agree that ASARCO should delay work until DOI responds or provides an alternative plan for the restoration activities, 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 8(h). Following successful completion of any restoration activity under this Paragraph, the Debtors shall provide documentation to the Governments of the activity completed and 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 restoration activities on property not owned by Debtors.

- e. 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, 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 the 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 property taxes imposed on property owned by the Custodial Trust to be paid using assets of the Custodial Trust Administrative Account. The Custodial Trustee shall cause taxes, if any, imposed on the earnings in any Custodial Trust Account 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).

- f. The Custodial Trustee shall only use the Custodial Trust Cleanup Accounts, as authorized by the Lead Agency through the budget process, to fund future Environmental Actions selected and approved by the Lead Agency with respect to each Montana Designated Property and certain future oversight costs of the Governments as provided herein. Approved budgets for the Montana Designated Properties shall include funds for satisfying the respective Montana Designated Property obligations set forth in Paragraph 23; provided, however, that each approved budget for

the East Helena Designated Property shall include such funds to the extent determined appropriate by the Lead Agency after consultation with other governmental agencies pursuant to Subparagraph 6.k. below. The Custodial Trustee shall only use the Custodial Trust Administrative Account to fund the administrative costs of the Custodial Trust that have been approved by the State and USDOJ. The Custodial Trustee shall only use the Custodial Trust NRD Accounts to fund DOI natural resource restoration that has been approved by DOI and related oversight costs.

- g. 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 USDOJ, MDEQ, MDOJ, US EPA, DOI, and United States Forest Service (“FS”) for each Custodial Trust Cleanup Account and Custodial Trust NRD Account, a balance statement and proposed budget for the coming year together with an estimate for the first quarter of the following calendar year. The budget shall reflect any determinations made by the Lead Agency (or, in the case of the Custodial Trust NRD Account, DOI) regarding which elements of the future Environmental Actions will be performed directly by Custodial Trust Parties and which elements of the future Environmental Actions will be funded by the Custodial Trust but be performed by the Lead Agency or others designated by the Lead Agency (or, in the case of DOI, performed by DOI or others designated by DOI). The Custodial Trustee shall implement the proposed budget as

approved by the Lead Agency (or DOI in the case of the Custodial Trust NRD Accounts).

- h. The Custodial Trustee shall pay funds from a Custodial Trust Cleanup Account to the Lead Agency (or another governmental agency for oversight costs if its assistance had been requested by the Lead Agency and such oversight costs are included in the approved budget) making a written request for funds within ten (10) days of receipt of such request. Any written request shall specify the purpose of the funds, and shall certify that the funds will be used only for Environmental Actions selected and approved by the Lead Agency and conducted after the Effective Date or oversight costs incurred after the Effective Date by the Lead Agency or another governmental agency as provided above. The Lead Agency shall maintain any funds received pending expenditure in accordance with this Settlement Agreement in a site-specific account dedicated to Environmental Actions with respect to the Montana Designated Property corresponding to the Custodial Trust Cleanup Account from which the disbursement was made, and shall expend such funds and interest solely for future Environmental Actions with respect to that Montana Designated Property. Any funds received under this Subparagraph that are held by the Lead Agency for more than sixty (“60”) days shall be maintained in an interest-bearing account, with the interest retained and used only for the same purposes as the principal. If the Lead Agency requests assistance from another governmental agency pursuant to this Subparagraph, the

Lead Agency shall ensure that the funds are included in the approved budget for such oversight costs.

- i. In the case of requests by the Lead Agency for the Custodial Trustee to use the funds and interest to perform work or manage the performance of work, the Custodial Trustee shall utilize the funds and interest from the respective Custodial Trust Cleanup Account to undertake such work promptly, in accordance with the schedule and work as approved by the Lead Agency. All activities undertaken by the Custodial Trustee pursuant to this Settlement Agreement shall be performed in accordance with the requirements of all applicable federal and state laws and regulations. The Custodial Trustee shall require appropriate liability insurance from each contractor hired to perform work.
- j. For purposes of this Settlement Agreement, “Lead Agency” shall mean the State for the Black Pine Designated Property, Mike Horse Designated Property, and Iron Mountain Designated Property, and shall mean US EPA for the East Helena Designated Property.
- k. The Lead Agency for a Montana Designated Property shall consult in a timely manner with the other governmental agencies associated with the site under this Settlement Agreement, including natural resource trustee agencies, on the cleanup or other actions to be taken pertaining to the Montana Designated Property if such consultation is requested by such agencies. The Forest Service herein requests consultation with regard to all matters affecting property administered by the Forest Service at the

Black Pine Designated Property, Mike Horse Designated Property, and Iron Mountain Designated Property.

- l. The State and USDOJ may provide the Custodial Trustee with joint written notice that the Lead Agency for a Montana Designated Property has changed.
- m. The Custodial Trustee shall pay funds from a Custodial Trust NRD Account to DOI within 10 days of a written request by DOI. Such written request shall specify the natural resource restoration for which DOI will use the funding requested. DOI shall maintain any such funds pending expenditure in accordance with this Settlement Agreement in the DOI Natural Resource Damage Assessment and Restoration Fund, Account No. 14X5198. A separate site-specific numbered account for the corresponding Montana Designated Property shall be established within the DOI's Natural Resource Damage Assessment and Restoration Fund. DOI shall expend the funds in these accounts, including all interest earned on such funds, solely on natural resource restoration and related oversight costs for that site.
- n. The Custodial Trust shall administer, hold, or dispose of (including abandonment) unpatented mining claims in accordance 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. All actions of the Custodial Trust, the State, and the Forest Service under this Settlement Agreement as to National Forest Service Lands within the Mike Horse Designated

Property shall be consistent with the “Watershed Restoration Agreement between the State of Montana and the US Department of Agriculture Forest Service, North Region, for the Cleanup of the National Forest System Portion of the Upper Blackfoot Mining Complex Site.” Although it is not anticipated that actions will be taken by the Custodial Trust on property administered by the Forest Service or any other federal land management agency, any actions by the Custodial Trust on property administered by the Forest Service or any other federal land management agency can only be taken after the written concurrence of the federal agency. Notwithstanding anything to the contrary in this Settlement Agreement, unpatented mining claims relating to any of the Montana Sites that have already reverted to the United States shall be deemed relinquished. As to the Mike Horse Designated Property, such claims are set forth in the Upper Blackfoot Mining Complex Settlement Agreement.

- o. When a notice, submission or request is to be given or is allowed under this Settlement Agreement, either by a Party or the Custodial Trustee, such notice, submission, or request shall be written, and shall be provided at the same time to the United States and the State. Prior to the Effective Date, the United States and the State will provide their initial contact information for purposes of this Subparagraph to the Parties, and shall promptly notify each governmental agency upon any change in contact information.

p. Upon Lead Agency determination that all Environmental Actions required by the Lead Agency, except for natural resource restoration pertaining to compensatory losses, related to a Montana Designated Property are complete (and upon the concurrence of the Forest Service with regard to any actions taken pursuant to this Settlement Agreement on any property administered by the Forest Service), any funds remaining in that site's Custodial Trust Cleanup Account shall be transferred in the following order: (1) first, in accordance with instructions provided by USDOJ and the State, to any of the other Custodial Trust Cleanup Accounts established under this Settlement Agreement for a Montana Designated Property with remaining Environmental Actions and a need for additional trust funding; (2) second, to DOI and the State as federal and state trustees, jointly, in an amount and in accordance with instructions provided by USDOJ and the State that reflects compensatory losses from natural resource damages under applicable law, to be used solely for natural resource restoration and related oversight costs for Montana Designated Properties; (3) third, then in accordance with instructions provided by USDOJ after consultation with the states, to any other open and operating environmental custodial trust accounts established pursuant to the other global environmental settlement agreements⁵ in the

⁵ 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 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; and the Consent Decree and Settlement Agreement

Reorganization Cases in other states with remaining environmental response or restoration actions to be performed and a need for additional trust funding; and (4) fourth, then to the US EPA Hazardous Substance Superfund (“Superfund”).

- q. Upon DOI determination that all natural resource restoration required by DOI for a Montana Designated Property is complete and all related oversight costs paid (and upon the concurrence of the Forest Service with regard to any actions taken pursuant to this Settlement Agreement on any property administered by the Forest Service), any funds remaining in that site’s Custodial Trust NRD Account shall be transferred in the following order: (1) first, to DOI and the State as federal and state trustees, jointly, in an amount and in accordance with instructions provided by USDOJ and the State that reflects compensatory losses from natural resource damages under applicable law, to be used solely for natural resource restoration and related oversight costs for Montana Designated Properties; (2) second, in accordance with instructions provided by USDOJ and the State, to any of the other Custodial Trust Cleanup Accounts established under this Settlement Agreement for a Montana Designated Property with remaining Environmental Actions and a need for additional trust funding; (3) third, then in accordance with instructions provided by USDOJ after consultation with the states, to any other open and operating environmental custodial trust accounts established pursuant to the other

global environmental settlement agreements⁶ in the Reorganization Cases in other states with remaining environmental response or restoration actions to be performed and a need for additional trust funding; and (4) fourth, then to the Superfund.

- r. The USDOJ and the State at any time during implementation of this Settlement Agreement may jointly agree to transfer a portion of the funds remaining in a Montana Designated Property's Custodial Trust Cleanup Account to other Custodial Trust Cleanup Accounts established under this Settlement Agreement if USDOJ and the State determine that the Montana Designated Property's Custodial Trust Cleanup Account would, after such a transfer, maintain sufficient funding for future Environmental Actions for the Montana Designated Property, including necessary funding for operation and maintenance of Environmental Actions. Neither the State nor USDOJ have any right to petition the Court or any right to other redress should the other Party not agree to a proposed transfer under this Paragraph.
- s. Upon the completion of all Environmental Actions, except for natural resource restoration pertaining to compensatory losses, and disbursement of all final costs for all Montana Designated Properties, and upon approval of USDOJ and the State, any funds remaining in the Custodial Trust Administrative Account shall be transferred in the following order: (1) first, to DOI and the State as federal and state trustees, jointly, in an

⁶ As defined in n.5, supra.

amount and in accordance with instructions provided by USDOJ and the State that reflects compensatory losses from natural resource damages under applicable law, to be used solely for natural resource restoration and related oversight costs for Montana Designated Properties; (2) second, then in accordance with instructions provided by the USDOJ after consultation with the states, to any other open and operating environmental custodial trust account established pursuant to other global environmental settlement agreements⁷ in the Reorganization Cases in other states with remaining environmental response or restoration actions to be performed and a need for additional trust funding; and (3) third, then to the Superfund.

7. Debtors shall continue, at their own expense, or as provided under the Prepetition ASARCO Environmental Trust, the operations of any required ongoing environmental response, reclamation, or natural resource restoration activities being performed by Debtors at any Montana Designated Property until Debtors fully fund all Custodial Trust Accounts as set forth in Subparagraph 6.b. of this Settlement Agreement. Debtors may receive credit for such activities to the extent permitted pursuant to Subparagraphs 6.c. and 6.d. of this Settlement Agreement.

8. Custodial Trust Miscellaneous Provisions.

- a. The administrative funds within the Custodial Trust Administrative Account shall be used by the Custodial Trustee for the administration of the Custodial Trust and the management of the Montana Designated

⁷ As defined in n. 5, supra.

Properties. Within 30 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 USDOJ, MDEQ, MDOJ, US EPA, DOI, and FS with a balance statement and an annual proposed budget for administration of the Custodial Trust. The State and USDOJ shall have the authority to approve or disapprove the proposed budget after consultation with the other governmental agencies.

- b. In no event shall the Custodial Trust, the Custodial Trustee, and the Custodial Trustee's shareholders, officers, directors, employees, agents, managers, members, or other parties, professionals or representatives employed by the Custodial Trust or Custodial Trustee (the "Custodial Trust Parties," as more specifically defined in the Custodial Trust Agreement) be held liable to any third parties for any liability, action, or inaction of any other party.
- c. As provided in this Settlement Agreement, the Custodial Trust Parties shall be deemed to have resolved their civil liability under CERCLA, RCRA, and similar State statutes, to the United States and the State, and have contribution protection against any actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. Section 9613(f)(2) or similar state law for contribution for matters addressed in this Settlement Agreement. Provided, however, that nothing in the Settlement Agreement shall be construed to allow the Custodial Trust Parties to violate the

Settlement Agreement or any State, federal or local law, nor to limit the enforcement authorities of the United States or the State.

- d. The Custodial Trust shall implement and ensure the maintenance of any institutional controls or deed restrictions (1) required by law, or (2) requested by the Lead Agency, with respect to a Montana Designated Property. No institutional controls or deed restrictions shall be established on property administered by the Forest Service, without the prior written concurrence of the Forest Service.
- e. In the event that the Custodial Trust or the Custodial Trustee in any material respect exacerbates conditions related to any Montana Designated Property, violates a provision of this Settlement Agreement, or otherwise does not adequately perform under this Settlement Agreement, the State and USDOJ may jointly (1) direct that all remaining funds and future recoveries in the Custodial Trust for a Montana Designated Property be paid to the Lead Agency for the Montana Designated Property, all remaining funds in the Custodial Trust NRD Account for a Montana Designated Property be paid to DOI, to be used in accordance with the terms of this Settlement Agreement, and all remaining funds in the Custodial Trust Administrative Account and title to the Montana Designated Property be transferred as jointly directed by the State and USDOJ; or (2) arrange appointment of a new custodial trustee as provided in the Custodial Trust Agreement.

- f. The Custodial Trust and the Custodial Trustee shall take such actions and execute such documents as are reasonably requested by Debtors with respect to effectuating the terms of this Settlement Agreement. To the extent that Debtors request the Custodial Trust and the Custodial Trustee to take such an action, the Custodial Trust and the Custodial Trustee shall do so at the sole expense of Debtors.
- g. The Custodial Trust is intended to be governed by the terms of the Settlement Agreement and the 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 Montana Designated Property shall not exceed the amount of funding provided for the Custodial Trust Cleanup Account, the Custodial Trust Administrative Account, and/or the Custodial Trust NRD Account related to that Montana Designated Property; provided, however, this Paragraph: (i) does not apply to funds expended from the Prepetition ASARCO Environmental Trust; (ii) does not limit the amount of penalties relating to Debtors' conduct occurring between February 1, 2009 and the Effective Date pursuant to Section VI hereof; ~~and~~ (iii) does not limit the United States' and Montana's reservation of rights for liability under subparts (i), (iii), (iv) and (v) of Paragraph 39; 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 United States and the State 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 Settlement Agreement and contains provisions A and B below (a “Qualifying Plan” or “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 E, 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 Debtors' 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 (as defined in the Plan) prior to February 1, 2009 (other than those sites listed on Attachment E 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 Settlement Agreement.

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 this Paragraph shall be treated as precedential in any other bankruptcy case.

9. The Custodial Trust shall provide the United States and the State and their representatives access at all reasonable times for the purposes of conducting activities related to Environmental Actions at or near the Montana Designated Properties. The Custodial Trust shall execute and record with the appropriate recorder's office any easements, deed restrictions or other appropriate documents relating to land use requested by the Lead Agency for restrictions on use of any portion of a Montana Designated Property in order to protect public health, welfare, or safety or the environment or ensure non-interference with or the protectiveness of any action related to Environmental Actions.

10. The United States, the State, or a local governmental unit that is a designee of the State, may at any time propose in writing to take ownership, without further consideration, of any of the Montana Designated Properties or any part thereof. Any such proposed transfer and the terms thereof are subject to approval in writing by the State and the FS with respect to the Black Pine Designated Property, Mike Horse Designated Property, and the Iron Mountain Designated Property. Any such proposed transfer and the terms thereof are subject to approval in writing by US EPA and the State with respect to the East Helena Designated Property. For the East Helena Designated Property, proposals to transfer property where DOI or its designee has conducted natural resource restoration activities also require the written approval of DOI. The Custodial Trustee shall transfer such ownership promptly upon written approval of such transfer by

the agencies. Should US EPA collect money from its current lien on the East Helena Designated Property, that money shall be placed in the East Helena Site-wide Special Account within the Superfund to be retained and used to conduct or finance response actions at or in connection with the East Helena Site, or to be transferred by US EPA to the Superfund.

11. The Custodial Trustee may at any time seek approval for the sale or lease or other disposition of all or part of the Montana Designated Properties. No such sale, lease, or disposition may be made without the written approval of the State and FS with respect to the Black Pine Designated Property, Mike Horse Designated Property, and the Iron Mountain Designated Property. No such sale, lease, or disposition may be made without the written approval of US EPA and the State with respect to the East Helena Designated Property. The sale, lease, or disposition of East Helena Designated Property where DOI or its designee has conducted natural resource restoration also requires the written approval of DOI for such properties. Any net proceeds from the sale or lease or other disposition of some or all of a Montana Designated Property shall be paid to the particular Custodial Trust Cleanup Account for that Montana Designated Property.

12. The Custodial Trust Parties shall not be personally liable unless the Bankruptcy Court, by a final order, finds that they were grossly negligent or committed fraud or willful misconduct after the Effective Date in relation to the Custodial Trustee's duties. The Custodial Trust shall indemnify, defend and hold harmless the Custodial Trust Parties from and against all claims, causes of action, liabilities, obligations, losses, costs, judgments, damages or expenses (including attorney's fees) (and any judgment and costs of defense shall be paid from the Custodial Trust Cleanup Account for the relevant

Montana Designated Property without the Custodial Trust Parties having to first pay from their own funds) for any personal liability or costs of defense relating in any way to Debtors or arising out of the ownership of Custodial Trust assets and the discharge of the powers and duties conferred upon the Custodial Trust and/or Custodial 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 unless a determination is made by a final order of the Bankruptcy Court finding that they were grossly negligent or committed fraud or willful misconduct in relation to the Custodial Trust or the Custodial Trustee's duties. However, indemnification shall be limited to funds in the Custodial Trust Cleanup Account for the relevant Montana Designated Property or the Custodial Trust Administrative Account. There shall be an irrebuttable presumption that any action taken or not taken with the specific approval of the Bankruptcy Court does not constitute willful misconduct.

13. 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 relating in any way to Debtors or arising out of the ownership of Custodial Trust assets and the discharge of the powers and duties conferred upon the Custodial Trust and/or Custodial 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. No person, including without limitation, holders of claims and other parties in interest, will be permitted to pursue any claim 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 the Bankruptcy Court, or for implementing the provisions of this Settlement Agreement, the Custodial Trust Agreement, or any order of the Bankruptcy 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.

14. 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 as appropriate, within the approved budget allowances for such expenses, and shall not be personally liable for any action taken or not taken in accordance with the advice thereof unless the Bankruptcy Court, by a final order, finds that they were grossly negligent or committed fraud or willful misconduct; 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 Settlement 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 12.

15. Neither the United States, the State, the Debtors, nor the Reorganized Debtors shall be deemed to be an owner, operator, trustee, partner, agent, shareholder, officer, or director of the Custodial Trust or Custodial Trust Parties, or deemed to be an owner or

operator of any of the Montana Sites, on account of this Settlement Agreement or actions contemplated thereby. Neither the United States nor the State shall be liable for any injury or damages to person or property resulting from acts or omissions of the Custodial Trust Parties in implementing the requirements of this Settlement Agreement.

