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

IN RE:	§	**Case No. 05-21207**
	§	
ASARCO LLC, *et al.*	§	**Chapter 11**
	§	
Debtors.	§	**(Jointly Administered)**
	§	

DISCLOSURE STATEMENT IN SUPPORT OF THE DEBTORS' ~~FIRST~~SECOND AMENDED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE

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Dated: September ~~12,~~**25,** 2008

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INTRODUCTION

*Please consult the Uniform Glossary of Defined Terms for Plan Documents attached as **Exhibit A** to this Disclosure Statement for the meaning of defined terms.*

ASARCO LLC and the Subsidiary Debtors are soliciting acceptances of their First Amended Joint Plan of Reorganization, attached hereto as **Exhibit B**. This solicitation is conducted in order to obtain sufficient acceptances to enable the Plan to be confirmed by the Bankruptcy Court pursuant to the provisions of section 1129 of the Bankruptcy Code.

The purpose of the Disclosure Statement is to set forth (a) the history of the Debtors, their businesses, and their Reorganization Cases; (b) information concerning the Plan and alternatives to the Plan; (c) information for the holders of Claims and Interests regarding their rights under the Plan; (d) information to assist the holders of Claims and Interests in impaired Classes in making an informed judgment regarding whether they should vote to accept or reject the Plan; and (e) information to assist the Bankruptcy Court in determining whether the Plan complies with the provisions of chapter 11 of the Bankruptcy Code and should be confirmed.

Pursuant to the Disclosure Order dated ~~[_____ __, 2008],~~**September 25, 2008,** attached hereto as **Exhibit C**, the Bankruptcy Court (i) approved this Disclosure Statement, in accordance with section 1125 of the Bankruptcy Code, as containing "adequate information" to enable a hypothetical, reasonable investor typical of holders of Claims against and Interests in the Debtors to make an informed judgment as to whether to vote to accept or reject the Plan, and (ii) authorized its use in connection with the solicitation of votes with respect to the Plan. **APPROVAL OF THIS DISCLOSURE STATEMENT, HOWEVER, DOES NOT CONSTITUTE A DETERMINATION BY THE BANKRUPTCY COURT AS TO THE FAIRNESS OR MERITS OF THE PLAN.** No solicitation of votes on the Plan may be made except pursuant to this Disclosure Statement and in accordance with section 1125 of the Bankruptcy Code.

This Disclosure Statement is not intended to replace a careful and detailed review and analysis of the Plan by each holder of a Claim or an Interest, but instead is intended only to aid and supplement that review. Any description of the Plan is a summary only. Holders of Claims and Interests and other parties in interest are cautioned to review the Plan and any related attachments in their entirety for a full understanding of the Plan's provisions. This Disclosure Statement is qualified in its entirety by reference to the full text of the Plan and the exhibits and attachments thereto. If any inconsistency exists between the terms of the Plan and this Disclosure Statement, the terms and provisions of the Plan shall control.

Certain of the statements contained in this Disclosure Statement are forward-looking projections and forecasts based upon certain estimates and assumptions. Such statements may prove to be wrong or materially different from actual future results, and there can be no assurance that such statements will be reflective of actual outcomes. The statements contained in this Disclosure Statement, moreover, are made as of the date hereof unless otherwise specified herein, and the delivery of this Disclosure Statement does not imply that there has been no change in the information set forth herein since such date.

Holders of Claims against and Interests in the Debtors are encouraged to read and carefully consider the matters described in this Disclosure Statement, paying careful attention to Sections 3 (Summary of the Proposed Plan) and 8 (Risks of the Plan) of this Disclosure Statement. Prior to voting on the Plan, each holder of a Claim or an Interest should consult such holder's attorney, accountant, tax advisor, and financial advisor as to the effect of the Plan on such holder, including, without limitation, the tax effects of the Plan. In making a voting decision, each holder must rely on the holder's own examination of the Debtors and the terms of the Plan, including the merits and risks involved.

This Disclosure Statement may not be relied upon for any purpose other than to determine whether to vote in favor of or against the Plan, and nothing contained herein shall constitute an admission of any fact or liability by any party, or be admissible in any proceeding involving the Debtors or any other party, or be deemed evidence of the tax or other legal consequences or effects of the reorganization of the Debtors.

The statements and information about the Debtors, including financial information, financial projections, and information regarding Claims or Interests contained in this Disclosure Statement, have been prepared from information provided by the Debtors and their advisors. No statement or information concerning the Debtors (particularly as to future business, results of operations or financial condition, or with respect to distributions to be made under the Plan) or their assets, properties, or businesses that is given for the purpose of soliciting acceptances of the Plan is authorized, other than as set forth in this Disclosure Statement.

SUMMARY OF VOTING PROCEDURES

The Debtors have sent Ballots with voting instructions and copies of this Disclosure Statement to all known holders of Claims and Interests in impaired Classes that are entitled to vote on the Plan. All holders of impaired Claims and Interests should read the Ballot carefully and follow the voting instructions accurately. Holders of Claims and Interests should use only an official Ballot.

A. WHO CAN VOTE?

Pursuant to the provisions of the Bankruptcy Code, only Classes of Claims and Interests which are (1) "impaired" by the Plan, and (2) entitled to receive a distribution under the Plan are entitled to vote on the Plan. Under the Plan, Claims and Interests in Classes 2 through 12 are impaired (unless any sub-Classes of Class 2 Secured Claims are Reinstated, in which case the Claims in the sub-Classes that are Reinstated shall be unimpaired), and, accordingly, the holders of Claims and Interests in those Classes are the only holders of Claims entitled to vote to accept or reject the Plan. Claims in Class 1 (and, as previously noted, any Class 2 Secured Claims that are Reinstated) are unimpaired by the Plan, and the holders of Claims in such Classes are conclusively presumed by operation of the Bankruptcy Code to have accepted the Plan. Interests in Classes 13 and 14 shall not receive or retain any property on account of their Interests, and the holders of Interests in such Classes are conclusively presumed by operation of the Bankruptcy Code to have voted to reject the Plan.