**V. ALLOWANCE OF STATE CLAIM FOR EAST HELENA SITE
COMPENSATORY NATURAL RESOURCE DAMAGES
AND WITHDRAWAL OF THE TROY MINE SITE CLAIM**

16. In settlement and full satisfaction of all claims and causes of action of the State for the East Helena Site Compensatory Natural Resource Damage Claim (including but not limited to the liabilities and other obligations asserted in the State's Proof of Claim and other pleadings filed by the State in the Bankruptcy Court pertaining to the East Helena Site Compensatory Natural Resource Damage Claim), the State of Montana shall have an allowed general unsecured claim in the total amount of \$5 million. This allowed claim 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. This allowed claim is separate and apart from the Custodial Trust funding. As additional consideration for the settlement of this compensatory claim, the State shall have an option to acquire approximately two hundred and thirty two (232) acres of undeveloped land at the East Helena Designated Property, including approximately one hundred and ninety two (192) acres in the vicinity of Upper Lake, and forty (40) acres in the vicinity of Prickly Pear Creek in the northern part of East Helena, from the Custodial Trust without further consideration. The State avers that these undeveloped lands will be dedicated to public recreation, wildlife habitat, open

space and/or wetlands. Prior to any such conveyance, the precise location and future uses of this land shall be agreed upon and approved in a written agreement between the State and US EPA, after consultation with DOI and the Custodial Trustee. Notwithstanding anything to the contrary in this Settlement Agreement, the State shall not be entitled to any additional or alternative consideration beyond that set forth in this Paragraph, and the State shall have no recourse against the Debtors or the Reorganized Debtors as a result of the failure or inability of the State, for any reason, to successfully exercise such option.

17. The State shall provide its electronic funds transfer information to ASARCO at least 20 days prior to the Effective Date. ASARCO shall contact the Fiscal Bureau Chief of the Central Services Division of the Montana Department of Justice at least 48 hours prior to initiating a transfer to provide notice of the date, time, and amount of the expected transfer and to confirm the wiring instructions, bank routing, and account numbers. Upon receipt of any funds paid under this Settlement Agreement, the State will deposit the funds into a State special revenue fund, as provided for in MCA Section 17-2-102(1)(b)(i), to be known as the “East Helena Site Compensatory NRD Special Revenue Fund” (“East Helena Compensatory NRD Fund”), which shall be held and maintained by the State solely to restore, rehabilitate, replace or acquire the equivalent of the injured natural resources. All interest and other earnings on the East Helena Compensatory NRD Fund shall be paid into the East Helena Compensatory NRD Fund, and no portion of the East Helena Compensatory NRD Fund or any earnings on the East Helena Compensatory NRD Fund is to be treated as a general revenue source or as State General Fund money, nor is any portion to be converted or transferred to the State General Fund, and may not be transferred to any other fund except as provided herein. Any non-cash distributions to

the State in the Bankruptcy Case will be made in accordance with instructions provided by the State.

18. The State of Montana agrees that its claim for the Troy Mine Site is withdrawn.

VI. OUTSTANDING OBLIGATIONS

19. Upon the Effective Date and Debtors' full funding of all Custodial Trust Accounts as set forth in Subparagraph 6.b. of this Settlement Agreement (subject to any credit pursuant to Subparagraph 6.c. and 6.d.), all obligations of Debtors to perform work pursuant to the Previous Settlements are fully resolved and satisfied by this Settlement Agreement, provided, however, that: (a) all requirements to retain records shall remain in full force and effect until the Effective Date, 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 State with respect to a Montana Designated Property or Montana Site as to which the United States or the State is a party to any order or consent decree, (b) upon the Effective Date, the United States, Debtors, and the Custodial Trustee shall file papers with the United States District Court for the District of Montana to substitute the Custodial Trustee for "ASARCO" and "Defendant" under the Montana Consent Decrees for Debtors' obligations to perform work under the Montana Consent Decrees as provided in this Settlement Agreement and remove ASARCO as a party to the Montana Consent Decrees. Any statutory, stipulated, or other penalties allegedly due from Debtors as of February 1, 2009 related to the Montana Consent Decrees and DEQ Order are fully resolved and satisfied by this Settlement Agreement. The Parties shall seek to modify or otherwise conform the Montana Consent Decrees to the terms of this Settlement Agreement. The United States, Debtors and

Custodial Trustee will request that the modification contemplated herein shall only be made effective upon the Effective Date and after Debtors' full funding of all Custodial Trusts as set forth in Subparagraph 6.b. of this Settlement Agreement (subject to any credit pursuant to Subparagraph 6.c. and 6.d.), and that the request for modification shall have no effect unless both conditions occur. 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 Montana Consent Decrees or the DEQ Order 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. 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.

20. Upon the Effective Date and Debtors' full funding of all Custodial Trust Accounts as set forth in Subparagraph 6.b. of this Settlement Agreement (subject to any credit pursuant to Subparagraph 6.c. and 6.d.), ASARCO's obligations under Paragraphs 15 – 19 of the Upper Blackfoot Mining Complex Settlement Agreement are deemed fully resolved and fully assumed by the Custodial Trustee, and ASARCO shall have no responsibility thereunder. Any statutory, stipulated, or other penalties allegedly due from Debtors as of February 1, 2009 related to the Upper Blackfoot Mining Complex Settlement Agreement are fully resolved and satisfied by this Settlement Agreement. 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 Upper Blackfoot Mining Complex Settlement Agreement 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. 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.

21. Upon the Effective Date and Debtors' full funding of all Custodial Trust Accounts as set forth in Subparagraph 6.b. of this Settlement Agreement (subject to any credit pursuant to Subparagraph 6.c. and 6.d.), ASARCO's obligations under Paragraph 9 of the Iron Mountain Settlement Agreement are deemed fully resolved and fully assumed by the Custodial Trustee, and ASARCO shall have no responsibility thereunder. Any statutory, stipulated, or other penalties allegedly due from Debtors as of February 1, 2009 related to the Iron Mountain Settlement Agreement are fully resolved and satisfied by this Settlement Agreement. 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 Iron Mountain Settlement Agreement 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. 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.

22. Any other outstanding obligations⁸ of Debtors, including ASARCO, under any Consent Decree, Unilateral Administrative Order, Agreed Order, or Administrative Order on Consent for the Montana Designated Properties or Montana Sites (including but not limited to obligations to perform), 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 as of the Effective Date and Debtors' full funding of all Custodial Trust Accounts as set forth in Subparagraph 6.b. of this Settlement Agreement (subject to any credit pursuant to Subparagraph 6.c. and 6.d.). 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 Montana Designated Properties or Montana 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. 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.

⁸ Other than those obligations listed in Paragraphs 19-21, the general unsecured claims in the Miscellaneous Sites Settlement Agreement, and the Separately Settled East Helena Matters.

23. Upon the Effective Date and Debtors' full funding of all Custodial Trust Accounts as set forth in Subparagraph 6.b. of this Settlement Agreement (subject to any credit pursuant to Subparagraph 6.c. and 6.d.), the Custodial Trust shall assume Debtors' obligations for the following orders and agreements: (1) for the Mike Horse Designated Property, ASARCO's obligations under Paragraphs 15 – 19 of the Upper Blackfoot Mining Complex Settlement Agreement, (2) for the Iron Mountain Designated Property, ASARCO's obligations under Paragraph 9 of the Iron Mountain Settlement Agreement, (3) for the East Helena Designated Property, ASARCO's obligations under the Montana Consent Decrees and ASARCO's obligations under DEQ Administrative Order on Consent, Docket No. HW-07-01.

VII. COVENANTS NOT TO SUE

24. United States' Covenant Not to Sue for the Black Pine Site. Except as provided in Section VIII (Reservation of Rights), with respect to the Black Pine Site (including releases of hazardous substances from any portion of the Black Pine Site, and all areas affected by natural migration of such hazardous substances from the Black Pine Site), upon the Effective Date and Debtors' full funding of all Custodial Trust Accounts as set forth in Subparagraph 6.b. of this Settlement Agreement (subject to any credit pursuant to Subparagraph 6.c. and 6.d.), the United States covenants not to sue or assert any civil claims or civil causes of action against Debtors, the Reorganized Debtors, or the Custodial Trust Parties pursuant to Sections 106, 107(a) and 113 of CERCLA, 42 U.S.C. §§ 9606, 9607(a), and 9613, Section 7003 of RCRA, 42 U.S.C. § 6973, Sections 301(a), 309(b), and 311 of the Clean Water Act ("CWA"), 33 U.S.C. §§ 1311(a), 1319(b), and

1321, or any similar state law, including any liabilities or obligations asserted in the United States' Proofs of Claim with respect to the Black Pine Site.

25. State's Covenant Not to Sue for the Black Pine Site. Except as provided in Section VIII (Reservation of Rights), with respect to the Black Pine Site (including releases of hazardous substances from any portion of the Black Pine Site, and all areas affected by natural migration of such hazardous substances from the Black Pine Site) upon the Effective Date and Debtors' full funding of all Custodial Trust Accounts as set forth in Subparagraph 6.b. of this Settlement Agreement (subject to any credit pursuant to Subparagraph 6.c. and 6.d.), the State of Montana covenants not to sue or assert any civil claims or civil causes of action against Debtors, the Reorganized Debtors, or the Custodial Trust Parties pursuant to Sections 106, 107(a), and 113 of CERCLA, 42 U.S.C. §§ 9606, 9607(a), and 9613, Sections 3004(u), 3004(v), 3008 and 7002 of RCRA, 42 U.S.C. §§ 6924(u), 6924(v), 6928 and 6972, Sections 301(a), 309(b) and 311 of CWA, 33 U.S.C. §§ 1311(a), 1319(b) and 1321 or Sections 711, 714, 715(2) and 722 of CECRA, Mont. Code Ann. §§ 75-10-711, 75-10-714, 75-10-715(2) and 75-10-722, Sections 601, 602, 611, 613, 614, 615, 617, 631, and 635 of the Montana Water Quality Act ("WQA"), Mont. Code Ann. 75-5-601, 75-5-602, 75-5-611, 75-5-613, 75-5-614, 75-5-615, 75-5-617, 75-5-631, 75-5-635, and Montana tort law, including any liabilities or obligations asserted in Montana's Proofs of Claim with respect to the Black Pine Site.

26. United States' and State's Covenants Not to Sue for the Mike Horse Site. The United States' and State's Covenants Not to Sue for the Mike Horse Site are included in the Upper Blackfoot Mining Complex Settlement Agreement, provided however, that upon the Effective Date and Debtors' full funding of all Custodial Trusts as set forth in

Subparagraph 6.b. of this Settlement Agreement (subject to any credit pursuant to Subparagraph 6.c. and 6.d.), the following sentence in both Paragraphs 26 and 28 of the Upper Blackfoot Mining Complex Settlement Agreement shall be deemed deleted, “As to ASARCO only, these covenants also do not apply to ASARCO’s continuing and future work obligations under Paragraphs 15 – 19 of Section VI (Work to be Undertaken By ASARCO)” and ASARCO will be relieved of such obligations. The United States’ and State’s Covenants Not to Sue for the Mike Horse Site shall apply equally to the Custodial Trust Parties.

27. United States’ and State’s Covenants Not to Sue for the Iron Mountain Site. The United States’ and State’s Covenants Not to Sue for the Iron Mountain Site are included in the Iron Mountain Settlement Agreement, provided however, that upon the Effective Date and Debtors’ full funding of all Custodial Trusts as set forth in Subparagraph 6.b. of this Settlement Agreement (subject to any credit pursuant to Subparagraph 6.c. and 6.d.), Paragraph 20 of the Iron Mountain Settlement Agreement is modified in its entirety to read, “The covenants shall become effective on the Effective Date” and ASARCO will be relieved of any obligation to enter an agreed order on consent or to do further work at the Iron Mountain Site. The United States’ and State’s Covenants Not to Sue for the Iron Mountain Site shall apply equally to the Custodial Trust Parties.

28. United States’ Covenant Not to Sue for the East Helena Site. Except as provided in Section VIII (Reservation of Rights), with respect to the East Helena Site (including releases of hazardous substances, hazardous waste, or hazardous constituents from any portion of the East Helena Site, and all areas affected by natural migration of such hazardous substances, hazardous waste, or hazardous constituents from the East Helena

Site) upon the Effective Date and Debtors' full funding of all Custodial Trust Accounts as set forth in Subparagraph 6.b. of this Settlement Agreement (subject to any credit pursuant to Subparagraph 6.c. and 6.d.), the United States covenants not to sue or assert any civil claims or civil causes of action against Debtors, the Reorganized Debtors, or the Custodial Trust Parties pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606, 9607(a), and RCRA, 42 U.S.C. § 6901, et seq., Sections 301(a), 309(b), and 311 of CWA, 33 U.S.C. §§ 1311(a), 1319(b), and 1321, or any similar state law, including any liabilities or obligations asserted in the United States' Proofs of Claim with respect to the East Helena Site.

29. State's Covenant Not to Sue for the East Helena Site. Except as provided in Section VIII (Reservation of Rights), with respect to the East Helena Site (including releases of hazardous substances, hazardous waste, or hazardous constituents from any portion of the East Helena Site, and all areas affected by natural migration of such hazardous substances, hazardous waste, or hazardous constituents from the East Helena Site) upon the Effective Date and Debtors' full funding of all Custodial Trust Accounts as set forth in Subparagraph 6.b. of this Settlement Agreement (subject to any credit pursuant to Subparagraph 6.c. and 6.d.), the State of Montana covenants not to sue or assert any civil claims or civil causes of action against Debtors, the Reorganized Debtors, or the Custodial Trust Parties pursuant to Sections 106, 107(a), and 113 of CERCLA, 42 U.S.C. §§ 9606, 9607(a), and 9613, and Sections 3004(u), 3004(v), 3008 and 7002 of RCRA, 42 U.S.C. §§ 6924(u), 6924(v), 6928 and 6972, Sections 301(a), 309(b), and 311 of the CWA, 33 U.S.C. §§ 1311(a), 1319(b), and 1321 or Sections 711, 714, 715(2) and 722 of CECRA, Mont. Code Ann. §§ 75-10-711, 75-10-714, 75-10-715(2) and 75-10-

722, Sections 601, 602, 611, 613, 614, 615, 617, 631, and 635 of the WQA, Mont. Code Ann. §§ 75-5-601, 75-5-602, 75-5-611, 75-5-613, 75-5-614, 75-5-615, 75-5-617, 75-5-631, 75-5-635, and Montana tort law, including any liabilities or obligations asserted in Montana's Proofs of Claim with respect to the East Helena Site.

30. State's Covenant Not to Sue for the East Helena Site Compensatory Natural Resource Damage Claim. Except as provided in Section VIII (Reservation of Rights), with respect to the East Helena Site Compensatory Natural Resource Damage Claim (including releases of hazardous substances, hazardous waste, or hazardous constituents from any portion of the East Helena Designated Property, and all areas affected by natural migration of such hazardous substances, hazardous waste, or hazardous constituents from the East Helena Site) upon the Effective Date and Debtors' full funding of all Custodial Trust Accounts as set forth in Subparagraph 6.b. of this Settlement Agreement (subject to any credit pursuant to Subparagraph 6.c. and 6.d.), the State of Montana covenants not to sue or assert any civil claims or civil causes of action against Debtors, the Reorganized Debtors, or the Custodial Trust Parties pursuant to Sections 106, 107(a), and 113 of CERCLA, 42 U.S.C. §§ 9606, 9607(a), and 9613, and Sections 3004(u), 3004(v), 3008 and 7002 of RCRA, 42 U.S.C. §§ 6924(u), 6924(v), 6928 and 6972, Sections 301(a), 309(b), and 311 of CWA, 33 U.S.C. §§ 1311(a), 1319(b), and 1321 or Sections 711, 714, 715(2) and 722 of CECRA, Mont. Code Ann. §§ 75-10-711, 75-10-714, 75-10-715(2) and 75-10-722, Sections 601, 602, 611, 613, 614, 615, 617, 631, and 635 of the WQA, Mont. Code Ann. §§ 75-5-601, 75-5-602, 75-5-611, 75-5-613, 75-5-614, 75-5-615, 75-5-617, 75-5-631, 75-5-635, and Montana tort law, including any

liabilities or obligations asserted in Montana's Proofs of Claim with respect to the East Helena Site Compensatory Natural Resource Damage Claim.

31. State's Covenant Not to Sue for the Troy Mine Site. Except as provided in Section VIII (Reservation of Rights), with respect to the Troy Mine Site (including releases of hazardous substances from any portion of the Troy Mine Site, and all areas affected by natural migration of such hazardous substances from the Troy Mine Site) upon the Effective Date and Debtors' full funding of all Custodial Trust Accounts as set forth in Subparagraph 6.b. of this Settlement Agreement (subject to any credit pursuant to Subparagraph 6.c. and 6.d.), the State of Montana covenants not to sue or assert any civil claims or civil causes of action against Debtors or Reorganized Debtors pursuant to Sections 106, 107(a), and 113 of CERCLA, 42 U.S.C. §§ 9606, 9607(a), and 9613, Sections 3004(u), 3004(v), 3008 and 7002 of RCRA, 42 U.S.C. §§ 6924(u), 6924(v), 6928 and 6972, Sections 301(a), 309(b), and 311 of CWA, 33 U.S.C. §§ 1311(a), 1319(b), and 1321 or Sections 711, 714, 715(2) and 722 of CECRA, Mont. Code Ann. §§ 75-10-711, 75-10-714, 75-10-715(2) and 75-10-722, Sections 601, 602, 611, 613, 614, 615, 617, 631, and 635 of the WQA, Mont. Code Ann. §§ 75-5-601, 75-5-602, 75-5-611, 75-5-613, 75-5-614, 75-5-615, 75-5-617, 75-5-631, 75-5-635, and Montana tort law, including any liabilities or obligations asserted in Montana's Proofs of Claim with respect to the Troy Mine Site.

32. 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.

33. Without in any way limiting the covenants not to sue, and the reservations thereto, set forth in Paragraphs 24 - 42, 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 arises solely from its status as and in its capacity as a successor, assign, officer, director, employee, or trustee of Debtors or Reorganized Debtors.

34. The covenants not to sue contained in Paragraphs 24 - 31 of this Settlement Agreement extend only to Debtors, Reorganized Debtors, and the Custodial Trust Parties (for Paragraphs 24 –30), and the persons described in Paragraph 33 above and do not extend to any other person. Nothing in this Settlement Agreement is intended as a covenant not to sue or a release from liability for any person or entity other than Debtors, Reorganized Debtors, the Custodial Trust Parties, the United States, the State, and the persons described in Paragraph 33. The United States, the State, Debtors, Reorganized Debtors, and the Custodial Trust Parties expressly reserve all claims, demands, defenses, and causes of action either judicial or administrative, past, present or future, in law or equity, which the United States, the State, Debtors, Reorganized Debtors, or the Custodial Trust Parties may have against all other persons, firms, corporations, entities, or predecessors of Debtors or Reorganized Debtors for any matter arising at or relating in any manner to the Montana Sites and/or claims addressed herein.

35. 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, Sections 711 and 712 of CECRA, Mont. Code Ann. §§ 75-10-711 and 75-10-712, 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 State pursuant to that authority.

36. Nothing in this Settlement Agreement shall be deemed to limit the information-gathering authority of the United States or the State under any applicable federal or State law or regulation, including Sections 104 and 122 of CERCLA, 42 U.S.C. §§ 9604 and 9622, and Section 707 of CECRA, Mont. Code Ann. § 75-10-707, or to excuse the Debtors, Reorganized Debtors, or Custodial Trust Parties from any disclosure or notification requirements imposed by CERCLA, CECRA, RCRA, or any other applicable federal or state law or regulation.

37. Debtors' and Reorganized Debtors' Covenant Not to Sue for the Montana Sites and the Troy Mine Site. Debtors and Reorganized Debtors covenant not to sue and agree not to assert any claims or causes of action against the United States or the State, and Debtors and the Reorganized Debtors covenant not to sue and agree not to assert any claims or causes of action against the Custodial Trust Parties, with respect to the Montana Sites and the Troy Mine Site (including releases of hazardous substances, hazardous waste, or hazardous constituents from any portion of the Montana Sites and the Troy Mine Site, and all areas affected by natural migration of such hazardous substances, hazardous waste, or hazardous constituents from the Montana Sites and the Troy Mine Site), 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)(2),

9607, 9611, 9612, 9613 or any other provision of law; any direct or indirect claim for reimbursement under CECRA or from any other State source under CECRA or any other provision of law; any claims against the United States or the State, including any of their departments, agencies or instrumentalities, under CERCLA, 42 U.S.C. §§ 9601 et seq., under CECRA, Mont. Code Ann. Sections 75-10-701, et seq., under RCRA, 42 U.S.C. §§ 6901 et seq., under CWA, 33 U.S.C. 1251 et seq., under WQA, Mont. Code Ann. Sections 75-5- 101 et seq., or under any other provision of law, including Montana tort law; and any claims arising out of environmental response, natural resource restoration, or the Environmental Actions related to the Montana Designated Properties, or related to the East Helena Site Compensatory Natural Resource Damage Claim. 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).

38. Custodial Trust Parties' Covenant Not to Sue for the Montana Sites. The Custodial Trust Parties covenant not to sue and agree not to assert any claims or causes of action against the United States or the State, and Custodial Trust Parties covenant not to sue and agree not to assert any claims or causes of action against Debtors and the Reorganized Debtors, with respect to the Montana Sites (including releases of hazardous substances, hazardous waste, or hazardous constituents from any portion of the Montana Sites, and all areas affected by natural migration of such hazardous substances, hazardous waste, or hazardous constituents from the Montana 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)(2), 9607, 9611, 9612, 9613 or any other

provision of law; any direct or indirect claim for reimbursement under CECRA or from any other State source under CECRA or any other provision of law; any claims against the United States or the State, including any of their departments, agencies or instrumentalities, under CERCLA, 42 U.S.C. §§ 9601 et seq., under CECRA, Mont. Code Ann. Sections 75-10-701, et seq., under RCRA, 42 U.S.C. §§ 6901 et seq., under CWA, 33 U.S.C. 1251 et seq., under WQA, Mont. Code Ann. Sections 75-5- 101 et seq., or under any other provision of law, including Montana tort law; and any claims arising out of environmental response, natural resource restoration, or the Environmental Actions related to the Montana Designated Properties, or related to the East Helena Site Compensatory Natural Resource Damage Claim. 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).

VIII. RESERVATION OF RIGHTS

39. The covenants not to sue set forth in Section VII do not pertain to any matters other than those expressly specified therein. The United States and the State reserve, and this Settlement Agreement is without prejudice to, all rights against the Debtors, Reorganized Debtors, Custodial Trust Parties or other persons with respect to all matters other than those set forth in Paragraphs 24 - 31 of this Settlement Agreement. The United States and the State also specifically reserve: (i) the Separately Settled East Helena Matters and the Miscellaneous Sites Settlement Agreement; (ii) any action by the United States or the State to enforce the terms of this Settlement Agreement; (iii) the allowed claims set forth in the Iron Mountain Settlement Agreement; (iv) the allowed claims set forth in the Upper Blackfoot Mining Complex Settlement Agreement; and (v)

liability for response costs, response actions, remedial actions, natural resource restoration, natural resource damages, penalties, injunctive relief, and Environmental Actions under CERCLA, RCRA, CWA, CECRA or any other law for Debtors' and Reorganized Debtors' future acts creating liability under CERCLA, RCRA, CWA, or CECRA or any other law that occur after the Closing Date. Debtors' or the Reorganized Debtors' future acts creating liability under CERCLA, RCRA, or similar state law do not include continuing releases related to Debtors' conduct prior to the Closing Date. The United States and the State 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, CWA, and state laws for any future acts by any such respective entity creating liability under CERCLA, RCRA, CWA, or state law. Future acts creating liability under CERCLA, RCRA, or CECRA do not include continuing releases related to these entities' conduct prior to the Closing Date.

40. Subject to the provisions of Subparagraph 6.c and 6.d. of the Settlement Agreement, the United States and the State also reserve all rights against Debtors until the Effective Date, including but not limited to the work required under the Iron Mountain Settlement Agreement and Upper Blackfoot Mining Complex Settlement Agreement. This Settlement Agreement does not release claims and causes of action for criminal liability. The Governments and Debtors reserve all rights with respect to criminal liability.

41. Debtors, Reorganized Debtors, and the Custodial Trustee reserve, and this Settlement Agreement is without prejudice to all rights against the United States and State with respect to: (a) for Debtors and Reorganized Debtors, all matters other than those set forth in Paragraph 37; (b) for the Custodial Trustee, all matters other than those set forth in Paragraph 38; and (c) 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 37 shall not apply in the event that the United States or the State bring a cause of action or issue an order pursuant to the reservations set forth in Paragraphs 39 and 40, 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.

42. 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

43. 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. The matters addressed in this Settlement Agreement include all costs of Environmental Actions incurred or to be incurred by the Custodial Trust, the United States, the State or any other person and natural resource damages relating to the Montana Sites except for the Miscellaneous Sites Settlement Agreement and Separately Settled East Helena Matters.

X. PUBLIC COMMENT

44. This Settlement Agreement will be subject to a thirty (30) day public comment period following notice published in the Federal Register, which may take place concurrent with the judicial approval process under Paragraph 45. The United States and the State each 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 and prior to court approval, the United States and the State will provide the Bankruptcy Court with copies of any public comments and their response thereto. If the United States or the State withdraw or withhold their consent, this Settlement Agreement shall be null and void and of no further effect.

XI. JUDICIAL APPROVAL

45. The settlement reflected in this Settlement Agreement shall be subject to approval by the Bankruptcy Court pursuant to Bankruptcy Rule 9019, subject to the provisions of Section X (Public Comment). 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

46. The Bankruptcy Court shall retain jurisdiction over both the subject matter of this Settlement Agreement and the Parties 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 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. After the Effective Date, the Parties agree that the United States District Court for the District of Montana and the Bankruptcy Court shall have concurrent jurisdiction for enforcement of the Custodial Trust and Custodial Trust Parties' obligations under the Custodial Trust, including obligations under the East Helena Consent Decree. However, the Bankruptcy Court shall continue to have jurisdiction over any disputes or other matters arising from this Settlement Agreement.

XIII. CLOSING DATE

47. This Settlement Agreement shall be effective after the close of the public comment period in accordance with Paragraph 44 and upon approval by the Bankruptcy Court pursuant to Paragraphs 44 and 45 of this Settlement Agreement.


XIV. SIGNATORIES/SERVICE

48. 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
REGARDING THE MONTANA SITES

FOR THE UNITED STATES

Date: 3/13/09

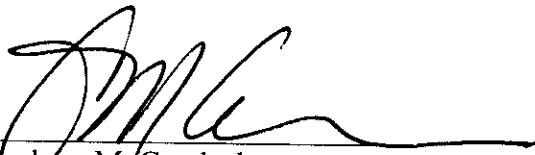

John C. Cruden
Acting Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

Date: 3/10/09

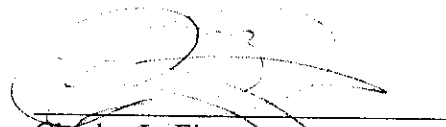

Alan S. Tenenbaum
David L. Dain
Eric D. Albert
Environment and Natural Resources Division
Environmental Enforcement Section
U.S. Department of Justice

THE UNDERSIGNED PARTIES ENTER INTO THIS SETTLEMENT AGREEMENT
REGARDING THE MONTANA SITES

Date: 3/13/09

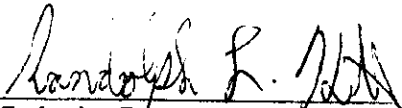

Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement,
Compliance and Environmental Justice

Date: 3/13/09


Charles L. Figur
Senior Enforcement Attorney
Office of Enforcement,
Compliance and Environmental Justice

THE UNDERSIGNED PARTIES ENTER INTO THIS SETTLEMENT AGREEMENT
REGARDING THE MONTANA SITES

Date: March 5, 2009

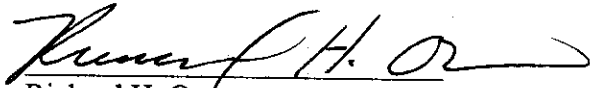

for Catherine R. McCabe
Environmental Protection Agency
Acting Assistant Administrator
Office of Enforcement & Compliance Assurance

THE UNDERSIGNED PARTIES ENTER INTO THIS SETTLEMENT AGREEMENT
REGARDING THE MONTANA SITES

FOR THE STATE OF MONTANA

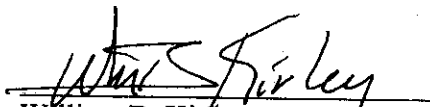
Montana Department of Environmental Quality

Date: March 11, 2009



Richard H. Opper
Director
Montana Department of Environmental Quality

Date: March 11, 2009



William B. Kirley
DEQ Legal Counsel
Montana Department of Environmental Quality
1100 N. Last Chance Gulch
P.O. Box 200901
Helena, Montana 59620-0901

THE UNDERSIGNED PARTIES ENTER INTO THIS SETTLEMENT AGREEMENT
REGARDING THE MONTANA SITES

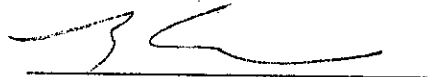
Montana Department of Justice Natural Resource Damage Program

Date: March 11, 2009



Steve Bullock
Attorney General

Date: March 11, 2009

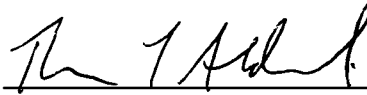


Robert G. Collins
Supervising Assistant Attorney General
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Assistant Attorney General
Montana Department of Justice
1301 Lockey Avenue
P.O. Box 201425
Helena, Montana 59620-1425

THE UNDERSIGNED PARTIES ENTER INTO THIS SETTLEMENT AGREEMENT
REGARDING THE MONTANA SITES

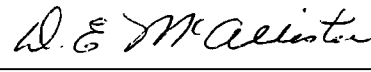
FOR ASARCO LLC; ASARCO CONSULTING, INC., AND AMERICAN SMELTING
AND REFINING CO.

Date: March 13, 2009



Thomas L. Aldrich
Vice President, Environmental Affairs


Date: March 13, 2009



Douglas E. McAllister
Executive Vice President, General Counsel

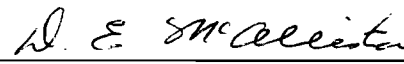
FOR ASARCO Master, Inc.

Date: March 13, 2009



Thomas L. Aldrich
Vice President, Environmental Affairs

Date: March 13, 2009



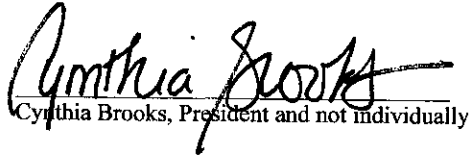
Douglas E. McAllister
Executive Vice President, General Counsel

FOR THE CUSTODIAL TRUSTEE

Montana Environmental Trust Group, LLC, a Montana limited liability company, not individually, but solely in the representative capacity as Trustee of the Custodial Trust

By: Greenfield Environmental Trust Group, Inc.,
not individually but solely as Member

Date: 3/12/09


Cynthia Brooks, President and not individually

Attachment A
Montana Custodial
Trust Settlement Agreement

Definition of Sites

1. The Black Pine site in Granite County, Montana includes the Black Pine 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 “Black Pine Site”).
2. The Mike Horse site, also known as the Upper Blackfoot Mining Complex site, in Lewis and Clark County, Montana includes the Mike Horse 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 “Mike Horse Site”).
3. The Iron Mountain site in Mineral County, Montana includes the Iron Mountain 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 “Iron Mountain Site”).
4. The East Helena site in Lewis and Clark County, Montana includes the East Helena 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 “East Helena Site”).

Black Pine Mine Designated Property

Situated in Granite County Montana,

The following Patented Mining Claims and Mill Sites, located in Sections 7-9 and Sections 16-20 of Township 8 North, Range 14 West, and in Section 24, Township 8 North, Range 15 West, M.P.M., Granite County, Montana:

The Axtell Lode - Mineral Survey No. 4239 and the St. Patrick Lode - Mineral Survey No. 4253. All according to Patent recorded in Book 1 of Patents, Page 83.

The Beunvenutra Lode- Mineral Survey No. 1917, designated as Lot No. 42. All according to Patent recorded in Book F of Deeds, Page 270.

The Betsy Cook Lode and the Beunvenutra Mill Site - Mineral Survey No. 2943A & B. All according to Patent recorded in Book L of Deeds, Page 133.

The Blue Bird Lode - Mineral Survey No. 3944. All according to Patent recorded in Book 1 of Patents, Page 1.

The Franklin Lode - Mineral Survey No. 4182 and the Burt Lode - Mineral Survey No. 4184. All according to Patent recorded in Book 1 of Patents, Page 42.

EXPRESSLY EXCEPTING AND EXCLUDING THEREFROM all that portion of the ground, herein before described, embraced in said mining claim or Survey No. 1731.

The Cleveland Lode - Mineral Survey No. 3474. All according to Patent recorded in Book L of Deeds, Page 107.

The Combination Lode - Mineral Survey No. 1732, designated as Lot No. 38. All according to Patent recorded on Roll 58 of Microfilm, Page 658.

The Combination No. 2 Lode and Mill Site - Mineral Survey No. 1937, designated as Lot Nos. 44A and 44B. All according to Patent recorded in Book F of Deeds, Page 470.

The Crandall Lode - Mineral Survey No. 4191, and the Ira E. Lode - Mineral Survey No. 4195. All according to Patent recorded in Book 1 of Patents, Page 59.

EXPRESSLY EXCEPTING AND EXCLUDING THEREFROM all that portion of the ground, herein before described, embraced in said mining claim or Survey No. 4183.

**Attachment B
Montana Custodial
Trust Settlement Agreement**

The Crown Prince Lode - Mineral Survey No. 4238, the Danger Lode - Mineral Survey No. 4240, and the Snow Shoe Lode - Mineral Survey No. 4252. All according to Patent recorded in Book 1 of Patents, Page 67.

EXPRESSLY EXCEPTING AND EXCLUDING all that portion of the ground, herein before described, embraced in said mining claim or Survey No. 1936A.

The General Reynolds Lode and Mill Site - Mineral Survey No. 4178A & B. All according to Patent recorded in Book 1 of Patents, Page 79.

The General Rosecrans Lode and Mill Site - Mineral Survey No. 2008, designated as Lot Nos. 50A and 50B. All according to Patent recorded in Book K of Deeds, Page 621.

The George Washington Lode- Mineral Survey No. 3101. All according to Patent recorded in Book K of Deeds, Page 126.

The Gilmore Lode - Mineral Survey No. 4179, and the Wallender Lode - Mineral Survey No. 4183. All according to Patent recorded in Book 1 of Patents, Page 32.

EXPRESSLY EXCEPTING AND EXCLUDING THEREFROM all that portion of the ground, herein before described, embraced in said mining claim or Survey No. 1731.

The Gladstone Lode and Mill Site - Mineral Survey No. 1939, designated as Lot Nos. 46A and 46B. All according to Patent recorded in Book L of Deeds, Page 308.

EXPRESSLY EXCEPTING AND EXCLUDING THEREFROM all that portion of the ground, herein before described, embraced in said mining claim or Survey No. 1736.

The Harrison Lode - Mineral Survey No. 3182. All according to Patent recorded in Book L of Deeds, Page 96.

The Trautwine Lode - Mineral Survey No. 4180, and the Haswell Lode - Mineral Survey No. 4192. All according to Patent recorded in Book 1 of Patents, Page 49.

EXPRESSLY EXCEPTING AND EXCLUDING all that portion of the ground, herein before described, embraced in said mining claim or Survey No. 1731 and 4184.

The Hermanita Lode and Mill Site - Mineral Survey No. 2009, designated as Lot Nos. 51A and 51B. All according to Patent recorded in Book L of Patents, Page 160.

The Ida B. Lode - Mineral Survey No. 3100. All according to Patent recorded on Roll 58 of

Annex 2.2(g)-BB

**Attachment B
Montana Custodial
Trust Settlement Agreement**

Microfilm, Page 664.

The Keystone Lode - Mineral Survey No. 3943. All according to Patent recorded in Roll 58 of Microfilm, Page 661.

The Turbeville Lode - Mineral Survey No. 4198, and the Knight Lode - Mineral Survey No. 4199. All according to Patent recorded in Book 1 of Patents, Page 53.

EXPRESSLY EXCEPTING AND EXCLUDING THEREFROM all that portion of the ground, herein before described, embraced in said mining claim or Survey No. 1936B and 4181.

The Lewis Lode - Mineral Survey No. 3183. All according to Patent recorded in Roll 58 of Microfilm, Page 662.

The Little Nell Lode - Mineral Survey No. 2010, designated as Lot No. 52A. All according to Patent recorded in Book I of Deeds, Page 449.

The Mabel Lode - Mineral Survey No. 3945. All according to Patent recorded in Book 1 of Patents, Page 46.

The Maude Lode - Mineral Survey No. 4237. All according to Patent recorded in Book 1 of Patents, Page 98.

The Prince Quartz Lode - Mineral Survey No. 4193, and the Nancy Hanks Quartz Lode - Mineral Survey No. 4194. All according to Patent recorded in Book 1 of Patents, Page 71.

The Onyx Lode - Mineral Survey No. 2012, designated as Lot 54A. All according to Patent recorded in Book L of Deeds, Page 206.

The Oxide Lode - Mineral Survey No. 1736, designated as Lot No. 40. All according to Patent recorded on Roll 58 of Microfilm, Page 659.

The Paul Jones Lode - Mineral Survey No. 4181. All according to Patent recorded on Roll 58 of Microfilm, Page 663.

The Royal Bounty Lode - Mineral Survey No. 2297, designated as Lot No. 56A. All according to Patent recorded in Book I of Deeds, Page 445.

EXPRESSLY EXCEPTING AND EXCLUDING all that portion of the ground, herein before described, embraced in said mining claim or Survey No. 1732 and 1937.