The holder of a Claim or Interest may not split his, her, or its vote for a particular Claim or Interest. Accordingly, (1) each holder shall receive a separate Ballot for each Claim or Interest held, regardless of whether or not such Claims or Interests are within the same Class (2) each holder shall have a single vote for the Plan for each Claim or Interest held; (3) the full amount of each Claim (calculated in accordance with these procedures) shall have been deemed to have voted either to accept or reject the Plan; and (4) any Ballot that partially rejects and partially accepts the Plan shall not be counted.

The Bankruptcy Court has established ~~_____ __,~~**September 23, 2008**, as the Voting Record Date for purposes of determining which holders of Claims and Interests are entitled to vote to accept or reject the Plan.

B. WHAT IS THE DEADLINE FOR VOTING?

In order for your vote to be counted for voting purposes, Ballots accepting or rejecting the Plan, including Master Ballots submitted by (1) nominees for Class 4 Bondholders and (2) attorneys for Class 5 Unsecured Asbestos Personal Injury Claimants, must be *physically* received by the Balloting Agent no later than 4:00 p.m., Prevailing Central Time, on ~~_____ __,~~ **October 27, 2008**. Please allow adequate time for delivery.

To ensure the integrity of the voting process, all Ballots must be submitted as originals and bear an original signature in order to be counted. Please plan on voting so that the Ballots can be received in time to be counted.

C. WHERE AND HOW DO I RETURN MY BALLOT?

Ballots should be returned to the Debtors' Balloting Agent at:

ASARCO Balloting
c/o AlixPartners, LLP
2100 McKinney Avenue, Suite 800
Dallas, TX 75201

You must sign and return the Ballot accompanying this Disclosure Statement to the Balloting Agent in order to have your vote count. You may return your Ballot by mail, hand delivery, or overnight courier. However, the Balloting Agent is not able to accept Ballots by email or facsimile. A self-addressed, postage-prepaid envelope is included for your convenience.

D. CAN MY ATTORNEY VOTE FOR ME?

Yes, under certain circumstances. If you (1) have authorized your attorney to vote for you and (2) have not changed those arrangements, your attorney may vote as your agent. If your attorney votes for you, you do not need to complete a Ballot. If you have not authorized your attorney to vote for you, only you may vote on the Plan.

E. I AM A NOMINEE VOTING ON BEHALF OF A BONDHOLDER—WHAT DO I NEED TO DO?

Nominees voting on behalf of Bondholders must use and complete the Master Ballots for Class 4. Each Master Ballot must be signed by a Nominee under penalty of perjury on behalf of the applicable Bondholders, who must have authorized the Nominee to vote on their behalf.

Ballots cast by Nominees on behalf of Bondholders must be received by the Debtors' Balloting Agent at the address listed on the Ballot by ~~_____, __~~ **October 27, 2008**, at 4:00 p.m., Prevailing Central Time. Ballots may be returned by mail, hand delivery, or overnight courier. However, the Balloting Agent is unable to accept Ballots by email or facsimile. Please allow enough time for delivery.

F. I AM AN ATTORNEY VOTING ON BEHALF OF MY CLIENT—WHAT DO I NEED TO DO?

Attorneys voting on behalf of Unsecured Asbestos Personal Injury Claimants must use and complete the Master Ballots for Class 5. Each Master Ballot must be signed by an attorney under penalty of perjury on behalf of his or her clients. In other instances, attorneys voting on behalf of clients (other than Class 5 Unsecured Asbestos Personal Injury Claimants) must use and complete the Ballot sent to the client. In either instance, attorneys may vote only for those clients from whom the attorney has obtained authorization to do so.

Ballots cast by attorneys on behalf of their clients must be received by the Debtors' Balloting Agent at the address listed on the Ballot by ~~_____, __~~ **October 27, 2008**, at 4:00 p.m., Prevailing Central Time. Ballots may be returned by mail, hand delivery, or overnight courier. However, the Balloting Agent is unable to accept Ballots by email or facsimile. Please allow enough time for delivery.

G. WHAT DO I DO IF I RECEIVED MORE THAN ONE BALLOT?

If you received more than one Ballot, you may hold Claims or Interests in different Classes and may be entitled to vote in more than one Class. Please review the Ballots carefully and consult with your legal and financial advisors for further advice if necessary.

H. WHAT DO I DO IF I DID NOT RECEIVE A BALLOT WITH MY SOLICITATION PACKAGE OR NEED A REPLACEMENT BALLOT?

If you are a holder of a Claim or an Interest entitled to vote on the Plan and (1) did not receive a Ballot, (2) received a damaged Ballot, or (3) lost your Ballot (and you are not voting through your attorney), you should contact the Balloting Agent, by writing to **ASARCO BALLOTING, c/o ALIXPARTNERS, LLP, 2100 MCKINNEY AVENUE, SUITE 800, DALLAS, TEXAS 75201**, calling 1-888-727-9235 or 1-972-535-7137, or emailing *CMS_Noticing@alixpartners.com* (reference "ASARCO" in the subject line). You may also obtain additional information on the Debtors' restructuring website: *www.asarcoreorg.com*.

I. DO I NEED TO VOTE ON BOTH THE DEBTORS' PLAN AND THE PARENT'S PLAN?

The Bankruptcy Court has approved the disclosure statements for both the Debtors' plan and the Parent's plan. As explained in the instructions accompanying your Ballot, the Ballots permit votes to accept or reject one or both of these plans, and to express a preference between the two plans. While votes on each plan will be tallied, the Parent does not believe that voting on its plan is required.

If you have any questions about the procedures for voting on the Plan, you should contact your attorney or the Balloting Agent.

For detailed voting instructions, see the instructions accompanying your Ballot. Please read and follow the instructions closely to ensure that your vote is counted.

OVERVIEW OF THE PROPOSED PLAN

The following is a brief summary of certain material provisions of the Plan. By necessity, this summary is incomplete and is qualified in its entirety by reference to the more detailed information appearing elsewhere in this Disclosure Statement, the attached exhibits, and the Plan and the exhibits thereto, as amended from time to time. Please read the entire Disclosure Statement carefully before deciding how to vote because your rights may be affected by implementation of the Plan.

If approved, the Plan will implement a reorganization that will address the Debtors' liabilities, including environmental and asbestos-related liabilities, in a comprehensive and complete manner.

The Debtors have sought to formulate a plan of reorganization that is fair and equitable to all parties in interest, while allowing the Debtors to restructure and channel all unsecured asbestos-related Claims and Demands against the Debtors to a trust. The Debtors believe that these objectives have been met, and that the Plan provides for the maximum recoveries to, and expeditious and equitable treatment of, all holders of Claims and Interests.

The Plan provides for ASARCO to sell substantially all of its tangible and intangible operating assets to Sterlite (USA), Inc.[1] The majority of the proceeds from such sale, together with Distributable Cash and Subsequent Distributions, shall be paid to holders of Allowed Claims largely in accordance with the priorities established by the Bankruptcy Code, as follows:

- Administrative Claims, Priority Tax Claims and Priority Claims shall be paid in full, with post-petition interest as applicable
- Secured Claims, at the applicable Debtor's option, shall be either paid in full with post-petition interest or reinstated

All remaining Available Plan Funds shall be paid in accordance with the following priorities:

- First, the Allowed Amount (without post-petition interest) of all timely-filed, non-priority Unsecured Claims (except for Unsecured Asbestos Personal Injury Claims and certain environmental claims of the federal government and the State of Washington which are classified under the Plan as Class 9 Residual Environmental Claims) shall be paid in full (or shall receive pro rata payments to the extent of available funds, in the event that such Claims cannot be paid in full)~~, and the Litigation Trust shall have subrogation rights pursuant to Article 6.8(b) of the Plan to the extent any Litigation Proceeds are paid to satisfy these Claims~~
- Second, the Asbestos Trust and Residual Environmental Claims shall be paid ~~up to~~ $750 million each (with the payment to the Asbestos Trust subject to a credit for any outstanding amounts due to ASARCO under the Secured Intercompany DIP Credit Facility)
- Third, all other timely-filed, non-priority unsecured claims (except for Unsecured Asbestos Personal Injury Claims and Residual Environmental Claims) shall receive post-petition interest at the federal judgment rate, and the Litigation Trust shall have subrogation rights pursuant to Article 6.8~~(c)~~ of the Plan to the extent any Litigation Proceeds are paid to satisfy these Claims
- Fourth, the Asbestos Trust and the Residual Environmental Claims shall receive a supplemental distribution of ~~up to~~ $102 million each

[1] Background information regarding Sterlite (and provided in its entirety by Sterlite) is attached hereto as **Exhibit N**.

- Fifth, the principal amount of any Allowed Late-Filed Claims shall be paid, with post-petition interest at the federal judgment rate

- Sixth, the principal amount of any Allowed Subordinated Claims shall be paid, with post-petition interest at the federal judgment rate

- Finally, any remaining funds shall be paid to the Parent.

An Asbestos Trust shall be established for the benefit of Unsecured Asbestos Personal Injury Claims and Demands. The ASARCO Protected Parties shall be protected from all direct and indirect Asbestos Personal Injury Claims and Demands by a channeling injunction pursuant to section 524(g) of the Bankruptcy Code, which shall channel these Claims and Demands to the Asbestos Trust.

The Asbestos Trust (on behalf of the Unsecured Asbestos Personal Injury Claims and Demands) shall receive 50 percent of the interests in a Litigation Trust, and holders of the Residual Environmental Claims shall receive the remaining 50 percent of the Litigation Trust Interests. The holders of Unsecured Asbestos Personal Injury Claims and Residual Environmental Claims have agreed that **if the Class 5 and Class 9 Primary Payment has been satisfied,** Litigation Proceeds attributable to their Litigation Trust Interests (net of the Litigation Trust's costs and expenses not paid by the Litigation Expense Fund) may first be paid to the holders of timely-filed, non-priority Unsecured Claims until such Claims are paid in full (from a combination of Available Plan Funds and Litigation Proceeds). The next $100 million of the Litigation Proceeds shall be paid to the Asbestos Trust. Then the Asbestos Trust, on the one hand, and the holders of Residual Environmental Claims, on the other hand, shall each receive 50 percent of the remaining Litigation Proceeds.

Certain owned and non-operating properties shall be transferred to Environmental Custodial Trusts for remediation and restoration and the Estates shall receive covenants not to sue.

Reorganized ASARCO and the Plan Administrator shall make distributions pursuant to the Plan, prosecute objections to Claims, and supervise the liquidation of the Remaining Assets.

One of ASARCO's subsidiary debtors, Covington Land Company, shall reorganize and own certain income-producing property. The Asbestos Trust shall own 100 percent of the interests in Reorganized Covington.

The Plan provides for the Subsidiary Debtors other than Covington to be substantively consolidated with and into ASARCO. Alternatively, the Debtors reserve the right to consolidate those debtors into ASARCO pursuant to section 1123(a)(5)(C) of the Bankruptcy Code, in which case, votes on the Plan shall be counted on a Debtor-by-Debtor basis. As a third alternative, the Debtors reserve the right to proceed with the Plan as to only ASARCO, Covington, ASARCO Master, and the Asbestos Subsidiary Debtors, with the Other Subsidiary Debtors (other than Covington and ASARCO Master) hereafter by filing one or more separate plans under chapter 11 of the Bankruptcy Code or converting their cases to liquidation cases under chapter 7 of the Bankruptcy Code.