The Ruby Lode and Mill Site - Mineral Survey No. 2007, designated as Lot Nos. 49A and

Annex 2.2(g)-BB

**Attachment B
Montana Custodial
Trust Settlement Agreement**

49B. All according to Patent recorded in Book L of Deeds, Page 251.

The Sardonyx Lode - Mineral Survey No. 2013, designated as Lot No. 55A. All according to Patent recorded in Book L of Deeds, Page 204.

The Shunk Lode - Mineral Survey No. 4203, and the Searles Lode - Mineral Survey No. 4204. All according to Patent recorded in Book 1 of Patents, Page 28.

The Silver Chief Lode and Mill Site - Mineral Survey No. 1938, designated as Lot Nos. 45A and 45B. All according to Patent recorded in Book F of Deeds, Page 424.

The Silver Flake Lode - Mineral Survey No. 1731, designated as Lot No. 37. All according to Patent recorded on Roll 58 of Microfilm, Page 660.

The Stormy Petrel Lode- Mineral Survey No. 3767. All according to Patent recorded on Book L of Deeds, Page 306.

The Sultana Lode and Mill Site - Mineral Survey No. 1936, designated as Lot Nos. 43A and 43B. All according to Patent recorded in Book F of Deeds, Page 273.

The Tempest Lode - Mineral Survey No. 1735, designated as Lot No. 39. All according to Patent recorded on Roll 58 of Microfilm, Page 657.

The Thanksgiving Lode and Mill Site - Mineral Survey No. 4177A and B. All according to Patent recorded in Book 1 of Patents, Page 63.

The Tim Smith Lode - Mineral Survey No. 2607, designated as Lot No. 57. All according to Patent recorded in Book K of Deeds, Page 632.

The Waldteufel Lode and Mill Site - Mineral Survey No. 2006, designated as Lot Nos. 48A and 48B. All according to Patent recorded in Book L of Deeds, Page 157.

The Woodlawn Lode and Mill Site - Mineral Survey No. 2005A and B. All according to Patent recorded in Book 1 of Patents, Page 149.

A tract of land located in the SE 1/4 SW 1/4 of Section 16, Township 8 North, Range 14 West, P.M.M., Granite County, Montana, being more particularly described as Lot 7. All according to Quit Claim Deed recorded on Roll 52 of Microfilm, Page 339.

Annex 2.2(g)-BB

**Attachment B
Montana Custodial
Trust Settlement Agreement**

UNPATENTED CLAIMS:

The following described claims are of record in the office of County Clerk and Recorded in Granite County, Montana, and are filed in the State Office of the United States Bureau of Land Management as follows:

CLAIM NAME	BLM MMC NUMBER	BOOK	PAGE	DATE OF LOCATION
Granite Hill 1	204669	44	797	5/27/1998
Granite Hill 2	204670	44	798	5/27/1998
Granite Hill 3	204671	44	799	5/27/1998
Granite Hill 4	204672	44	800	5/27/1998
Granite Hill 5	204673	44	801	5/27/1998
Granite Hill 6	116314	20	654	10/4/1984
Granite Hill 7	116315	20	655	10/4/1984
Granite Hill 11	204674	44	791	7/2/1998
Granite Hill 12	116320	20	660	10/4/1984
Granite Hill 13	116321	20	661	10/4/1984
Granite Hill 14	116322	20	662	10/4/1984
Granite Hill 15	116323	20	663	10/4/1984
Granite Hill 16	116324	20	664	10/4/1984
Granite Hill 17	116325	20	665	10/4/1984
Granite Hill 18	116326	20	666	10/4/1984
Granite Hill 21	116329	20	670	10/15/1984
Granite Hill 21A	204675	44	790	7/2/1998
Granite Hill 22	116331	20	671	10/15/1984
Granite Hill	116332	20	672	10/15/1984

**Attachment B
Montana Custodial
Trust Settlement Agreement**

CLAIM NAME	BLM MMC NUMBER	BOOK	PAGE	DATE OF LOCATION
23				
Granite Hill 24	116333	20	673	10/15/1984
Granite Hill 25	116334	20	674	10/13/1984
Granite Hill 26	116335	20	675	10/13/1984
Granite Hill 27	116336	20	676	10/13/1984
Granite Hill 28	116337	20	677	10/13/1984
Granite Hill 30	116339	20	679	10/15/1984
Granite Hill 31	116340	20	680	10/15/1984
Granite Hill 32	116341	20	681	10/13/1984
Granite Hill 33	116342	20	682	10/13/1984
Granite Hill 34	116343	20	683	10/13/1984
Granite Hill 35	116344	20	684	10/13/1984
Granite Hill 36	116345	20	685	10/13/1984
Granite Hill 37	116346	20	686	10/13/1984
Granite Hill 38	116347	20	687	10/13/1984
Granite Hill 39	116348	20	688	10/13/1984
Granite Hill 40	116349	20	689	10/13/1984
Granite Hill 41	116350	20	690	10/13/1984
Granite Hill	116351	20	691	10/13/1984

Annex 2.2(g)-BB

**Attachment B
Montana Custodial
Trust Settlement Agreement**

CLAIM NAME	BLM MMC NUMBER	BOOK	PAGE	DATE OF LOCATION
42				
Granite Hill 43	116352	20	692	10/13/1984
Granite Hill 52	204676	44	802	5/27/1998
Granite Hill 54	204677	44	803	5/27/1998
Granite Hill 56	204678	44	804	5/27/1998
Granite Hill 58	204679	44	805	5/27/1998
Granite Hill 59	116363	20	703	10/6/1984
Granite Hill 60	204680	44	806	5/27/1998
Granite Hill 61	204681	44	807	5/27/1998
Granite Hill 62	116366	20	706	10/6/1984
Granite Hill 64	116368	20	708	10/6/1984
Granite Hill 66	116370	20	710	10/6/1984
Granite Hill 68	116372	20	712	10/6/1984
Granite Hill 70	116374	20	714	10/6/1984
Granite Hill 72	116377	20	716	10/6/1984
Granite Hill 163	120231	21	706	7/8/1985
Granite Hill 164	120232	21	707	7/9/1985
Granite Hill 165	120233	21	708	7/9/1985
Granite Hill	120234	21	709	7/9/1985

Annex 2.2(g)-BB

**Attachment B
Montana Custodial
Trust Settlement Agreement**

CLAIM NAME	BLM MMC NUMBER	BOOK	PAGE	DATE OF LOCATION
167				
J.J. 1	120225	21	564	6/21/1985
(Amended)		21	700	6/27/1985
J.J. 2	120226	21	565	6/21/1985
(Amended)		21	701	6/27/1985
J.J. 3	120227	21	566	6/21/1985
(Amended)		21	702	6/28/1985
J.J. 4	120228	21	567	6/21/1985
(Amended)		21	703	6/30/1985
J.J. 5	120229	21	568	6/21/1985
(Amended)		21	704	7/2/1985
J.J. 6	120230	21	705	7/15/1985
J.J. 7	121093	22	254	7/29/1985
J.J. 8	121094	22	255	8/8/1985
J.J. 9	121095	22	256	8/8/1985
J..J. 10	121096	22	257	8/15/1985
Bee 1	35631	26	548	8/28/1972
Bee 2	35632	26	549	8/28/1972
Bee 3	35633	26	550	8/28/1972
Bee 4	35634	26	551	8/28/1972
(Amended)		22	259	7/29/1985
Bee 5	35635	26	552	8/29/1972
Bee 6	35636	26	553	8/29/1972
Bee 7	35637	26	554	8/29/1972
Bee 8	35638	26	555	8/29/1972
(Amended)		22	258	7/29/1985
Bee 10	204664	44	792	7/2/1998
(Amended)		44	867	7/30/1998
Bee 11	204665	44	796	7/2/1998
Bee 12	204666	44	793	7/2/1998
(Amended)		44	868	7/30/1998
Bee 13	204667	44	794	7/2/1998
Bee 14	204668	44	795	7/2/1998
(Amended)		44	869	7/30/1998
Bee 15	35643	2	282	10/23/1973
Bee 16	35644	2	283	10/23/1973

Annex 2.2(g)-BB

**Attachment B
Montana Custodial
Trust Settlement Agreement**

CLAIM NAME	BLM MMC NUMBER	BOOK	PAGE	DATE OF LOCATION
Bee 17	35645	2	284	10/23/1973
Bee 18	35646	2	285	10/23/1973
Bee 19	35647	2	286	10/23/1973
Bee 20	35648	2	287	10/23/1973
Bee 100	35649	2	496	3/7/1974
Bee 101	35650	2	497	3/7/1974
Bee 102	35651	2	498	3/7/1974
Bee 103	35652	2	499	3/7/1974
Buschman	35657	21	564	3/7/1974
Walkup	35656	21	594	3/7/1974
You Bet	35658	23	548	3/7/1974
Upsilon	35655	24	300	3/7/1974
Phi	35653	24	301	3/7/1974
Tau	35654	24	302	3/7/1974
BP #5080A	186591	32	758	8/13/1991
BP #5259	186632	32	799	8/14/1991
BP #5260	186633	32	800	8/14/1991
BP #5261	186634	32	801	8/14/1991
BP #5262	186635	32	802	8/14/1991
BP #5263	186636	32	803	8/14/1991
BP #5264	186637	32	804	8/14/1991
BP #5265	186638	32	805	8/14/1991
BP #5266	186639	32	806	8/14/1991
BP #5267	186640	32	807	8/14/1991
BP #5268	186641	32	808	8/14/1991
BP #5269	186642	32	809	8/14/1991
BP #5270	186643	32	810	8/14/1991
BP #5271	186644	32	811	8/14/1991
BP #5272	186645	32	812	8/13/1991
BP #5273	186646	32	813	8/13/1991
BP #5274	186647	32	814	8/13/1991
BP #5275	186648	32	815	8/13/1991
BP #5276	186649	32	816	8/13/1991
BP #5277	186650	32	817	8/13/1991
BP #5278	186651	32	818	8/13/1991
BP #5279	186652	32	819	8/13/1991

Annex 2.2(g)-BB

**Attachment B
Montana Custodial
Trust Settlement Agreement**

CLAIM NAME	BLM MMC NUMBER	BOOK	PAGE	DATE OF LOCATION
BP #5280	186653	32	820	8/13/1991
BP #5281	186654	32	821	8/13/1991
BP #5359	186664	32	831	8/14/1991
BP #5360	186665	32	832	8/14/1991
BP #5361	186666	32	833	8/14/1991
BP #5362	186667	32	834	8/14/1991
BP #5363	186668	32	835	8/14/1991
BP #5364	186669	32	836	8/14/1991
BP #5365	186670	32	837	8/14/1991
BP #5366	186671	32	838	8/14/1991
BP #5367	186672	32	839	8/14/1991
BP #5368	186673	32	840	8/14/1991
BP #5369	186674	32	841	8/14/1991
BP #5370	186675	32	842	8/14/1991
BP #5371	186676	32	843	8/14/1991
BP #5372	186677	32	844	8/14/1991
BP #5373	186678	32	845	8/13/1991
BP #5374	186679	32	846	8/13/1991
BP #5375	186680	32	847	8/13/1991
BP #5376	186681	32	848	8/13/1991
BP #5377	186682	32	849	8/13/1991
BP #5378	186683	32	850	8/13/1991
BP #5379	186684	32	851	8/13/1991
BP #5380	186685	32	852	8/13/1991
BP #5381	186686	32	853	8/13/1991
BP #5459	186690	32	857	8/14/1991
BP #5460	186691	32	858	8/14/1991
BP #5461	186692	32	859	8/14/1991
BP #5462	186693	32	860	8/14/1991
BP #5463	186694	32	861	8/14/1991
BP #5467	186695	32	862	8/14/1991
BP #5468	186696	32	863	8/14/1991
BP #5473	186697	32	864	8/13/1991
BP #5474	186698	32	865	8/13/1991
BP #5475	186699	32	866	8/13/1991
BP #5476	186700	32	867	8/13/1991

Annex 2.2(g)-BB

**Attachment B
Montana Custodial
Trust Settlement Agreement**

CLAIM NAME	BLM MMC NUMBER	BOOK	PAGE	DATE OF LOCATION
BP #5477	186701	32	868	8/13/1991
BP #5478	186702	32	869	8/13/1991
BP #5479	186703	32	870	8/13/1991
BP #5480	186704	32	871	8/13/1991
BP #5481	186705	32	872	8/13/1991

Mike Horse Mine Designated Property

Situated in Lewis and Clark County, Montana

TOWNSHIP 15 NORTH, RANGE 6 WEST, P.M.M., LEWIS AND CLARK COUNTY,
MONTANA

SECTION 19: Government Lots 1 and 6 LESS AND EXCEPT those portions of said Lot 6 lying North of Montana State Highway No. 200; the NW1/4NE1/4 LESS AND EXCEPT those certain tracts deeded to Lake E. Henson and Katy J. Henson recorded in Book 219 of Deeds at Page 101 and to Ray Jensen and Bernice P. Jensen, as recorded in Book 231 of Deeds at Page 4 records of Lewis and Clark County, Montana.

AND

TOWNSHIP 15 NORTH, RANGE 6 WEST, P.M.M., LEWIS AND CLARK COUNTY,
MONTANA

SECTION 19: Government Lots 2 and 3; the NW1/4SE1/4 and the SW1/4NE1/4: LESS AND EXCEPT that portion of State Highway No. 200; LESS AND EXCEPT that portion described in Book 247 of Deeds, Page 106, records of Lewis and Clark County, Montana.

AND

TOWNSHIP 15 NORTH, RANGE 6 WEST, P.M.M., LEWIS AND CLARK COUNTY,
MONTANA

SECTION 20: Government Lots 5, 9, 15 and 16; LESS AND EXCEPT those portions of said lots lying North of State Highway No. 200; LESS AND EXCEPT that portion deeded for highway in Book 193 of Deeds, Page 276; LESS AND EXCEPT that portion described in Book 247 of Deeds, Page 106, records of Lewis and Clark County, Montana.

AND

TOWNSHIP 15 NORTH, RANGE 7 WEST, P.M.M., LEWIS AND CLARK COUNTY,
MONTANA

SECTION 24: NE1/4SE1/4

**Attachment B
Montana Custodial
Trust Settlement Agreement**

PATENTED CLAIMS:

The following described patented lode mining claims and millsites situated in portions of Sections 16, 17, 19, 20, 21, 22, 27, 28 and 29, 33 and 34 of Township 15 North, Range 6 West, P.M.M., Lewis and Clark County, Montana.

CLAIM NAME

Anaconda MS# 9286

Big Dick MS# 9286

Black Diamond MS# 9287

Blackfoot Belle MS# 10502

Blue Cristle MS# 9286

Bonanza MS# 9287

Carbonate No. 1 MS# 10557

Carbonate No. 2 MS# 10557

Carbonate No. 3 MS# 10556

Carbonate No. 5 MS# 10556

Consolation MS# 10502

Cicero MS# 9287

Copper Bell MS# 9286

Copper Gate MS# 9806

Daylight MS# 9806

Edith MS# 7356

Eureka MS# 10105

Golden Eagle MS# 10502

Helena MS# 7353

Annex 2.2(g)-CC

**Attachment B
Montana Custodial
Trust Settlement Agreement**

Jumbo MS# 9287

Little Joe MS# 9286

Mary P. MS# 9286

Midnight MS# 9806

Midnight Millsite MS# 10106

Paymaster MS# 9287

Summit Fraction MS# 10105

Sunlight Fraction MS# 9806

Sunset MS# 9806

Tunnel Site MS# 10105

Yellowstone MS# 9806

Detroit Quartz Lode Mining Claim MS# 10371

Sterling Quartz Lode Mining Claim MS# 10371

Little Nell Quartz Lode Mining Claim MS# 10371

Hog All Quartz Lode Mining Claim MS# 10371

Mike Horse Quartz Lode Mining Claim MS# 10371

Pine Hill Quartz Lode Mining Claim MS# 10371

Black Ore Quartz Lode Mining Claim MS# 10371

Denver Quartz Lode Mining Claim MS# 7351

Capital Quartz Lode Mining Claim MS# 7354

Snowdrift Quartz Lode Mining Claim MS# 7352

Copper Wreath Quartz Lode Mining Claim MS# 7357

Annex 2.2(g)-CC

Attachment B
Montana Custodial
Trust Settlement Agreement

UNPATENTED CLAIMS:

The following describe lode mining claims located in Section(s) 5-6, 16-22, 27-29, 31-34. Township(s) 15 North and 14 North, Range 6 West, Montana Principal Meridian, Lewis & Clark County, State of Montana, the location notices of which are of record in the office of the County Clerk and Recorder and filed in the State Office of the United States Bureau of Land Management as follows:

<u>CLAIM NAME</u>	<u>BLM MMC NUMBER</u>	<u>BOOK</u>	<u>PAGE</u>
A	32872	28	172
A&H	32873	28	175
A1	32874	28	136
AR	32875	28	173
Apex No. 1 (Amended)	32876	27	218-19
Apex No. 2	32877	27	205-07
Apex No. 3	32878	28	211
Axe 1	32879	87	221
Axe 2	32880	87	223
Axe 3	32881	87	225
Axe 4	32882	87	227
Axe 5	32883	87	229
B	32886	87	177
Bar 1	32887	87	491
Bar 2	32888	87	495
Bar 3	32889	87	497
Bar 4	32890	87	499
Bar 5	32891	87	501
Bar 6	32892	87	503
Bar 7	32893	87	505
Bar 10	32894	87	507
Bar 11	32895	87	509
Bar 12	32896	87	511
Bar 13	32897	87	513
Bar 14	32898	87	515
Bar 15	32899	87	623
Bar 16	32900	87	625
Bar 17	32901	87	627
Bar 18	32902	87	629

Annex 2.2(g)-CC

**Attachment B
Montana Custodial
Trust Settlement Agreement**

<u>CLAIM NAME</u>	<u>BLM MMC NUMBER</u>	<u>BOOK</u>	<u>PAGE</u>
Beauty	32903	28	210
Big Chief (Amended)	32904	27	133
Blue Bell Fraction	32905	28	41
Bruce	32906	87	391
Bruce 2	32907	87	393
Bruce 3	32908	87	395
Bruce 4	32909	87	517
Bruce 5	32910	87	519
C	32911	28	170
Capitol No. 2	32912	27	178-79
Carbogold	32913	28	59
Carbonate	32914	28	45
Carbonate No. 2	32915	28	38
Carbonate Ore	32916	28	45
Conken No. 7 (Amended)	32917	27	219-221
Conken No. 10 (Amended)	32918	27	183-184
Contact (Amended)	32919	28	133
D	32920	28	168
Deer #1	32921	28	46
Deer #2	32922	28	37
Denver No. 1 (Amended)	32923	27	215
Denver #5 (Amended)	32924	27	216-17
Diamond T	32926	28	428
E	32927	28	196
Edith 2	32928	29	17
Eye	32929	28	200
F	32930	28	197
Fir No. 1	32931	87	27
Fir No. 2	32932	87	29
FR	32934	28	171
G	32935	28	198
Golden	32936	27	184
H	32938	28	199
H & A	32939	28	174
HG	32940	28	169
Helena No. 2	32941	29	16