The Plan Administrator shall hold all of the interests in Reorganized ASARCO, and shall manage its business operations.

Integral parts of the Plan are the discharge, Injunctions, and releases set forth in Article XII thereof.

Summary Description of Classes and Distributions to Holders of Claims and Interests

The classification of Claims and Interests, the estimated aggregate amount of Claims in each Class and the amount and nature of distributions to holders of Claims or Interests in each Class are summarized in the table below. **Please read Section 3 of this Disclosure Statement and Article III of the Plan for more detailed and complete information.**

In formulating the Estimated Recovery set forth in the charts below, the Debtors made a projection of Cash anticipated to be on hand at the end of the year from operations and other sources, added the Cash expected from the Plan Sponsor, and considered projected uses of Cash between now and the end of the year. The Debtors also estimated the aggregate amount of Claims in each of the Classes as set forth below.

Although no assurances can be given, the Debtors believe that Classes 3, 4, 6, 7, and 8 could receive a 100 percent recovery on the principal amount of their Claims. The Debtors also believe that Classes 5 and 9 will **each** receive $750 million under the Plan, although, under a conservative estimate, these Classes would receive ~~at least 95~~**between 83 percent and 89** percent of $750 million each; in either case, these Classes would also receive Litigation Trust Interests and other consideration. These distribution percentages are based on many assumptions and estimates, and actual results could be significantly higher or lower for a number of reasons. For example, Cash at the end of the year is dependent upon copper prices which have been, and continue to be, volatile. ~~[~~The Debtors have not been able to fully review the Claims that have been filed in response to the Initial Administrative Claims Bar Date of September 19, 2008.~~]~~ The estimates developed for the Claims could vary significantly from the amounts for which those Claims settle or are actually Allowed by the Bankruptcy Court. Substantial disputes exist between the Debtors and the Bondholders as to both the appropriate rate of post-petition interest to be paid on Bondholders' Claims and whether the Bondholders are entitled to a "make-whole premium" that those Bondholders assert could total an amount in excess of $100 million.

Unclassified Claims

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Priority Tax Claims have not been classified. For a discussion of certain additional matters related to Administrative Claims and Priority Tax Claims, see Section 3.3(a) and (b) hereof.

Description and Estimate of Claims	Description of Distributions or Treatment Under the Plan	Estimated Aggregate Amount of Allowed or Asserted Claims	Estimated Recovery
Administrative Claims	Shall generally receive the Allowed Amount of such holder's Claim, in Cash on the Effective Date (except as otherwise provided in the Plan)	$937 to $950 million	100%
Priority Tax Claims	Shall be Paid in Full on the Effective Date	$5 to $6 million	100%

Demands and Classified Claims and Interests

Description and Estimate of Claims and Demands	Description of Distributions or Treatment Under the Plan	Status/ Entitled to Vote	Estimated Aggregate Amount of Allowed or Asserted Claims or Demands	Estimated Recovery
Class 1 – Priority Claims	Shall be Paid in Full on the Effective Date or, if later, the date or dates on which a Priority Claim becomes due in the ordinary course	**Unimpaired** Deemed to Accept the Plan Not Entitled to Vote	De Minimis	100%
Class 2 – Secured Claims	Shall, at the election of the Debtors, either (a) be Paid in Full, on the later of the Effective Date or the date or dates such Secured Claim becomes due in the ordinary course or (b) be Reinstated on the Effective Date	**Will Vote, But Only the Votes of Claimants Whose Claims Shall Be Reinstated Will Be Counted**	$28 to $33 million	100%
Class 3 – Trade and General Unsecured	Shall be paid in Cash (a) the Allowed Amount of such holder's Claim or a pro rata share of	**Impaired**	$281 to $440 million	100%

Description and Estimate of Claims and Demands	Description of Distributions or Treatment Under the Plan	Status/ Entitled to Vote	Estimated Aggregate Amount of Allowed or Asserted Claims or Demands	Estimated Recovery
Claims	available funds, and (b) to the extent of any funds remaining after the payment of $750 million each to the Asbestos Trust and the Class 9 Residual Environmental Claims, post-petition interest at the federal judgment rate	Entitled to vote		
Class 4 – Bondholders' Claims	Shall be paid in Cash (a) the Allowed Amount of such holder's Claim or a pro rata share of available funds, and (b) to the extent of any funds remaining after the payment of $750 million each to the Asbestos Trust and the Class 9 Residual Environmental Claims, post-petition interest at the federal judgment rate	**Impaired** Entitled to vote	$448 to $553 million	100%
Demands and Class 5 – Unsecured Asbestos Personal Injury Claim	Shall be channeled to the Asbestos Trust, and processed, liquidated, and paid pursuant to the terms and provisions of the Asbestos TDP and the Asbestos Trust Agreement The Asbestos Trust shall receive (a) up to $750 million (to the extent of available funds after the Allowed Amount of Claims in Classes 3, 4, 6, 7, and 8 is fully paid); (b) up to $102 million (to the extent of any remaining funds after Classes 3, 4, 6, 7, and 8 are paid post-petition interest at the federal judgment rate); (c) half of the Litigation Trust Interests, and the right to the first $100 million of the Litigation Proceeds distributed with respect to the Litigation Trust Interests, subject to the right of Class 3, 4, 6, 7, and 8 Claims to receive Litigation Proceeds if needed for ~~their Claims to be Paid in Full~~**the Pro Rata Post-Petition Interest Payment to be fully paid**; (d) the Asbestos Insurance Recoveries; and (e) 100 percent of the interests in Reorganized Covington	**Impaired** Entitled to vote	Asserted to be more than $1.3 billion to $2.1 billion	$750 million plus Litigation Trust Interests and other consideration
Class 6 – Toxic Tort Claims	Shall be paid in Cash (a) the Allowed Amount of such holder's Claim or a pro rata share of available funds, and (b) to the extent of any funds remaining after the payment of $750 million each to the Asbestos Trust and the Class 9 Residual Environmental Claims, post-petition interest at the federal judgment rate	**Impaired** Entitled to vote	$56 to $69 million	100%
Class 7 – Previously Settled Environmental Claims	Shall be paid in Cash (a) the Allowed Amount of such holder's Claim or a pro rata share of available funds, and (b) to the extent of any funds remaining after the payment of $750 million each to the Asbestos Trust and the	**Impaired** Entitled to vote	$512.5 million	100%

Description and Estimate of Claims and Demands	Description of Distributions or Treatment Under the Plan	Status/ Entitled to Vote	Estimated Aggregate Amount of Allowed or Asserted Claims or Demands	Estimated Recovery
	Class 9 Residual Environmental Claims, post-petition interest at the federal judgment rate			
Class 8 – Miscellaneous Federal and State Environmental Claims	Shall be paid in Cash (a) the Allowed Amount of such holder's Claim or a pro rata share of available funds, and (b) to the extent of any funds remaining after the payment of $750 million each to the Asbestos Trust and the Class 9 Residual Environmental Claims, post-petition interest at the federal judgment rate	**Impaired** Entitled to vote	$103 million	100%
Class 9 – Residual Environmental Claims	Shall be paid (a) up to $750 million (to the extent of available funds after the Allowed Amount of Claims in Classes 3, 4, 6, 7, and 8 is fully paid); (b) up to $102 million (to the extent of any remaining funds after Classes 3, 4, 6, 7, and 8 are paid post-petition interest at the federal judgment rate); and (c) half of the Litigation Trust Interests, subject to subject to the right of Class 3, 4, 6, 7, and 8 Claims to receive Litigation Proceeds if needed for ~~their Claims to be Paid in Full~~**the Pro Rata Post-Petition Interest Payment to be fully paid** and the Asbestos Trust's right to the first $100 million of the Litigation Proceeds distributed with respect to the Litigation Trust Interests	**Impaired** Entitled to vote	Asserted to be $1.130 billion to $3.1 billion	$750 million plus Litigation Trust Interests
Class 10 – Late-Filed Claims	To the extent of funds remaining after Class 9 Residual Environmental Claims (in the aggregate) and the Asbestos Trust have each been paid **the Class 5 and Class 9 Supplemental Distribution of** $102 million, shall first be paid the Allowed Amount of such holder's Claim, and then post-petition interest at the federal judgment rate	**Impaired** Entitled to vote	$10 to $26 million	0%
Class 11 – Subordinated Claims	To the extent of funds remaining after Class 10 Late-Filed Claims have been Paid in Full, shall first be paid the Allowed Amount of such holder's Claim, and then post-petition interest at the federal judgment rate	**Impaired** Entitled to vote	TBD	0%
Class 12 – Interests in ASARCO	Cancelled and shall receive any available funds remaining after Class 11 Subordinated Claims have been Paid in Full	**Impaired** Entitled to Vote	N/A	0%
Class 13 – Interests in Asbestos Subsidiary	Cancelled and shall not receive or retain any property under the Plan on account of such	**Impaired** Deemed to reject the	N/A	0%

Description and Estimate of Claims and Demands	Description of Distributions or Treatment Under the Plan	Status/ Entitled to Vote	Estimated Aggregate Amount of Allowed or Asserted Claims or Demands	Estimated Recovery
Debtors	Interests	Plan Not Entitled to Vote		
Class 14 – Interests in Other Subsidiary Debtors	Cancelled and shall not receive or retain any property under the Plan on account of such Interests	**Impaired** Deemed to reject the Plan Not Entitled to Vote	N/A	0%

SECTION 1
GENERAL INFORMATION AND HISTORICAL BACKGROUND

1.1 History and Business Activities of the Debtors.

A brief description of the history and business of the Debtors is set forth below, and a list of some of the prior names used by the Debtors and entities merged into the Debtors throughout their corporate existence, as well as some of their predecessors' names, is set forth in **Exhibit G** hereto. The organizational structure of the Debtors and certain related entities, as it currently exists, is set forth in **Exhibit H** hereto.

(a) Business Overview.

ASARCO is the third largest producer of copper in the United States, based on 2006 production. ASARCO's main business is the mining and processing of copper ore into copper cathode, rod and cake, and the refining and sale of precious metals (silver and gold) and other by-products (molybdenum, selenium, tellurium and nickel). ASARCO owns and operates three open-pit copper mines in Arizona (the Mission mine, the Ray mine and the 75 percent owned Silver Bell mine), a copper smelter in Hayden, Arizona, and a copper refinery, rod and cake plants, and precious metals plant in Amarillo, Texas.

ASARCO, originally organized in 1899 as American Smelting and Refining Company, has operated for over 108 years. Initially, it was a holding company for diverse smelting, refining, and mining operations throughout the United States and now operates as a Tucson-based fully integrated copper mining, smelting, and refining company.

(b) ASARCO's Current Operating Sites and Facilities.

As detailed in Section 2.28 below, substantially all of the Debtors' operating assets are being sold under the Plan to the Plan Sponsor. Those assets can be generally described as follows:

(1) Mission Complex.

The Mission Complex consists of an open-pit mine, two concentrators, a molybdenum line, a warehouse, and maintenance and administration facilities. It is located in Sahuarita, Arizona, 18 miles south of Tucson, Arizona, in Pima County. The principal products produced at the Mission Complex are a concentrate containing copper and silver and a molybdenum concentrate. Copper concentrates produced at the Mission concentrators are shipped to the ASARCO Hayden smelter for conversion into copper anodes. Molybdenum concentrates are sold to an unaffiliated company to be refined into a final molybdenum product.