Annex 2.2(g)-CC

**Attachment B
Montana Custodial
Trust Settlement Agreement**

<u>CLAIM NAME</u>	<u>BLM MMC NUMBER</u>	<u>BOOK</u>	<u>PAGE</u>
Helena No. 3	32942	29	18
Jane Lode (Amended)	32945	27	187
Jeep (Amended)	32946	27	213-214
K and B	32947	27	180
Keystone	32948	27	172-173
Land's End Fraction	32949	28	44
Lode Star	32951	27	124
Middle (Amended)	32952	28	69
Mineral State	32953	27	130
Morris Fraction	32955	28	208
Norman	32956	28	140
North Central (Amended)	32957	27	129
Owl (Amended)	32958	27	169
Pat (Amended)	32959	27	212
Phoebe (Amended)	32960	27	189
Pine No. 17	32961	31	825
Pine Hill No. 2	32962	28	206
Pleasant Hill (Amended)	32964	27	132
Porphyry #1	32965	28	42
Porphyry #2	32966	28	43
Power	32967	27	191
R. Crow	32968	28	209
Rader	32969	27	144
R.A.F.	32970	28	60
Red Dyke	32971	81	657
Red Ore	32972	28	47
Rico	32973	74	62
Ridge	32974	28	176
Short (Amended)	32976	27	192
Snafu (Amended)	32977	27	198
Snow Belle No. 1	32978	28	110
Snow Belle No. 2	32979	28	111
Spruce No. 1	32980	77	692
Spruce No. 2	32981	77	694
Spruce No. 3	32982	77	696
Spruce No. 4	32983	77	698
Spruce No. 5	32984	77	700

Annex 2.2(g)-CC

**Attachment B
Montana Custodial
Trust Settlement Agreement**

<u>CLAIM NAME</u>	<u>BLM MMC NUMBER</u>	<u>BOOK</u>	<u>PAGE</u>
Spruce No. 6	32985	77	702
Spruce No. 7	32986	77	704
Spruce No. 8	32987	77	706
Spruce No. 9	32988	77	708
Spruce No. 10	32989	77	710
Spruce No. 11	32990	77	712
Spruce No. 12	32991	77	714
Spruce No. 13	32992	77	716
Spruce No. 14	32993	77	718
Spruce No. 15	32994	77	720
Spruce No. 21	32995	77	722
Spruce No. 22	32996	77	724
Spruce No. 23	32997	77	726
Spruce No. 24	32998	77	728
Spruce No. 25	32999	77	730
Spruce No. 26	33000	77	732
Spruce No. 27	33001	77	734
Spruce No. 28	33002	77	736
Sunlight (Amended)	33004	27	194
Svenske (Amended)	33005	27	195
Toby (Amended)	33006	27	171
Troy (Amended)	33007	27	207
Val	33008	27	197
Valley View (Amended)	33009	27	177
View	33010	28	207
Viking (Amended)	33011	27	181
Iron Hill Millsite	35659	34	147
Bell of the Hill	37476	22	212
Bobby Boy	37477	26	543
Calliope	37478	15	419
Caribou	37479	81	655
Copper Lane No. 1	37480	77	529
Copper Lane No. 2	37481	77	531
Copper Lane No. 3	37482	77	533
Deer #3	37483	82	196
Emert	37484	69	563
Esmerelda	37485	74	64

Annex 2.2(g)-CC

**Attachment B
Montana Custodial
Trust Settlement Agreement**

<u>CLAIM NAME</u>	<u>BLM MMC NUMBER</u>	<u>BOOK</u>	<u>PAGE</u>
Ev	37486	69	561
Ida	37487	81	679
Iron Hill	37488	22	214
Jean	37489	69	569
Lucy	37490	89	681
Monty	37491	69	565
Norge	37492	69	559
Pine No. 1	37493	80	425
Pine No. 2	37494	80	427
Pine No. 3	37495	80	429
Pine No. 4	37496	80	431
Pine No. 5	37497	80	433
Pine No. 6	37498	80	435
Pine No. 7	37499	80	437
Pine No. 8	37500	80	439
Pine No. 9	37501	80	441
Pine No. 10	37502	80	443
Pine No. 11	37503	80	445
Pine No. 12	37504	80	447
Pine No. 13	37505	80	449
Pine No. 14	37506	80	451
Pine No. 15	37507	80	453
Pine No. 16	37508	80	455
Prospect	37509	77	509
Puddles	37510	69	388
Radium	37511	18	47
Rainbow	37512	74	60
Red Dyke (Amended)	37513	27	175
Sea Fraction	37514	85	15
Sky Scraper	37515	22	213
Swan Fraction	37516	85	17
Swede	37517	69	567
Tac	37518	82	192
Tic	37519	82	190
Tinto	37520	74	58
Toe	37521	82	194
Axe 6	77165	2	1391

Annex 2.2(g)-CC

**Attachment B
Montana Custodial
Trust Settlement Agreement**

<u>CLAIM NAME</u>	<u>BLM MMC NUMBER</u>	<u>BOOK</u>	<u>PAGE</u>
Rob #1	91880	3	1034
Tom #1	91881	3	1033
Tom Frac	91882	3	1035

Iron Mountain Mine Designated Property

Situated in Mineral County, Montana,

Iron Mountain Mill Site, Survey Lot No. 2548B Patent No. 23528,

ALSO

Kennebec Lode, Survey Lot No. 4873A; Kennebec Mill Site, Survey Lot No. 4873B all of
Patent No. 28528,

ALSO

Marietta Placer, Survey Lot No. 5464 Patent No. 31897.

East Helena Designated Property

Situated in Lewis and Clark County, Montana:

"TRACT W"

Parcel 1

The SESE of Section 24 and the NE1/4 of Section 25 in Township 10 North, Range 3 West, P.M.M., Lewis and Clark County, Montana, Less and excepting there from Certificate of Survey filed under Document No. 3034433.

Parcel 2

The SW1/4NW1/4; E1/2NW1/4; NW1/4SW1/4 and the SW1/4SW1/4 lying north of the right-of-way of Highway 12 (F/K/A Hwy 10), of Section 25, Township 10 North, Range 3 West, P.M.M., Lewis and Clark County, Montana, Less and Excepting there from the following tracts of land:

Book 201 of Deeds, Page 265 for right-of-way;
Certificate of Survey filed under document No. 519440;
Certificate of Survey filed under document No. 3060332;
Block 17 of Manlove Addition to the city of East Helena;
M Book 27, page 4549; and Book 115, page 430.

Parcel 3

A Tract of land located in the SW1/4 Section 25, Township 10 North, Range 3 West, P.M.M., Lewis and Clark County, Montana, as shown on Certificate of Survey filed under Document No. 519440-T.

Parcel 4

The NE1/4SE1/4; S1/2NE1/4; SE1/4NW1/4; and the SE1/4SE1/4 lying north of the right-of-way limit of Highway 12 (F/K/A Hwy 10), of Section 26, Township 10 North, Range 3 West, P.M.M., Lewis and Clark County, Montana, less and excepting therefrom a tract of land conveyed to Northwestern Corporation as described in deed recorded in M Book 27, page 4549.

"TRACT X"

Lots 1, 2, 3 and 4 in Block 1 and Lots 1, 2 and 3 in Block 2 of the A.S. & R. ADDITION to the City of East Helena, Lewis and Clark County, Montana, as shown on plat filed under Document Number 53484, records of Lewis and Clark County, Montana.

**Attachment B
Montana Custodial
Trust Settlement Agreement**

AND

A tract of land in the S1/2NW1/4NW1/4 Section 31, Township 10 North, Range 2 West, described as:

Commencing at the corner common to Sections 25, 30, 31 and 36 on the West boundary of Township 10 North, Range 2 West, P.M.M.; thence S. 0°19' E. 862.90 feet along the said Section line between Sections 31 and 36, to the point of beginning, a buried cap; thence N. 89° 40' E. 225.12 feet to a buried cap; thence S. 0°19' E. 200.00 feet; thence S. 89°40' W. 223.12 feet along North boundary of Sullivan Street to buried monument; thence N. 0°19' W. 200.00 feet along Section line between Sections 31 and 36 to the point of beginning; as shown on Certificate of Survey filed under Document Number 262681, records of Lewis and Clark County, Montana.

"TRACT Y"

TOWNSHIP 9 NORTH, RANGE 2 WEST, P.M.M., LEWIS AND CLARK COUNTY, MONTANA

SECTION 6:

W1/2NW1/4NE1/4; E1/2NE1/4NW1/4; E1/2NW1/4NE1/4; E1/2NE1/4NE1/4; W1/2NE1/4NE1/4 and that portion of Government Lots 3 and 4 lying East of Highway No. 518

AND

A tract of land in the SW1/4 of Section 31, Township 10 North, Range 2 West; NW1/4 of Section 6, Township 9 North, Range 2 West; and the NE1/4 of Section 1, Township 9 North, Range 3 West, P.M.M., Lewis and Clark County, Montana more particularly described as follows:

Beginning at the corner common to Sections 36, 31, 1 and 6 a concrete post found; then North 0°05'22" East, 1332.54 feet along the Section line to the South One-sixteenth corner a pin found; then South 89°42'34" East, 597.22 feet to a point on the West Right of Way line of Highway 518; then South 2°28'00" East, 1753.16 feet along the Right of Way to a concrete Right of Way monument found, then South 7°04'26" West, 60.67 feet along the Right of Way to a monument found; then South 2° 28' 00" East, 418.62 feet along the Right of Way to a pin set; then North 89°36'36" West, 1074.85 feet to a pin set in the center of Prickly Pear Creek; then along the center of Prickly Pear Creek the following courses; North 8°16'24" West, 184.29 feet; North 62°23'17" East, 116.04 feet; North 44°42'55" East, 203.57 feet; North 25°11'35" East, 437.76 feet; North 41°16'35" West, 155.42 feet; to a point; then South 89°36'36" East, 86.19 feet to the Point of Beginning, as shown on Certificate of Survey filed under Document Number 388483, records of Lewis and Clark County, Montana.

Annex 2.2(g)-EE

**Attachment B
Montana Custodial
Trust Settlement Agreement**

AND

A tract of land located in Lot 4, Section 31, Township 10 North, Range 2 West, P.M.M., Lewis and Clark County, described as follows:

Commencing at the Northwest corner of Section 6, a concrete post, then N 4° 09' 22" E, 1268.00 to the point of beginning. Then the following bearings and distances: North 89°05'22" East, 208.18 feet; South 0°54'38" East, 170.13 feet; South 89°05'22" West, 167.86 feet; North 14°14'38" West, 174.84 to the point of beginning, as shown on Certificate of Survey filed under Number 388483, records of Lewis and Clark County, Montana.

AND

TOWNSHIP 10 NORTH, RANGE 2 WEST, P.M.M., LEWIS AND CLARK COUNTY,
MONTANA

SECTION 31:

ALL, lying South of U.S. Highway No. 12 East, LESS AND EXCEPT all of A.S. & R Addition; Certificate of Survey 262681 and Highway Route No. 518; LESS AND EXCEPT any portion of Railroad Right of Way.

AND LESS AND EXCEPT:

A tract of land in the SW1/4 of Section 31, Township 10 North, Range 2 West; NW1/4 of Section 6, Township 9 North, Range 2 West; and the NE1/4 of Section 1, Township 9 North, Range 3 West, P.M.M., Lewis and Clark County, Montana more particularly described as follows:

Beginning at the corner common to Sections 36, 31, 1 and 6 a concrete post found; then North 0°05'22" East, 1332.54 feet along the Section line to the South One-sixteenth corner a pin found; then South 89°42'34" East, 597.22 feet to a point on the West Right of Way line of Highway 518; then South 2°28'00" East, 1753.16 feet along the Right of Way to a concrete Right of Way monument found, then South 7°04'26" West, 60.67 feet along the Right of Way to a monument found; then South 2° 28' 00" East, 418.62 feet along the Right of Way to a pin set; then North 89°36'36" West, 1074.85 feet to a pin set in the center of Prickly Pear Creek; then along the center of Prickly Pear Creek the following courses; North 8°16'24" West, 184.29 feet; North 62°23'17" East, 116.04 feet; North 44°42'55" East, 203.57 feet; North 25°11'35" East, 437.76 feet; North 41°16'35" West, 155.42 feet; to a point; then South 89°36'36" East, 86.19 feet to the Point of Beginning, as shown on Certificate of Survey filed under Document Number 388483, records of

Annex 2.2(g)-EE

**Attachment B
Montana Custodial
Trust Settlement Agreement**

Lewis and Clark County, Montana.

AND LESS AND EXCEPT

A tract of land located in Lot 4, Section 31, Township 10 North, Range 2 West, P.M.M., Lewis and Clark County, described as follows;

Commencing at the Northwest corner of Section 6, a concrete post, then N 4° 09' 22" E, 1268.00 to the point of beginning. Then the following bearings and distances: North 89°05'22" East, 208.18 feet; South 0°54'38" East, 170.13 feet; South 89°05'22" West, 167.86 feet; North 14°14'38" West, 174.84 to the point of beginning, as shown on Certificate of Survey filed under Document Number 388483, records of Lewis and Clark County, Montana.

TOWNSHIP 10 NORTH, RANGE 2 WEST P.M.M., LEWIS AND CLARK COUNTY, MONTANA

SECTION 32: The W1/2NW1/4 lying South of railroad right of way LESS AND EXCEPT the SE1/4SW1/4NW1/4;

AND

SECTION 32: The SW1/4 LESS AND EXCEPT the E1/2NW1/4NE1/4SW1/4 and the NE1/4NE1/4SW1/4

TOWNSHIP 10 NORTH RANGE 3 WEST, P.M.M., LEWIS AND CLARK COUNTY, MONTANA

Section 36:

The N1/2, lying South of U.S. Highway No. 12; and the S1/2; LESS AND EXCEPT those portions deeded for railroad purposes and road right of ways. (Deed Reference Book 86, of Deeds, Page 394, Book 80, of Deeds, Page 238, Book 76, of Deeds, Page 224 and Book 61, of Deeds, Page 103)

TOWNSHIP 9 NORTH, RANGE 3 WEST, P.M.M., LEWIS AND CLARK COUNTY, MONTANA

SECTION 1: That portion of the NE1/4 lying between the line on the west branch of Prickly Pear Creek and lying East of the Great Northern Railroad right-of-way.

Annex 2.2(g)-EE

**Attachment B
Montana Custodial
Trust Settlement Agreement**

"TRACT Z"

Tract B located in the NW1/4NE1/4 of Section 1, Township 9 North, Range 3 West, P.M.M., Lewis and Clark County, Montana as shown on Certificate of Survey filed under Document Number 302450.

Equipment and Other Personal Property

- Barrel Shedder American Pulverizer Company with hopper and gearbox and 100 HP, 480 3-phase motor and stand with hopper extension (14'3"L x 8' W v 9" H, 25640 lbs)*
- Electrical Control Box (3'4"W x 3'6" H, 300 lbs)*
- Martin Big Blaster (3) (4'H x 3'8"W x 3'8"L, 480 lbs) on pallet*
- Smooth Rolls (12") (4'H x 7'L x 5'4" W, 7500 lbs) with 2, 14HP 480 3-phase electric motors*
- PCL Cabinets (19 Units) *(13 shipped – 6 remain)
- 3 MGM Transformer 37.5 KVA single phase 60 HZ, Type HS (17" x 28" x 27")
- Electrical Disconnects, (4 Units) *(2 shipped – 2 remain)
- 12" Smooth Rolls (56"W x 54"L x 60"H)*
- Pallet (US electrical, 5HP, 480 3-phase)*
 - (Electric Motor, 10HP, 480, 3-phase)*
 - (Electric Motor, 5HP, 480, 3-phase)*
 - (Bico Pulverizer Type UA)*
 - Greive Electrical Dryers 2 Units, 480 3-phase 1/2 HP Fan Motor (44"W x 80"H x 76"L)*
 - Green Dumpsters (2 Units) with Rod Mill cans, mixers and digital scale*
 - Lintern Air Purifier (30" x 69" x 25")*
 - Jaw Crusher 3HP 3-phase 480 (19"W x 53"H x 28"L)*
 - Rod Mills (6 Units) 3HP 480 3-phase motors*
 - Pulva Pulverizer 1/2HP 480 3-phase electrical motor*
 - Pulva Pulverizer 5HP 480 3-phase (40" x 56" x 40")*

* Indicates the item has been removed from the site, or that some or all of the items have been removed from the site, prior to the Closing Date of the Settlement Agreement.