The Mission open pit and mill began producing in 1961. ASARCO expanded the Mission operation into what is today known as the Mission Complex through discovery of new ore zones, acquisitions of additional properties, and mill expansions. ASARCO discovered the San Xavier South and San Xavier North ore bodies, both of which lie in part in the San Xavier District portion of the Tohono O'odham Indian Reservation, subsequent to the startup of the original Mission concentrator. ASARCO acquired the Pima open pit mine and mill from Cyprus Minerals in 1985, and the Eisenhower Property from Anamax Mining Company in 1987. The original Mission pit, the Pima pit, the Eisenhower property, and the San Xavier South pit all form one large pit today. Mining ended at the San Xavier North pit in 2001, with the exhaustion of the known economic ore.

ASARCO operates two mill plants at the Mission Complex, the North Mill and the South Mill. The North Mill began operation in 1961 and was expanded and modernized in 1967, 1987, 1993, 1995, and 1999. The South Mill was originally the Pima mine concentrator, which ASARCO converted into a stand-alone mill. The refurbishment and new construction of the South Mill took place in 1991. After being placed on care and maintenance status in 2001, ASARCO recommenced operations in September 2007.

During 2006, ASARCO spent $750,000 for refurbishment and start up of the molybdenum plant to process and produce molybdenum when it is encountered in the mine. The molybdenum line started operations in January 2007.

(2) Ray Complex.

The Ray Complex is located in eastern Pinal County and western Gila County, Arizona, southeast of Phoenix. ASARCO and its predecessor companies have been mining and smelting at the Ray Complex for almost 100 years. The transition from underground to open pit mining was completed in the 1950's. The Ray Complex produces copper cathode and copper concentrate.

The present ASARCO smelter began operations in 1983. In November 1986, ASARCO acquired the Ray mines division of Kennecott Copper Corporation. In 1992, the new Ray concentrator began operations.

Property at the Ray Complex is situated in two principal locations. The Ray operations include the mine, the Ray concentrator, and the solvent extraction electrowinning plant, which are located about 82 miles southeast of Phoenix, near Kearney, Arizona. The Hayden operations include the Hayden concentrator, the copper smelter, and the administration building. The Hayden operations are about 100 miles southeast of Phoenix at Hayden, Arizona.

There is a rail link between the Ray and Hayden operations, owned and operated by ASARCO's wholly-owned subsidiary Copper Basin Railway, Inc.

(3) Hayden Smelter.

The Hayden smelter is located in Hayden, Arizona, approximately 18 miles east of the Ray operations and 70 miles northeast of Tucson, Arizona. The smelter consists of an oxygen flash furnace, converters, anode casting, an oxygen plant, an acid plant, and associated maintenance, warehouse, and administrative facilities.

The Hayden smelter is situated on a 200-acre site in Gila County, Arizona. Construction of the original Hayden smelter began in 1911, and was completed in 1912. It was built to smelt the copper ores of what was then Kennecott Copper Corporation's Ray mine.

Operations at the smelter began in 1912. In 1980, in order to satisfy emission limits for smelters negotiated with the EPA, improve air quality in the area, and maximize copper production at reasonable costs, ASARCO implemented a $133 million capital improvement project for the smelter. The project included the installation of an INCO flash furnace, an oxygen plant, a water treatment plant, a double-contact acid plant, and modifications to various existing facilities.

The Hayden smelter processes concentrates and precipitates produced by mines other than Ray and Mission as well as concentrates produced from Ray and Mission ores.

ASARCO learned in late July 2007 that the EPA was considering placing the Hayden plant site and surrounding residential areas on the Superfund National Priorities List. The EPA requested the State of Arizona's views

regarding this proposal. The Governor of Arizona believed it was premature to list the site on the National Priorities List at that point and asked that the EPA, the State of Arizona and ASARCO enter into negotiations to address environmental conditions at the Hayden site without resorting to such a listing. The parties participated in extensive negotiations regarding the scope of actions to be taken at the Hayden site, which resulted in an agreement regarding cleanup of the site. Pursuant thereto, ASARCO has begun work on certain residential yards that the EPA deems to be a high priority, using funds from the Prepetition ASARCO Environmental Trust. A motion seeking approval of the agreement was filed on May 1, 2008, and was approved by the Bankruptcy Court by order entered on May 27, 2008.

As required to secure its obligations under the approved settlement agreement, ASARCO established and funded a $15 million trust on July 3, 2008. The funds in the Hayden site trust are to be used to pay for required cleanup of the residential areas surrounding the smelter, to pay for additional investigative work at the Hayden site to identify releases of hazardous substances, and, if releases requiring remediation are found at the Hayden smelter site and are not otherwise being addressed under any other regulatory program, to pay for such cleanup. Under the settlement agreement, ASARCO's liability for cleanup of the residential areas is limited to $13.5 million (with no credit for prior expenditures funded by the Prepetition ASARCO Environmental Trust). While there is no cap on ASARCO's liability for the cost of the required investigation activities or any on-site remediation that may result from the investigation, the funds in the Hayden site trust are believed to be adequate to cover such costs.

(4) Silver Bell Mine.

The Silver Bell mine is one of the oldest ASARCO properties in Arizona, and produces copper cathode. Silver Bell also operates a solvent extraction plant, tank house, warehouse, and administrative and maintenance areas. In 1996, ASARCO formed Silver Bell Mining, LLC, a limited liability company owned 75 percent by ASARCO's wholly-owned subsidiary AR Silver Bell, Inc. and 25 percent by wholly-owned subsidiaries of Mitsui & Co. (USA), Inc. and Mitsui & Co., Ltd.

The Silver Bell mine is located approximately 45 miles northwest of Tucson in Pima County, Arizona. Although ASARCO had completed the purchase of most consolidated mining companies in the area by 1915, geologists did not begin to reevaluate the mineral properties in the area until 1946. Stripping for the open pit mine began in 1951, but mine and mill operations were suspended in 1984 due to low copper prices.