**Attachment C
Montana Custodial
Trust Settlement Agreement**

- TM Engineering Ring Pulverizer (4 Units) (38" x 65" x 24")*
- Sepor Mixer (50" x 72 " x 40")*
- Roto Taps (6 Units) (34" x 31" x 32")*
- Sweco Separator by Baldor (4'H x 50"W x 28"D)*
- Crusher Plant*
- 36" Belt Line, 49" long, 53" overall width*
- 36" Belt Line, 23' long, 8 1/2' overall width, 15 HP motor and gear box*
- 36" Belt Line, 53' long, 6' overall width with 10 HP motor and gear box*
- 36" Belt Line, 35' long, 6" overall width with 10HP motor and gear box*
- 36" Belt Line, 37' long, 6' overall width with 10 HP motor and gear box*
- 36" Belt Line, 16' long, 6' overall width with 15 HP motor and gear box*
- 36" Belt Line, 25' long, 6' overall width with 10 HP motor and gear box*
- 36" Belt Line, 20' long, 6' overall width with 10 HP motor and gear box *
- Sample Cutter (9'H x 5'W x 5'D)*
- 12' Belt Line, 3' overall width with 1/2 HP motor*
- 150 HP electrical motor 480*
- Sample Cutter (5'H x 2 1/2'W x 3'D) with 1/2 HP motor*
- Pro Screen Vibrating Screen (7'W x 16'L x 5'H)*
- Hopper for screen (8'H x 15"L x 8'W) with 10 HP motor*
- Hazmag Crusher (6'H x 7'L x 8'W) with Model 1010K*
- 12" Sample Rolls (4'W x 4'H x 5'L) with 5 HP motor*
- Electrical Control Panel (3' x 3' x 15")*
- Miscellaneous steps, handrails and walkways*
- Hydraulic power unit – Catey controls

**Attachment C
Montana Custodial
Trust Settlement Agreement**

- HERO (High Efficiency Reverse Osmosis) water treatment plant
 - WAC pre-filter
 - WAC (Weak acid cat ion) unit
 - Degasifier w/ 5hp blower
 - 1st stage RO unit w/ 50hp & 30 hp Tonkaflo pumps
 - 2nd stage RO unit w/ 40 hp Tonkaflo pump
 - Goulds 15hp pump
 - Goulds 5hp pump
- Coreco, Rotary Melter, model 1848, Sn 62
- Granulation conveyor & hopper
- Feed conveyor & hopper
- American locomotive crane, Model 5030, Sn L4074
- #8 Blast electric locomotive
- #3 Blast electric locomotive
- #5 Blast electric locomotive
- #6 Blast electric locomotive
- Blast electric pusher motor
- 6 - Slag Jitneys
- 5 - Slag trucks
- Smoot, 3" dense phase dust transporter
- Ingersoll-Dresser, Plant water pump, 150hp, sn 0800-5530
- 2 – Worthington, Blast water pumps, 200hp
- Worthington, Plant water pump, 100hp, 5TR-15
- Oxygen receiver, Gate City Steel, sn HSB105P

**Attachment C
Montana Custodial
Trust Settlement Agreement**

- Air receiver, NST, sn 78017
- Electric Locomotives #4 and #7
- Non-environmental records
- 3 Stars of David (windows)

ENVIRONMENTAL CUSTODIAL TRUST AGREEMENT

BY AND AMONG

ASARCO LLC

and

ASARCO MASTER, INC.

as Settlers,

Montana Environmental Trust Group, LLC,

not individually but solely in its representative capacity as Custodial Trustee,

AND

The United States and the State of Montana,

as Beneficiaries

As of _____, 2009

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 Definitions	4
1.1 Definitions	4
ARTICLE 2 The Custodial Trust	8
2.1 Creation of and Transfer of Assets to the Custodial Trust	8
2.2 Objective and Purpose	9
2.3 Holder of Custodial Trust Assets	10
2.4 Management of Custodial Trust Assets	10
2.5 Investment and Safekeeping of Custodial Trust Assets	11
2.6 Insurance Policy to Cover Future Response Actions	12
2.7 Access and Deed Restrictions	13
2.8 Accounting	13
2.9 Liability	13
2.10 Termination	14
2.11 Property Disposition	14
ARTICLE 3 Work and Distributions	14
3.1 Trust Accounts	14
3.2 Payments by the Custodial Trust	14
3.3 Liens by Government	18
3.4 Manner of Payment	18
3.5 Limitation on Financial Liability	18
ARTICLE 4 The Custodial Trustee	18
4.1 Appointment	19
4.2 Generally	19
4.3 Powers	19
4.4 Other Professionals	20
4.5 Limitation of the Custodial Trustee’s Authority	21
4.6 Compensation of the Custodial Trustee	21
4.7 Liability of Custodial Trust Parties	21
4.8 Termination	22
4.9 Appointment of Successor Custodial Trustees	22
4.10 No Bond	22
4.11 No Agency	23
4.12 Merger	23
ARTICLE 5 Beneficiaries	23
5.1 Beneficiaries	23
5.2 Identification of Beneficiaries	23
5.3 Non-Beneficiaries	26
5.4 Transfer of Beneficial Interests	26

Attachment D
Montana Custodial
Trust Settlement Agreement

ARTICLE 6	Reporting and Taxes	26
6.1	Reports	27
6.2	Other	27
6.3	Reports in Support of Insurance Claims	27
6.4	Taxes	27
ARTICLE 7	Miscellaneous Provisions	27
7.1	Amendments and Waivers	27
7.2	Tax Treatment	28
7.3	Cooperation	28
7.4	Situs of the Custodial Trust	28
7.5	Severability	29
7.6	Sufficient Notice	29
7.7	Headings	29
7.8	Actions Taken on Other Than Business Day	29
7.9	Consistency of Agreements and Construction	29
7.10	Enforcement Authorities of the United States and the State	29
7.11	Compliance with Laws	30

ENVIRONMENTAL CUSTODIAL TRUST AGREEMENT

(Montana Properties)

This Environmental Custodial Trust Agreement (the “Agreement”) is made this ____ day of _____, 2009, by and among ASARCO LLC (“ASARCO”) and its wholly owned subsidiary, ASARCO MASTER, INC., as debtors and debtors in possession in the Bankruptcy Case (defined below) (collectively, “Settlors”), Montana Environmental Trust Group, LLC, not individually but solely in its representative capacity as Custodial Trustee of the Custodial Trust established hereby (the “Custodial Trust”), and the United States and the State of Montana, acting through the Montana Department of Environmental Quality (“MDEQ”) and the Montana Department of Justice (“MDOJ”) (the “State”), as Beneficiaries (defined below).

RECITALS:

WHEREAS, on August 9, 2005, ASARCO filed its voluntary petition for relief under chapter 11 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, the Settlors, the United States, and the State have entered into a Consent Decree and Settlement Agreement Regarding the Montana Sites (the “Settlement Agreement”) dated _____, 2009, with respect to the Designated Properties (defined below) located in Montana;

WHEREAS, the Settlement Agreement provides for the transfer of the Designated Properties, including the Attendant Property Interests (defined below), to the Custodial Trust to be administered by the Custodial Trustee pursuant to this Agreement and the Settlement Agreement;

WHEREAS, in accordance with the Settlement Agreement, the 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 approved by the Lead Agencies with respect to the Designated Properties, (c) paying certain future oversight costs, and (d) ultimately selling, transferring, otherwise disposing or providing for the long-term stewardship of, and otherwise facilitating Beneficiary-approved reuse of some or all of, the Designated Properties, if possible, and engaging in activities related thereto consistent with its fiduciary obligations to the Beneficiaries, all as provided in this Agreement and the Settlement Agreement, and subject to the limitations described in Section 4.5 below;

Attachment D
Montana Custodial
Trust Settlement Agreement

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

WHEREAS, this Agreement and the Settlement Agreement govern the Custodial Trust, which is created pursuant to, and to effectuate, the Settlement Agreement;

WHEREAS, upon its formation the 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 as a tax-exempt settlement fund (to the extent that the beneficial interests in the Custodial Trust are owned by “government entities,” within the meaning of Section 468B(g)(2) of the Internal Revenue Code) pursuant to Section 468B(g)(2) of the Internal Revenue Code; and

WHEREAS, the 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 Settlement Agreement (which is incorporated herein by this reference), the Parties hereto, including the Custodial Trustee, for itself and for the Custodial Trust, hereby affirm, accept and agree to the terms, conditions, and requirements set forth in the Settlement Agreement, including all terms regarding the creation, management, use and disposition of the Custodial Trust and the Custodial Trust Assets, and the rights, roles, responsibilities, liabilities, and protections of the Parties with respect to the Custodial Trust, the Funding, and the Designated Properties. The Parties further hereby agree as follows to supplement and implement the terms of the Settlement Agreement:

ARTICLE 1
DEFINITIONS

1.1 Definitions.

The following terms as used in this Agreement shall have the definitions given below:

1.1.1 “Agreement” has the meaning given in the preamble.

1.1.2 “Attendant Property Interests” means all appurtenances, rights, easements, rights-of-way, mining rights (including unpatented mining and mill site claims), mineral rights, mineral claims, riparian rights, water rights, water claims, and water allocations or other interests related to the Designated Properties except equipment and other items of personal property listed in Attachment C to the Settlement Agreement.

1.1.3 “Bankruptcy Court” means the United States Bankruptcy Court for the Southern

Attachment D
Montana Custodial
Trust Settlement Agreement

District of Texas, Corpus Christi Division.

- 1.1.4 “Beneficiaries” means the United States and the State.
- 1.1.5 “CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 *et seq.*, as amended.
- 1.1.6 “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, or, as provided in the Settlement Agreement, the U.S. District Court for the District of Montana.
- 1.1.7 “Custodial Trust” shall mean the trust established pursuant to the Settlement Agreement and this Agreement.
- 1.1.8 “Custodial Trust Account” has the meaning given in Section 2.1.3 hereof.
- 1.1.9 “Custodial Trust Administrative Account” means the Custodial Trust Account established to hold funds to pay for administrative, property management, and other costs, as approved by the State and United States Department of Justice (“USDOJ”) in accordance with the budget approval process set forth in this Agreement and in Subparagraph 8.a of the Settlement Agreement.
- 1.1.10 “Custodial Trust Assets” means (a) those assets and properties, including the Funding and the Designated Properties and Attendant Property Interests to be transferred to the Custodial Trust pursuant to the Settlement Agreement and this Agreement, and (b) such other assets acquired or held by the Custodial Trust from time to time pursuant to the Settlement Agreement, this Agreement, or an order of the Court.
- 1.1.11 “Custodial Trust Cleanup Account” means each of the Custodial Trust Accounts established pursuant to Section 2.1.3 to hold funds to pay for future Environmental Actions as selected, approved, and authorized by the Lead Agency (as defined in the Settlement Agreement) and certain future oversight costs of the Governments as provided in the Settlement Agreement for each Designated Property.
- 1.1.12 “Custodial Trust NRD Account” means each of the Custodial Trust Accounts established pursuant to Section 2.1.3 to hold funds to pay for future natural resource restoration that has been selected by DOI and related oversight costs as provided in the Settlement Agreement for certain of the Designated Properties.
- 1.1.13 “Custodial Trust Parties” shall mean the Custodial Trust, the Custodial Trustee, the Custodial Trustee’s shareholders, officers, directors, employees, managers, members, agents, or other parties, professionals or representatives employed by

Attachment D
Montana Custodial
Trust Settlement Agreement

the Custodial Trust or the Custodial Trustee. “Custodial Trust Parties” shall not include professionals, advisors, consultants, or any other parties who provide goods or services under contract but who are not employees, principals, and/or owners of the Custodial Trust or the Custodial Trustee.

- 1.1.14 “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.
- 1.1.15 “Custodial Trustee” shall mean Montana Environmental Trust Group, LLC, as trustee of the Custodial Trust, not individually but solely in its representative capacity.
- 1.1.16 “Debtors” shall have the meaning given in the Settlement Agreement.
- 1.1.17 “Designated Properties” means the ASARCO-owned properties as set forth and described in Paragraph 1 of the Settlement Agreement, including, without limitation, all fixtures, improvements, equipment, and personal property to be conveyed as described in Paragraph 5.a of the Settlement Agreement.
- 1.1.18 “DOI” means the United States Department of the Interior and any successor departments or agencies of the United States.
- 1.1.19 “Effective Date” means the effective date of this Agreement, which shall be the later of (i) the date this Agreement is executed by all Parties to this Agreement; and (ii) the Settlement Agreement Effective Date.
- 1.1.20 “Environmental Actions” mean any and all environmental activities related to the Designated Properties, including but not limited to response or remedial actions, corrective action, closure, or post-closure care, natural resource restoration, reclamation, investigations, studies, remediation, interim actions, final actions, emergency actions, water treatment, implementation of engineered structures and controls, obtaining and maintaining reasonable financial assurance, monitoring, repair and replacement of engineered structures, monitoring equipment and controls, operation and maintenance, and implementation, operation and maintenance of institutional controls, coordination and integration of reuse and remedial efforts and initiatives (including, without limitation, multi-stakeholder communications), and, if appropriate, long-term stewardship and perpetual custodial care activities. “Environmental Actions” also include activities related to releases of hazardous substances, hazardous waste, or hazardous constituents from any portion of the Designated Properties, including all areas affected by natural migration of such hazardous substances, hazardous waste, or hazardous constituents from the Designated Properties.
- 1.1.21 “Environmental Costs” mean the costs and expenses of implementing

Attachment D
Montana Custodial
Trust Settlement Agreement

Environmental Actions and the costs of payment of certain oversight costs of a Beneficiary agency as provided in the Settlement Agreement with respect to a Designated Property.

- 1.1.22 “Environmental Law” means any applicable federal, 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 state or local law counterparts, as the same may be reauthorized or amended from time to time.
- 1.1.23 “Forest Service” means the US Forest Service, an agency of the United States Department of Agriculture, and any successor agencies or departments of the United States.
- 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 “Internal Revenue Code” shall mean the Internal Revenue Code of 1986, as amended.
- 1.1.27 “Lead Agency” with respect to a Designated Property shall mean the Lead Agency for such Designated Property as specified in the Settlement Agreement.
- 1.1.28 “Parties” shall mean the Settlers, Custodial Trustee and Beneficiaries.
- 1.1.29 “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.

Attachment D
Montana Custodial
Trust Settlement Agreement

- 1.1.30 “Settlement Agreement” means that certain Consent Decree and Settlement Agreement Regarding the Montana Sites executed by the Beneficiaries and the Settlers on _____, 2009, and approved by the Bankruptcy Court.
- 1.1.31 “Settlement Agreement Effective Date” shall have the same meaning as the term “Effective Date” as such term is defined in the Settlement Agreement.
- 1.1.32 “State” means the State of Montana, acting through the Montana Department of Environmental Quality (“MDEQ”) and the Montana Department of Justice (“MDOJ”).
- 1.1.33 “United States” means the United States of America on behalf of agencies and departments named in the Settlement Agreement.
- 1.1.34 “USDOJ” means the United States Department of Justice and any successor departments or agencies of the United States.
- 1.1.35 “USEPA” means the United States Environmental Protection Agency and any successor departments or agencies of the United States.

ARTICLE 2
THE CUSTODIAL TRUST

- 2.1 Creation of and Transfer of Assets to the Custodial Trust.
- 2.1.1 Pursuant to the Settlement Agreement, the Parties hereby establish, on behalf of the Beneficiaries, the Custodial Trust, and Settlers hereby transfer, assign, and deliver to the Custodial Trust, on behalf of the Beneficiaries, all fee ownership or other interests of Settlers in and to the Custodial Trust Assets. Debtors shall retain no ownership or other interest whatsoever in the Designated Properties. The transfer of ownership shall be completed by the Parties as provided in the Settlement Agreement. The Custodial Trust hereby accepts and agrees to hold the Custodial Trust Assets in the Custodial Trust for the benefit of the Beneficiaries for the purposes described in Section 2.2 below, subject to the terms of the Settlement Agreement, this Agreement, and any applicable orders of the Court.
- 2.1.2 By the date specified in Subparagraph 6.b of the Settlement Agreement, the Settlers shall cause to be transferred to or at the direction of the Custodial Trustee cash in the amount of \$138,300,000, which constitutes the “Funding” and represents the aggregate amounts approved by the Court as sufficient to pay the Environmental Costs and the costs of administering the Custodial Trust.
- 2.1.3 Upon receipt of the Designated Properties and the Funding, the Custodial Trustee shall set aside, in separate segregated trust accounts, the Funding for each of the

Attachment D
Montana Custodial
Trust Settlement Agreement

Custodial Trust Cleanup Accounts and the Custodial Trust NRD Accounts, as specified in the Settlement Agreement for each Designated Property. The 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 Funding and the use of funds in each of the Custodial Trust Accounts shall be as set forth in the Settlement Agreement. The income and gains from any investment, use or disposition of the Custodial Trust Assets shall be allocated, paid and credited to the respective Custodial Trust Account and shall be used for the same purposes as the principal, as provided in this Agreement and the Settlement Agreement.

- 2.1.4 For all income tax purposes, the Custodial Trustee and Settlers shall treat the transfer of the Custodial Trust Assets by Settlers to the Custodial Trust as a transfer to a qualified settlement fund pursuant to section 468B of the Internal Revenue Code and related Treasury Regulations. The Custodial Trustee will 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 and as a tax-exempt settlement fund (to the extent that the beneficial interests in the Custodial Trust are owned by “government entities,” within the meaning of Section 468B(g)(2) of the Internal Revenue Code) in accordance with Section 468B(g)(2) of the Internal Revenue Code. The Custodial Trustee will not elect to have the Custodial Trust treated as a grantor trust. The Custodial Trust will be treated as a separate taxable entity. The Custodial Trustee shall cause any property taxes imposed on property owned by the Custodial Trust to be paid using assets of the Custodial Trust Administrative Account. 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.

2.2 Objective and Purpose.

- 2.2.1 The exclusive purposes and functions of the 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 Agencies with respect to the Designated Properties (or approved by DOI for the Custodial Trust NRD Accounts), pay certain future oversight costs, and ultimately to sell, transfer, otherwise dispose and/or provide for the long term stewardship of, and otherwise to facilitate Beneficiary-approved reuse of all or part of the Designated Properties, if possible, and engage in activities related thereto consistent with its fiduciary obligations to the Beneficiaries, all as provided in this Agreement and the Settlement Agreement, and subject to the limitations described in Section 4.5 below.

Attachment D
Montana Custodial
Trust Settlement Agreement

2.2.2 The Custodial Trust is established and approved by the Bankruptcy Court for the sole purpose of resolving claims asserting environmental liabilities of Settlers with respect to the Designated Properties. The Bankruptcy Court shall retain continuing jurisdiction over the Custodial Trust. The 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. It is also intended that the Custodial Trust be classified as a tax-exempt settlement fund (to the extent that the beneficial interests in the Custodial Trust are owned by “government entities,” within the meaning of Section 468B(g)(2) of the Internal Revenue Code) pursuant to Section 468B(g)(2) of the Internal Revenue Code.

2.3 Holder of Custodial Trust Assets.

The 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 this Agreement and the Settlement Agreement, the Custodial Trust shall use the Custodial Trust Cleanup Accounts, as authorized by the Lead Agency through the budget process, in furtherance of the purposes and functions described in Section 2.2.1 above, including, without limitation, to perform or fund future Environmental Actions and oversight costs approved by the Lead Agency (including certain oversight costs of other governmental agencies approved as provided in Subparagraph 6.h of the Settlement Agreement) pursuant to CERCLA, RCRA, or other state or federal statutes applicable to a particular Designated Property. The Custodial Trustee shall use the Custodial Trust NRD Accounts to fund DOI natural resource restoration and related oversight costs that have been approved by DOI. The Custodial Trust shall use the Custodial Trust Administrative Account to fund the administrative, property management, and other costs of the Custodial Trust that have been approved by the State and USDOJ as provided in the Settlement Agreement.

2.4.2 The Custodial Trustee shall perform or fund the Environmental Actions selected or approved by the Lead Agency, including without limitation, remedial work, institutional controls compliance and operations and maintenance, in accordance with the budgets approved by the Lead Agency with respect to a Designated Property and the applicable Custodial Trust Cleanup Account. The Custodial Trustee shall assume the Debtors’ obligations to perform work under certain existing agreements, decrees, and orders, as set forth in Paragraphs 19, 20, 21 and 23 of the Settlement Agreement, as approved and required by the respective Lead Agency consistent with the terms of the Settlement Agreement.

Attachment D
Montana Custodial
Trust Settlement Agreement

2.4.3 If funds in a Custodial Trust Account are not needed, as determined in accordance with Subparagraphs 6.p, 6.q, 6.r, and 6.s of the Settlement Agreement, such funds may be used or transferred to another account as provided in the Settlement Agreement. By no later than seven years after the Effective Date, the Custodial Trustee shall provide USDOJ and the State an update of anticipated future Administrative Costs of the Custodial Trust. At any time, after consultation with the Custodial Trustee, USDOJ and the State may jointly instruct in writing that any conservatively projected surplus funding in the Custodial Trust Administrative Account be transferred to one or more of the Custodial Trust Cleanup Accounts established under this Agreement for a Designated Property with remaining actions to be performed and a need for additional funding.