Leach operations continued, however, and in 1978 a feasibility study was undertaken to build a cathode solvent extraction electrowinning plant that would replace the copper precipitation plant. In 1990, a rubble leaching evaluation was completed. Construction of the solvent extraction electrowinning plant began in May 1996. The plant started production in July 1997.

Silver Bell operates four open pit mines: North Silver Bell, El Tiro, West Oxide, and Oxide. El Tiro and Oxide were sources of sulfide ore for the former milling operation. The North Silver Bell pit was developed specifically for the Silver Bell solvent extraction electrowinning operation. Silver Bell currently operates a solvent extraction plant, tank house, warehouse, and administrative and maintenance areas in addition to the four open pits.

Milling of sulfide ores from the Oxide and El Tiro open pit mines ended in 1984. Concurrent with milling operations, copper was recovered by dump leaching of run-of-mine waste and precipitating copper cement into launders. The cement copper was then shipped to ASARCO smelters.

Production of copper precipitates by leaching of the existing dumps continued until 1997, when Silver Bell commenced production of electrowon copper cathodes in a new solvent extraction electrowinning plant.

(5) Amarillo Copper Refinery.

The Amarillo, Texas copper refinery is one of the largest copper refineries in the world. The copper refinery was constructed in 1974 and began operations the following year. An electrolyte purification facility was installed in 1993, improving the quality of refined production. Primarily, the Amarillo refinery produces copper cathode, rod, cake, silver bars, gold bars, crude nickel sulfate, selenium, tellurium, platinum-sponge, and Enviroalloy™.

The refinery is located nine miles northeast of Amarillo. The plant consists of an anode department, a tank house, refined casting departments, precious metals refinery, a copper scrap facility, a precious metals scrap handling facility,

a nickel plant, a selenium/tellurium plant, and support facilities. The facility sits on 250 acres, and the tank house itself is one-half mile in length.

The copper refinery was constructed in 1973-1974, and was commissioned at the end of 1975. In 1979, the patented Reatrol process (Reagent Control) increased production efficiency, enabling the plant to exceed design capacity. An electrolyte purification facility was installed in 1993, improving the quality of refined production.

The Amarillo operation produces refined copper cathode, rod, cake, silver bars, gold bars, crude nickel sulfate, selenium, tellurium, platinum-sponge, palladium-sponge, and Enviroalloy™.

The plant site is surrounded by 3,000 acres of ASARCO-owned land that is leased to third parties for farming and grazing.

(6) Corporate Offices.

Prior to 2008, ASARCO's corporate employees were spread out across three sites in Tucson, Arizona and one site in Phoenix, Arizona. To increase the Debtor's efficiency, provide for more effective management, and reduce costs, ASARCO sought authority to consolidate its Phoenix corporate office with its Tucson corporate headquarters. ASARCO also sought approval to enter into a new lease of nonresidential real property in Tucson, with premises large enough to accommodate the relocating Phoenix employees and all Tucson employees in one location. The request was approved by order entered on February 7, 2008. ASARCO entered into an office lease with WC Partners effective February 1, 2008, for the location of the Tucson corporate headquarters. ASARCO took possession of the leased premises in April 2008.

On April 16, 2008, ASARCO filed a motion for authority to reject the lease of its Phoenix corporate office. Rejection of the lease and relocation of its employees who were working out of the Phoenix office to the Tucson corporate headquarters was a substantial and necessary step towards the much-needed consolidation process. By order entered on May 7, 2008, the Bankruptcy Court approved the rejection of the lease effective as of April 30, 2008, and set June 30, 2008 as the deadline for the landlord under the lease, and June 6, 2008 as the deadline for any other Person, to file a Claim, if any, arising from the relief requested in the rejection motion.

(c) Copper Basin Railway.

In September 2006, ASARCO bought out Rail Partners Limited Partnership, its 55 percent majority partner in Copper Basin Railway, Inc., for $11.5 million. *See* Section 2.10(c) below for further discussion of this purchase. ASARCO now owns 100 percent of Copper Basin Railway, Inc.

Copper Basin Railway, Inc. was formed in 1986 when Rail Management Company purchased Southern Pacific Railroad's Hayden Branch extending from Magma to Hayden, Arizona. Soon afterward, Rail Management also acquired Kennecott Copper Corporation's private railways at Ray (adjacent to the Ray mine) and Hayden. Today, the railway comprises approximately 75 miles of track joined from what was once three separate operations. Along the track are three tunnels and several steel bridges. The railway has a total of 16 locomotives.

Located in the southern Arizona desert, the railway is a Class III short line freight railroad that primarily serves ASARCO's copper mining operations at the Ray mine. The railroad is used to haul ore from the Ray mine to the Hayden mill, to haul concentrate from the Ray mill to the Hayden smelter, and to haul acid from the Hayden smelter to the Ray mine for heap and dump leaching, and for other purposes. It ties into the Southern Pacific Railroad at Magma Junction near Florence, Arizona. Supplies are received by rail, as are concentrates from other mines that are shipped to the Hayden smelter for custom smelting. Copper anodes produced at the Hayden smelter are shipped by rail and truck to ASARCO's Amarillo copper refinery. Throughout its history, the railway has hauled a variety of goods, and while the majority of its cargo is mining-related, it occasionally carries vehicles for use in military exercises near the town of Florence, Arizona.

(d) Other Assets.

The sale to the Plan Sponsor does not include, among other sites, the El Paso smelter, the Globe, Colorado facility, the East Helena, Montana facility, the AR Sacaton site, or the Perth Amboy, New Jersey site. Those assets, which are described below, shall be transferred to Environmental Custodial Trusts under the Plan unless ASARCO reaches an agreement with the concurrence of the governments for the sale of those assets prior to the Effective Date. As noted below, the Globe facility is the subject of a pending sales agreement.