2.5 Investment and Safekeeping of Custodial Trust Assets.

2.5.1 The Custodial Trust Assets, until sold as provided herein and in the Settlement Agreement, shall be held in trust and segregated. Investments of any moneys held by the Custodial Trust shall be administered in a manner consistent with the standards and requirements applicable to a trustee under the Montana Uniform Prudent Investor Act, §§ 72-34-601 *et seq.*, Mont. Code Ann., and, further, with the purpose of deriving a reasonable income from the Custodial Trust Assets pending periodic distributions in accordance with Article III hereof, taking into account the need for the safety and liquidity of principal required by the purposes of the Custodial Trust, and not of speculating or carrying on of any business for profit or derivation of gains therefrom. However, the right and power of the Custodial Trustee to invest and reinvest the Custodial Trust Assets shall be limited to the right and power to invest and reinvest any part or all of such assets in the following investment vehicles, provided that at least 75% (and, at the Custodial Trustee's discretion, up to 100%) of the funds in each Custodial Trust Account shall, at any given time, be invested in categories (1) and/or (2):

- (1) marketable obligations issued by the United States of America or an agency thereof;
- (2) certificates of deposit with a domestic office of any national or state bank or trust company organized under the laws of the United States of America or any state therein and having capital, surplus, and undivided profits of at least \$750,000,000 or in such institutions not meeting this specified capital requirement to the extent that the deposits are federally insured;
- (3) no-load mutual funds;
- (4) a diversified portfolio of equities traded on a recognized national exchange that meet the standards for publicly listed companies;

Attachment D
Montana Custodial
Trust Settlement Agreement

- (5) a diversified portfolio of bonds. The overall average rating of the portfolio shall have a rating of Double A or better, with no individual bond rated below A, exclusive of any bond insurance;
- (6) money market funds;
- (7) any other investment vehicle approved in writing by USDOJ and the State.

The Custodial Trustee shall consult initially and from time to time with the Beneficiaries regarding the nature and allocation of investments in the Custodial Accounts. The Custodial Trustee shall be under no liability for interest or producing income on any moneys received by the Custodial Trust hereunder and held for distribution or payment as provided in this Agreement, except as such interest or income shall actually be received by the Custodial Trust. The Beneficiaries expressly agree that the Custodial Trustee shall have satisfied the Montana Uniform Prudent Investor Act and any duty to diversify by investing the Custodial Trust Assets in categories (1) and/or (2) above.

- 2.5.2 The 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.
- 2.5.3 Nothing in this Section 2.5 shall be construed as authorizing the Custodial Trustee to cause the 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 2.5 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 Custodial Trust.
- 2.5.4 As provided in Paragraph 14 of the Settlement Agreement, the Custodial Trustee 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.

2.6 Insurance Policy to Cover Future Response Actions.

Only at the direction of the United States and the State, shall the 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 State direct the Custodial Trustee in writing to purchase such insurance, shall the Custodial Trustee use Custodial Trust Assets to purchase such insurance.

2.7 Access and Deed Restrictions.

The Custodial Trust shall provide the United States and the State and their representatives and contractors with 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 Custodial Trustee shall implement and ensure the maintenance of any institutional controls and shall execute and record any easements, deed restrictions or other appropriate documents relating to land use requested by the Lead Agency with respect to any of the Designated Properties, as provided in Paragraphs 8.d and 9 of the Settlement Agreement. 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. The Custodial Trustee shall abide by the terms of any institutional controls or deed restrictions in place or of record as to any Designated Property. The Custodial Trustee may modify and amend existing easements, deed restrictions and institutional controls with the prior written approval of the Lead Agency.

2.8 Accounting.

The Custodial Trustee shall maintain proper books, records, and accounts relating to all transactions pertaining to the Custodial Trust, and the assets and liabilities of, and claims against or assumed by, the Custodial Trust in such detail and for such period of time as may be necessary to enable the 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 in the Settlement Agreement, or as required by an order of the Court, the Custodial Trustee shall not be required to file any accounting with the Court or seek the approval of the Court with respect to the administration of the 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 Custodial Trustee to inspect such books and records.

2.9 Liability.

As provided in Paragraph 8 and other Paragraphs of the Settlement Agreement, the Custodial Trust Parties are deemed to have resolved their civil liability under CERCLA, RCRA and similar State statutes to the United States and the State, 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 Agreement and in the Settlement Agreement, provided, however, that nothing in this Agreement or the Settlement Agreement shall be construed to allow the Custodial Trustee Parties to violate this Agreement or the Settlement Agreement or any State, federal or local law, nor to limit the enforcement authorities of the United States or the State. The Custodial Trust Parties shall have the benefits of all the liability protections set forth in Section IV and any other Section of the Settlement Agreement. However, in the event that the Custodial Trust or the Custodial Trustee in any material respect exacerbates conditions related to any Designated Property, violates a provision of this Agreement or the Settlement Agreement, or otherwise does not adequately perform under this

Attachment D
Montana Custodial
Trust Settlement Agreement

Agreement or the Settlement Agreement, the State and USDOJ may jointly (1) direct that all remaining funds and future recoveries in the Custodial Trust for a Designated Property be paid to the Lead Agency for the Designated Property, all remaining funds in the Custodial Trust NRD Account for a Designated Property be paid to DOI, to be used in accordance with the terms of the Settlement Agreement, and all remaining funds in the Custodial Trust Administrative Account and title to the Designated Property be transferred as jointly directed by the State and USDOJ; or (2) arrange appointment of a new custodial trustee as provided in Section 4.9. Upon joint written notice to the Custodial Trustee that the State and USDOJ are directing such transfers or arranging appointment of a new custodial trustee, the Custodial Trustee shall promptly comply with all joint written instructions to accomplish such transfers or the transfer of assets and authority to a new custodial trustee, and will promptly, and in any event within thirty calendar days, execute all documents and deliver all assets and records as directed in the joint instructions.

2.10 Termination.

Consistent with the terms of the Settlement Agreement, the Custodial Trustee shall not unduly prolong the duration of the Custodial Trust and shall at all times endeavor to perform or fund Environmental Actions as selected, approved, and authorized by the Lead Agency for each Designated Property and to effect the distribution of Custodial Trust Assets for the performance of Environmental Actions in accordance with the terms of the Settlement Agreement, and, subject to the following paragraph, to terminate the Custodial Trust as soon as practicable consistent with this Agreement and the Settlement Agreement.

2.11 Property Disposition.

The United States, the State, or a local governmental unit that is a designee of the State, may at any time propose in writing to take ownership of any Designated Property or any part thereof in accordance with Paragraph 10 of the Settlement Agreement. The Custodial Trustee may at any time seek approval for the sale or lease or other disposition of all or part of a Designated Property in accordance with Paragraph 11 of the Settlement Agreement. In any transfer or disposition of all or part of a Designated Property, the Custodial Trustee shall comply with the approval process and other requirements set out in Paragraphs 10 and 11 of the Settlement Agreement.

ARTICLE 3
WORK AND DISTRIBUTIONS

3.1 Trust Accounts.

The Custodial Trustee shall establish, maintain and hold the Custodial Trust Accounts, as provided in the Settlement Agreement and Section 2.1.3 of this Agreement, to administer the Custodial Trust Assets and distributions therefrom.

3.2 Payments by the Custodial Trust.

Attachment D
Montana Custodial
Trust Settlement Agreement

The Custodial Trustee shall provide the United States and the State with annual balance statements and proposed budgets as described in Section 3.2.1 and 3.2.3 of this Agreement. Absent specific written authorization from the applicable Parties, the Custodial Trustee shall not pay or incur any expense that has not been provided for in the applicable budget and approved by the Lead Agency for the Custodial Trust Cleanup Accounts, by DOI for the Custodial Trust NRD Accounts, or jointly by the State and USDOJ for the Custodial Trust Administrative Account.

3.2.1 Administrative Expenses of the Custodial Trust.

Consistent with the requirements of Subparagraph 8.a of the Settlement Agreement, the Custodial Trustee shall provide the United States and the State with annual balance statements and budgets for the Custodial Trust Administrative Account. The first budget for the remainder of the current calendar year and the next calendar year shall be prepared within thirty (30) days following the Effective Date. To facilitate agency review and consultation (which each Party shall endeavor to complete in a timely manner), the Custodial Trustee shall thereafter submit a preliminary proposed budget by November 1 of each year for the following calendar year. After considering any comments provided by USDOJ and the State, the proposed annual budget shall be provided on or before January 1 of each calendar year during the term of the Custodial Trust. The proposed budget may be approved or disapproved in whole or in part by USDOJ and the State. If disapproved, such budget shall be revised and resubmitted as expeditiously as possible. No administrative expenses may be incurred or paid by the Custodial Trustee that are inconsistent with the approved budget, provided, however, that USDOJ and the State may jointly approve budget modifications between annual budget proposals. 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 USDOJ and the State shall reasonably request). The Custodial Trust shall regularly, but not less often than annually, and otherwise upon the reasonable request of the United States or the State, provide documentation to the United States and the State to substantiate compliance with the applicable approved budget and application of Custodial Trust Assets consistently with the terms of this Agreement and the Settlement Agreement.

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

Upon the Effective Date, the Custodial Trustee shall be entitled to remuneration from the Custodial Trust Administrative Account in accordance with a budget approved by USDOJ and the State up to a maximum of \$ _____ for its fees and expenses in connection with the formation of the Custodial Trust prior to the Effective Date and preparations to assume ownership of the Designated Properties as of the Effective Date.

3.2.3 Cleanup and NRD Expenses of the Custodial Trust.

Attachment D
Montana Custodial
Trust Settlement Agreement

Consistent with the requirements of Subparagraph 6.g of the Settlement Agreement, the Custodial Trustee shall prepare balance statements and annual budgets of projected expenditures from each of the Custodial Trust Cleanup Accounts and Custodial Trust NRD Accounts. Each budget shall reflect any determinations made by the Lead Agency (or, in the case of the Custodial Trust NRD Accounts, DOI) regarding which Environmental Actions will be performed directly by Custodial Trust Parties and their contractors and which Environmental Actions will be funded by the Custodial Trust but be performed by the Lead Agency or others designated by the Lead Agency (or, in the case of the Custodial Trust NRD Accounts, performed by DOI or others designated by DOI). The first budgets for the remainder of the current calendar year and the next calendar year shall be prepared within sixty (60) days following the Effective Date. Thereafter the Custodial Trustee shall submit a preliminary proposed budget for each account by November 1 of each year for the following calendar year. After considering any comments provided by the Lead Agency or DOI (which each shall endeavor to provide in a timely manner), as applicable, the proposed annual budgets shall be provided on or before January 1 for each calendar year during the term of the Custodial Trust. The Lead Agency shall have the authority to approve or disapprove the proposed budget for each Custodial Trust Cleanup Account. DOI shall have the authority to approve or disapprove the proposed budgets for the Custodial Trust NRD Accounts. If disapproved, a budget shall be revised and resubmitted as expeditiously as possible. No expenses may be incurred or paid by the Custodial Trustee that are inconsistent with an approved budget, unless the Lead Agency or DOI, as applicable, approves a budget modification; provided, however, that the 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 Custodial Trust, the Custodial Trustee shall prepare and submit to the Beneficiaries an annual report with respect to each of the Custodial Trust Cleanup Accounts and Custodial Trust NRD Accounts. Each annual report shall pertain to the prior calendar year. Within nine (9) months after closing or termination of a particular Custodial Trust Account, the Custodial Trustee shall prepare and submit to the Beneficiaries a final report covering the period from the most recent annual report to the closing or termination of the Custodial Trust Account.

3.2.4 Disbursements from Custodial Trust Cleanup Accounts.

The Custodial Trustee shall pay funds from a Custodial Trust Cleanup Account provided for in an approved budget to the Lead Agency (or another governmental agency for oversight costs if its assistance has been requested by the Lead Agency and such oversight costs are included in the approved budget) making a written request for funds within ten business (10) days of receipt of such request. Any written request shall specify the purpose of the funds, and shall certify that the

Attachment D
Montana Custodial
Trust Settlement Agreement

funds will be used only for Environmental Actions selected and approved by the Lead Agency and conducted after the Effective Date or oversight costs incurred after the Effective Date by the Lead Agency or another governmental agency as provided above. The Lead Agency shall maintain any such funds received pending expenditure in a site-specific account dedicated to Environmental Actions with respect to the Designated Property corresponding to the Custodial Trust Cleanup Account from which the disbursement was made, and shall expend such funds and interest solely for Environmental Actions with respect to that Designated Property. Any funds so received that are to be held by the Lead Agency for more than sixty (“60”) days shall be maintained in an interest-bearing account, with the interest retained and used only for the same purposes as the principal. If the Lead Agency has requested assistance from another governmental agency as provided above, the Lead Agency shall ensure that the funds are included in the approved budget for such oversight costs.

3.2.5 Work by Custodial Trustee under Custodial Trust Cleanup Accounts.

In the case of requests by the Lead Agency for the Custodial Trustee to use the funds and interest to perform work or manage the performance of work, the Custodial Trustee shall utilize the funds and interest from the respective Custodial Trust Cleanup Account to undertake such work promptly, in accordance with the schedule and work as approved by the Lead Agency. All activities undertaken by the Custodial Trustee pursuant to this Agreement shall be performed in accordance with the requirements of all applicable federal and state laws and regulations. The Custodial Trustee shall require appropriate liability insurance from each contractor hired to perform work.

3.2.6 Disbursements from Custodial Trust NRD Accounts.

The Custodial Trustee shall pay funds from a Custodial Trust NRD Account to DOI within 10 business days of a written request by DOI. Such written request shall specify the natural resource restoration for which DOI will use the funding requested. DOI shall maintain any such funds pending expenditure in accordance with this Agreement in the DOI Natural Resource Damage Assessment and Restoration Fund, Account No. 14X5198. A separate site-specific numbered account for the corresponding Designated Property shall be established within the DOI’s Natural Resource Damage Assessment and Restoration Fund. DOI shall expend the funds in these accounts, including all interest earned on such funds, solely on natural resource restoration and related oversight costs for that site.

3.2.7 Coordination with US Forest Service.

The Custodial Trust shall administer, hold, or dispose of (including abandonment) unpatented mining claims in accordance 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

Attachment D
Montana Custodial
Trust Settlement Agreement

et seq. All actions of the Custodial Trust, the State, and the Forest Service under this Settlement Agreement as to National Forest Service Lands within the Upper Blackfoot Mining Complex Site shall be consistent with the “Watershed Restoration Agreement between the State of Montana and the US Department of Agriculture Forest Service, North Region, for the Cleanup of the National Forest System Portion of the Upper Blackfoot Mining Complex Site.” Although it is not anticipated that actions will be taken by the Custodial Trust on property administered by the Forest Service or any other federal land management agency, any actions by the Custodial Trust on property administered by the Forest Service or any other federal land management agency can only be taken after the written concurrence of the federal agency.

3.3 Liens by Custodial Trustee and Government.

Notwithstanding anything to the contrary in this Article 3, the Custodial Trust hereby grants to the Custodial Trustee (in its individual and not representative capacity) a lien on and security interest in the Custodial Trust Administrative Account to secure the payment of all amounts owed to the Custodial Trustee hereunder. Notwithstanding anything to the contrary in this Article 3, the Custodial Trust hereby grants to the United States and the State a lien on and security interest in all of the Custodial Trust Accounts to secure payment of the costs of all Environmental Actions to be required for the Designated Properties in accordance with the Settlement Agreement. The liens granted shall be first priority liens, with the United States’ and the State’s lien on the Custodial Trust Administrative Account being subordinated to the lien on that account held by the Custodial Trustee. The Custodial Trust agrees to take appropriate actions and execute and file appropriate documents, as advised by its legal counsel, to perfect the Custodial Trustee’s, United States’ and the State’s liens and security interests hereunder.

3.4 Manner of Payment.

Cash payments made by the Custodial Trust pursuant to the Settlement Agreement and this Agreement shall be in United States dollars by checks drawn on a domestic bank selected by the Custodial Trustee, or by wire transfer from a domestic bank in accordance with wiring instructions provided by the payee, at the option of the Custodial Trustee.

3.5 Limitation on Financial Liability.

No provision of this Agreement or the Settlement Agreement shall require the Custodial Trustee to expend or risk its own personal funds or otherwise incur any personal financial liability in the performance of any of its duties as Custodial Trustee hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

ARTICLE 4
THE CUSTODIAL TRUSTEE

Attachment D
Montana Custodial
Trust Settlement Agreement

4.1 Appointment.

4.1.1 The Settlers, with the approval by the United States and the State, hereby appoint Montana Environmental Trust Group, LLC, not individually but solely in its representative capacity as Custodial Trustee, to serve as the Custodial Trustee, and the 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 4.8 herein, the term of the Custodial Trustee shall be for five years at which time the Custodial Trustee may be re-appointed for a specified term or terminated. Any successor Custodial Trustee shall be appointed by the Beneficiaries in accordance with Section 4.9 of this Agreement. If the Custodial Trustee is not reappointed and no successor Custodial Trustee has been appointed by the expiration of the Custodial Trustee's term, the Custodial Trustee shall continue to serve until the successor has been appointed.

4.1.2 After consultation with the United States and State, the Custodial Trust is authorized to obtain the services of an environmental consultant (which may be an individual or a company, the "Consultant") to assist in the implementation of any future Environmental Actions that are to be implemented by the Custodial Trustee as provided in this Agreement and the Settlement Agreement. 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 Custodial Trust after consultation with the United States and the State. The beneficiary of the insurance policies shall be the Custodial Trust and the Custodial Trustee, and the insurance 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 Custodial Trust and Custodial Trustee shall be that of an independent contractor professional, not that of an entity employed by the Custodial Trust or the Custodial Trustee. The Consultant shall not be deemed a Custodial Trust Party under this Agreement or the Settlement Agreement.

4.2 Generally.

The Custodial Trustee's powers are exercisable solely in a fiduciary capacity consistent with, and in furtherance of, the purposes of the Custodial Trust and the Settlement Agreement and not otherwise. The Custodial Trustee shall have the authority to bind the Custodial Trust, and any successor Custodial Trustee, or successor or assign of the Custodial Trust, but shall for all purposes hereunder be acting in its representative capacity as Custodial Trustee and not individually. Notwithstanding anything to the contrary contained herein, the Custodial Trustee shall not be required to take action or omit to take any action if, after the advice of counsel, the Custodial Trustee believes in good faith such action or omission is not consistent with the Custodial Trustee's fiduciary duties.

4.3 Powers.

Attachment D
Montana Custodial
Trust Settlement Agreement

In connection with the administration of the Custodial Trust, except as otherwise set forth in this Agreement or the Settlement Agreement, the Custodial Trustee is authorized to perform any and all acts necessary to accomplish the purposes of the Custodial Trust. The powers of the 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 Custodial Trust or the Custodial Trust Accounts from funds held by the Custodial Trustee and/or the Custodial Trust (or the Custodial Trust Accounts) in accordance with this Agreement and the Settlement Agreement, and withhold and pay to the appropriate taxing authority any withholding taxes on distributions from the Custodial Trust; (ii) to engage employees and professional Persons to assist the Custodial Trust and/or the Custodial Trustee with respect to the responsibilities described herein; (iii) to make distributions of the Custodial Trust Assets from the Custodial Trust Accounts as provided in this Agreement and the Settlement Agreement; (iv) to have all of the rights and privileges of a private landowner of the Designated Properties, subject to the terms of the Settlement Agreement and this Agreement; and (v) to effect all actions and execute all agreements, instruments and other documents appropriate to implement this Agreement, including to exercise such other powers as may be vested in or assumed by the Custodial Trust and/or the 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 this Agreement and the Settlement Agreement. No Person dealing with the Custodial Trust shall be obligated to inquire into the authority of the Custodial Trustee in connection with the protection, conservation or disposition of Custodial Trust Assets. The Custodial Trustee is authorized to execute and deliver all documents on behalf of the Custodial Trust to accomplish the purposes of this Agreement and the Settlement Agreement.

4.4 Other Professionals.

The Custodial Trustee shall have the authority, after approval by the Lead Agency (or by both Lead Agencies where services will relate to both), to retain on behalf of the Custodial Trust and pay such third parties as the Custodial Trustee (within the approved budget allowances for such expenses) may deem necessary or appropriate to assist the Custodial Trustee in carrying out its powers and duties under this Agreement and the Settlement Agreement, including, without limitation, (i) counsel to the Custodial Trust and/or Custodial Trustee, (ii) financial advisors, as appropriate, and accounting advisors to perform such reviews and/or audits of the financial books and records of the Custodial Trust as may be appropriate in the Custodial Trustee's reasonable discretion and to prepare and file any tax returns or informational returns for the Custodial Trust or the Custodial Trust Accounts as may be required, and (iii) custodians, security personnel, engineers, surveyors, brokers, contractors, clerks, and such other third-parties as the Custodial Trustee deems necessary to carry out its duties. The Custodial Trustee may pay all such Persons compensation for services rendered and expenses incurred in accordance with the budgets approved as provided in Section 3.2. Such retained parties shall not be deemed Custodial Trust Parties under this agreement or the Settlement Agreement. The Custodial Trustee's selection of contractors for non-technical and non-professional services such as security, janitorial, or clerical duties does not require Lead Agency approval.

Attachment D
Montana Custodial
Trust Settlement Agreement

4.5 Limitation of the Custodial Trustee's Authority.

The Custodial Trust and the 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 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 Custodial Trust. The Custodial Trust and the Custodial Trustee shall not take any actions that would cause the 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 Compensation of the Custodial Trustee.

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

The Custodial Trust Administrative Account shall be subject to the claims of the Custodial Trustee, and the Custodial Trustee shall be entitled to reimburse itself out of any available cash in the Custodial Trust Administrative Account, and the Custodial Trust shall be obligated to pay, for actual out-of-pocket expenses and for actual hours worked and/or other billing arrangements approved by USDOJ and the State, provided that such costs are within the approved annual budgets.

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

4.7 Liability of Custodial Trust Parties.

As provided in Subparagraph 8.b and other provisions of the Settlement Agreement, 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. The liability of the Custodial Trust Parties shall be limited as provided in the Settlement Agreement, and the Custodial Trust Parties shall be indemnified and exculpated as provided in Paragraphs 12 and 13 of the Settlement Agreement. Persons dealing with the Custodial Trust Parties shall look only to the Custodial Trust assets that may be available to them consistent with this Agreement and the Settlement Agreement to satisfy any liability incurred by the Custodial Trust Parties to such person in carrying out the terms of this

Attachment D
Montana Custodial
Trust Settlement Agreement

Agreement, the Settlement Agreement, or any order of the Bankruptcy Court, and the Custodial Trust Parties shall have no personal obligations to satisfy any such liability, unless a determination is made by a final order of the Bankruptcy Court finding that the Custodial Trust Parties were grossly negligent or committed fraud or willful misconduct. No Person, including without limitation, holders of claims or other parties in interest, will be allowed to pursue any claim or cause of action against any Custodial Trust Party for any claim against Settlers, for making payments in accordance with the Settlement Agreement, this Agreement, or any order of the Court, or for implementing the provisions of the Settlement Agreement, this Agreement, or any order of the Court. Nothing in this Agreement or the Settlement Agreement shall preclude the Governments from enforcing the terms of this Agreement or the Settlement Agreement against the Custodial Trust Parties. The provisions of the Settlement Agreement that relate to the Custodial Trust Parties' liability and that indemnify and exculpate the Custodial Trust Parties from liability, as well as the Custodial Trust Parties' covenants not to sue and reservations, are expressly incorporated herein by this reference.

4.8 Termination.

The duties, responsibilities and powers of the Custodial Trustee will terminate on the date the Custodial Trust is dissolved under applicable law in accordance with this Agreement and the Settlement Agreement, or by an Order of the Court; provided that Sections 2.9 and 4.7 above, and the Custodial Trustee's right to payment through such termination date, shall survive such termination, dissolution and entry. The Custodial Trustee may resign by giving not less than thirty (30) days prior written notice thereof to the Court, the United States, and the State. The Custodial Trustee may be terminated a) upon completion of the initial five (5) year term or any subsequent specified term; b) as provided in a notice given in accordance with Section 2.9 of this Agreement; c) by order of the Court, upon 60 days' prior written notice, for cause; or d) otherwise as provided in the Settlement Agreement.

4.9 Appointment of Successor Custodial Trustees.

Any successor Custodial Trustee shall be proposed by the joint agreement of the United States and the State and appointed by the Court. Any successor Custodial Trustee designated or appointed hereunder or under Section 2.9 shall execute an instrument accepting such appointment and shall file such acceptance with the Custodial Trust records. Thereupon, such successor Custodial Trustee shall, without any further act, become vested with all the estates, properties, rights, powers, trusts and duties of its predecessor in the Custodial Trust with like effect as if originally named herein; provided, however, that a removed or resigning Custodial Trustee shall, nevertheless, when requested in writing by the successor Custodial Trustee, execute and deliver an instrument or instruments conveying and transferring to such successor Custodial Trustee under the Custodial Trust all the estates, properties, rights, powers, and trusts of such predecessor Custodial Trustee.

4.10 No Bond.

Notwithstanding any state law to the contrary, the Custodial Trustee, including any

Attachment D
Montana Custodial
Trust Settlement Agreement

successor Custodial Trustee, shall be exempt from giving any bond or other security in any jurisdiction.

4.11 No Agency.

The United States, the State, and the Debtors shall not be deemed to be an owner, operator, trustee, partner, agent, shareholder, officer, or director of the Custodial Trust or Custodial Trust Parties, or deemed to be an owner or operator of any of the Montana Sites, on account of this Agreement, the Settlement Agreement, or actions contemplated thereby. Neither the United States nor the State shall be liable for any injury or damages to person or property resulting from acts or omissions of the Custodial Trust Parties in implementing the requirements of this Agreement or the Settlement Agreement. The Custodial Trust Parties shall have no authority to sue the United States or the State with respect to the Montana Sites, except as provided in the Settlement Agreement; provided, however, that the Custodial Trust Parties reserve all rights relating to enforcement of the requirements of this Agreement and the Settlement Agreement.

4.12 Merger.

Upon approval and acceptance by the United States and the State, any corporation or other business entity into which the Custodial Trustee or any successor to it may be merged or converted, or with which it or any successor to it may be consolidated, or any corporation or business entity resulting from any merger, conversion, or consolidation to which the Custodial Trustee or any successor to it shall be a party, shall be a successor Custodial Trustee under this Agreement without the execution or filing of any paper or any other act on the part of any of the parties hereto. If the United States or the State does not approve and accept the proposed successor trustee as so provided, the United States and the State shall either (1) direct that all remaining funds and future recoveries in the Custodial Trust for a Designated Property be paid to the Lead Agency for the Designated Property, all remaining funds in the Custodial Trust NRD Account for a Designated Property be paid to DOI, to be used in accordance with the terms of the Settlement Agreement, and all remaining funds in the Custodial Trust Administrative Account and title to the Designated Property be transferred as jointly directed by the State and USDOJ; or (2) arrange appointment of a new custodial trustee as provided in Section 4.9. In such event the Custodial Trustee shall assist in the transfer of the Custodial Trust Assets or appointment of a successor trustee as provided in Section 2.9 of this Agreement.

ARTICLE 5
BENEFICIARIES

5.1 Beneficiaries.

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

5.2 Identification of Beneficiaries.

Attachment D
Montana Custodial
Trust Settlement Agreement

In order to determine the actual names, addresses and authorized representatives of the Beneficiaries, the Custodial Trust and the Custodial Trustee shall be entitled to conclusively rely on the names, address and authorized representatives listed in this Section 5.2 or in any subsequent written notice provided to the Custodial Trustee by an authorized representative of a Beneficiary.

For the State:

For MDEQ:

William B. Kirley
Montana Department of Environmental Quality
1100 N. Last Chance Gulch
P.O. Box 200901
Helena, Montana 59620-0901
bkirley@mt.gov
(406) 841-5017

For MDOJ:

Robert G. Collins
Mary Capdeville
Montana Department of Justice
1301 Lockey Avenue
P.O. Box 201425
Helena, Montana 59620-1425
rcollins@mt.gov; mcapdeville@mt.gov
(406) 444-0205

**Attachment D
Montana Custodial
Trust Settlement Agreement**

For the United States:

For USDOJ:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U. S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611

For USEPA:

Director, Technical Enforcement Program
Mail code: ENF-RC
US EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

For DOI:

Dana Jacobsen
Department of the Interior
Office of the Solicitor
2850 Youngfield Street
Lakewood, Colorado 80215
dana.jacobsen@sol.doi.gov
(303) 231-5353, Ext. 336

Amy L. Horner
Department of the Interior
Environmental Restoration Branch
Division of Parks and Wildlife
Office of the Solicitor
1849 C St NW MS 3210
Washington, DC 20240
amy.horner@sol.doi.gov
(202) 208-6356

For the US Forest Service:

Robert Kirkpatrick
Regional Environmental Engineer
Northern Region
USDA Forest Service
Federal Bldg.

Attachment D
Montana Custodial
Trust Settlement Agreement

P.O. Box 7669
Missoula, MT 59807
(406) 329-3307
Fax (406) 329-3198

For the Custodial Trustee:

Montana Environmental Trust Group, LLC
c/o Greenfield Environmental Trust Group, Inc.
Cynthia Brooks, President
44 Shattuck Road
Watertown, MA 02472
cb@g-etg.com
617-448-9762

5.3 Non-Beneficiaries.

Upon the Effective Date of this Agreement, the Settlor shall have no interest including, without limitation, any reversionary interest in the Custodial Trust or any Custodial Trust Assets.

5.4 Transfer of Beneficial Interests.

The interests of the Beneficiaries in the Custodial Trust, which are reflected only on the records of the Custodial Trust maintained by the Custodial Trust, are not negotiable and may be transferred only after written notice to the Custodial Trust, by order of the Court or by operation of law. The Custodial Trust shall not be required to record any transfer in favor of any transferee which, in the sole discretion of the Custodial Trust, is or might be construed to be ambiguous or to create uncertainty as to the holder of the interest in the Custodial Trust. Until a transfer is in fact recorded on the books and records maintained by the Custodial Trust for the purpose of identifying Beneficiaries, the 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 Custodial Trust and Custodial Trustee shall be fully protected and incur no liability to any purported transferee or any other Person. Interests in the Custodial Trust may not be transferred to any Settlor, any Debtor, any Reorganized Debtor, Americas Mining Corporation, ASARCO USA Incorporated, their successors, their affiliates, any Persons related to any of the preceding (within the meaning of Section 468B(d)(3) of the Internal Revenue Code), or to any Person that is not a "government entity" (within the meaning of Section 468B(g)(2) of the Internal Revenue Code).

ARTICLE 6
REPORTING AND TAXES

6.1 Reports.

Attachment D
Montana Custodial
Trust Settlement Agreement

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

6.2 Other.

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

6.3 Reports in Support of Insurance Claims.

The 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 State and shall provide the United States and the State a copy of any such reports and cost analyses.

6.4 Taxes.

The Custodial Trustee shall be the “administrator,” within the meaning of Treasury Regulation Section 1.468B-2(k)(3), of the 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, if any, with respect to the Custodial Trust in a manner consistent with the provisions of Treasury Regulation Section 1.468B-2 and Section 468B(g)(2) of the Internal Revenue Code. Any applicable taxes with respect to the Custodial Trust 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 consent of the Custodial Trust, the United States, and the State; provided, however, that no change shall be

Attachment D
Montana Custodial
Trust Settlement Agreement

made to this Agreement that would alter the provisions of Section 7.2 hereof or adversely affect the federal income tax status of the Custodial Trust as a “qualified settlement fund” for which no grantor trust election has been made (in accordance with Section 2.1.4 hereof), or, unless agreed to in writing by the affected Custodial Trustee, the rights of the Custodial Trustee. Technical amendments to this Agreement may be made as necessary, to clarify this Agreement or enable the Custodial Trustee to effectuate the terms of this Agreement, in a manner consistent with the Settlement Agreement with the mutual consent of the Custodial Trust, the United States, and the State.

7.2 Tax Treatment.

The 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 and as a tax-exempt settlement fund (to the extent that the beneficial interests in the Custodial Trust are owned by “government entities,” within the meaning of Section 468B(g)(2) of the Internal Revenue Code) pursuant to Section 468B(g)(2) of the Internal Revenue Code for income tax purposes, and to the extent provided by law, this Agreement shall be governed and construed in all respects consistent with such intent.

7.3 Cooperation.

No later than the earlier of (i) the Settlement Agreement Effective Date or (ii) 90 days after the Closing Date (as defined in the Settlement Agreement), the Settlor shall provide the Custodial Trustee with copies 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 Custodial Trust and Custodial Trustee shall take such actions and execute such documents as are reasonably requested by Debtors with respect to effectuating the Settlement Agreement and the transactions contemplated thereby, provided that such actions are not inconsistent with this Agreement or the Settlement Agreement. To the extent that Debtors request the Custodial Trust and/or the Custodial Trustee to take such an action, the Custodial Trust and Custodial Trustee shall do so at the sole expense of the Debtors and the Debtors agree to separately fund and pay such expense(s). The Custodial Trust, Debtors, and the Lead 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.

7.4 Situs of the Custodial Trust.

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

Attachment D
Montana Custodial
Trust Settlement Agreement

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 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 control.

7.10 Enforcement Authorities of the United States and the State.

Nothing in this 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, similar provisions of State law, including Mont. Code Ann. §§ 75-10-711 and 75-10-712, 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 State pursuant to that authority.

**Attachment D
Montana Custodial
Trust Settlement Agreement**

7.11 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.

IN WITNESS WHEREOF, THE UNDERSIGNED PARTIES ENTER INTO THIS ENVIRONMENTAL CUSTODIAL TRUST AGREEMENT.

FOR DEBTORS

ASARCO LLC

Date: _____ By: _____

Name: _____

By: _____

Name: _____

ASARCO MASTER INC.

Date: _____ By: _____

Name: _____

By: _____

Name: _____

Attachment D
Montana Custodial
Trust Settlement Agreement

FOR THE CUSTODIAL TRUSTEE:

Montana Environmental Trust Group, LLC, a Montana limited liability company, not individually but solely in the representative capacity as Trustee of the Custodial Trust

By: Greenfield Environmental Trust Group, Inc.,
not individually but solely as Member

Date: _____

By: _____
Cynthia Brooks, President and not individually

**Attachment D
Montana Custodial
Trust Settlement Agreement**

FOR THE UNITED STATES

Date: _____

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

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
Environmental Protection Agency
Principal Deputy Assistant Administrator
Office of Enforcement and Compliance Assurance

**Attachment D
Montana Custodial
Trust Settlement Agreement**

Date: _____

Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement,
Compliance and Environmental Justice

Date: _____

Charles L. Figur
Senior Enforcement Attorney
Office of Enforcement,
Compliance and Environmental Justice

FOR THE STATE OF MONTANA

Montana Department of Environmental Quality

Date: _____

Richard H. Opper, Director

William B. Kirley
Chief Remediation Counsel

Montana Department of Environmental Quality
1100 N. Last Chance Gulch
P.O. Box 200901
Helena, Montana 59620-0901

**Montana Department of Justice
Natural Resource Damage Program**

Date: _____

Steve Bullock, Attorney General

Date: _____

Robert G. Collins
Supervising Assistant Attorney General
Mary Capdeville
Assistant Attorney General
Montana Department of Justice
1301 Lockey Avenue
P.O. Box 201425
Helena, Montana 59620-1425

**Attachment E
Montana Custodial
Trust Settlement Agreement**

CUSTODIAL TRUST SITES
<i>Montana Custodial Trust</i>
East Helena, MT
Black Pine, MT
Mike Horse, MT
Iron Mountain, MT
<i>Texas Custodial Trust</i>
El Paso Smelter, TX
Amarillo, TX
<i>Other Custodial Trust</i>
Sacaton, AZ
Globe, CO
Alton, IL
Taylor Springs, IL
Silverton, CO
Trench/Salero, AZ
Murray, UT
Magdalena, NM
Whiting, IN
Columbus/Blue Tee, OH
Beckmeyer, IL
McFarland, WA
Ragland, AL
Van Buren, AR
Deming, NM
Sand Springs, OK
Gold Hill/Belshazzar, UT

PREVIOUSLY SETTLED ENVIRONMENTAL CLAIMS

<i>Site</i>
Cal Gulch/Black Cloud, CO
El Paso County Metal Survey, TX
Golinsky, CA
Taylor Springs, IL
Azurite, WA
Iron Mountain, MT
Upper Blackfoot/Mike Horse, MT
Silver Bow Creek/Butte, MT
B&L Woodwaste, WA
Tacoma Smelter Plume, WA - Past Costs/NRD & PRP
Everett Smelter, WA
Southeast MO
Encycle, TX
Bunker Hill/CDA (Box), ID - Unowned Portion
Selby Smelter, CA
Tri-State
Nueces Bay, TX
Barker Hughesville (Block P), MT
East Helena, MT - US/MT Costs - Unowned Portion
Hayden, AZ
Mission Mine, AZ

MISCELLANEOUS STATE & FEDERAL SITES***Site***

Tacoma Federal, WA

USIBWC, TX

Jack Waite Mine, ID

Monte Cristo, WA

Lower Silver Creek/Richardson Flats, UT

Circle Smelting, IL

East Helena, MT - NRD

Van Stone, WA

Kusa, OK

Triumph Mine, ID

Vasquez Blvd. / I-70, CO

Isle Terrible, CO

New Mexico

South Plainfield, NJ

Helvetia, AZ

Stephenson Bennett Mine, NM

Combination, MT

Flux, AZ

Bonanza, CO

Golden King, WA

Cholett, WA

Coy Mine, TN

Black Pine, MT

Murray Smelter, UT

Henryetta, OK

Summitville, CO

Sand Springs, OK (past costs)

Colorado Permits & Fees

OTHER SITES

<i>Site</i>
Perth Amboy, NJ: to the extent of remediation on unowned sites, past costs of remediation on the owned site, and NRD on unowned and owned sites. The parties are also negotiating the potential resolution of the claim for future remediation of the owned site.
Arizona NRD: Agreement in principle, subject to the 9019 process, allowance of general unsecured claim of \$4,000,000 and the transfer of certain real property
Hayden (Past Costs): the parties are negotiating the allowance of a general unsecured claim
Kelly Mine, WA
Blue Ledge, CA
Coeur d'Alene, ID
Tacoma, WA
Omaha Lead Site, NB