(1) El Paso Smelter.

ASARCO's El Paso, Texas smelter began operations as a lead smelter in 1887. The smelter operated continuously until 1999, and saw numerous expansions during its history to allow for the production of zinc, antimony, arsenic, sulfuric acid, and copper. The facility has been dedicated to copper smelting and sulfuric acid production since 1985.

ASARCO suspended the El Paso operations in 1999, and the plant was placed on standby status. The smelter is the only idle but operational copper smelter in the United States. During cessation of operations, ASARCO's on-site staff continues to perform routine maintenance duties to maintain plant readiness. In anticipation of resuming operations, the El Paso facility applied for the renewal of the smelter's air quality permit in 2002. The TCEQ renewed the permit in February 2008. The permit renewal is subject to ASARCO's completion of certain maintenance and refurbishment to the smelter's air pollution control equipment as recommended by the Executive Director of the TCEQ. ASARCO has begun the required maintenance and repair work.

The City of El Paso and other groups have appealed the TCEQ's renewal of the air quality permit to the District Court of Travis County, Texas, where it is currently pending. In March 2008, the City of El Paso and the State of New Mexico filed a petition for revocation of the air quality permit with the TCEQ where it is currently pending. The Bankruptcy Court ruled that the automatic stay of section 362 of the Bankruptcy Code does not apply to the filing and pursuit of the petition for revocation, and the court lifted the stay to the extent it applies.

The State of Texas issued an Agreed Order in 1996 requiring ASARCO to implement corrective actions for the environmental impact resulting from the handling and disposal of solid waste. Also, an EPA RCRA Consent Decree issued in 1999 required an additional supplemental environmental project to further protect human health and environment.

Beginning in 1996, and throughout the suspended operations and permit renewal period, ASARCO has continued to actively comply with the requirements of the Agreed Order by implementing corrective measures to protect groundwater. To date, ASARCO has constructed a site-wide stormwater collection and reclaim system; constructed on-site landfill cells and encapsulated over 75 percent of impacted surface soils; and constructed 60 percent of the low-permeable asphalt cap on unpaved on-plant areas.

In addition, the investigation and characterization of the groundwater impact has been completed and the final design and construction for a pump and treat network in conjunction with a slurry wall containment system is scheduled for 2008. The remaining 25 percent of the surface soil encapsulation is also scheduled for completion in 2008.

(2) Globe.

The Globe, Colorado facility was acquired by ASARCO's predecessor in 1899, and operated as a specialty metals producing facility until 2006. The plant initially produced lead but, in response to market demands, changed to the production of arsenic trioxide and cadmium. In the 1990's the facility converted operations to a high-purity metals plant refining and processing bismuth, litharge, antimony, high-purity copper, and other specialty products.

The Globe smelter ceased operations in 2006 as part of the business plan to sell the property and transfer the specialty metals operation to the Amarillo refinery. During cessation of operations, ASARCO's on-site staff continues to perform routine maintenance duties and operate the on-plant water treatment system.

In accordance with a Colorado Department of Health Compliance Order on Consent and a State of Colorado Consent Decree, ASARCO implemented an active groundwater recovery and treatment system, utilizing an on-plant water treatment facility.

The property is currently the subject of a proposed sale under section 363(f) of the Bankruptcy Code. A "stalking horse" buyer has been identified, and the sale of the property could occur in 2008. If this sale occurs, all environmental liabilities shall be transferred to the new owner, secured with insurance policies included as part of the sales agreement. A "Covenant Not To Sue" shall also be granted by the State of Colorado. *See* Section 2.11(b) below for additional information regarding the proposed sale of the Globe facility. The sale is conditioned upon the completion of a new consent decree or other enforceable agreement between the buyer and the State of Colorado, under which the buyer would assume responsibility for contamination/remediation only at the site and would provide financial assurance as required by the State.

(3) East Helena.

The lead smelter plant in East Helena, Montana was constructed in 1888, and was acquired by ASARCO's predecessor in 1899. The smelter accepted ores from the local area and then transitioned into a custom smelter, processing ores from a regional client base.

The smelter operated continuously from 1888 through 2000 with numerous improvements and technology upgrades: in 1927 a zinc plant was built, which operated until 1982; in 1966 an updraft sinter machine was constructed; in 1977 the Clean Air Act led to the construction of an acid plant; in 1990 the Ore Storage and Concentrate Handling Building was constructed; in 1992 and 1994 two water treatment facilities were built; in 1996 a new dross reverb furnace was built; and finally, pursuant to an agreement with ASARCO and the State of Montana, the construction of four supplemental environmental projects for ventilation and dust handling was completed by 1999.

The East Helena smelter suspended operations in 2001, and was placed on standby status. On-site personnel have continued to provide facility maintenance functions throughout the suspension period. Prior to its bankruptcy filing, ASARCO entered into Consent Decrees with the MDEQ and the EPA. The MDEQ Consent Decree expired on December 31, 2006. On October 2, 2007, ASARCO and the MDEQ entered into an Administrative Order on Consent, Docket No. HW-07-01, to continue ASARCO's cleaning and demolition program established under the 2005 Consent Decree. The Administrative Order on Consent requires ASARCO to develop and implement yearly work plans for the removal, storage, and proper disposal or recycling of all remaining hazardous waste and secondary material located in process units, pollution control devices, and storage units and other identified areas of the East Helena plant.

ASARCO has been implementing RCRA and CERCLA remedial actions since the late 1980's. The 1998 EPA Consent Decree required an evaluation of historic releases and environmental impacts. The first phase of the investigation resulted in corrective action mandates for disposal of demolition debris and the resulting exposed soils. ASARCO is investigating releases to soils, surface water and groundwater, and evaluating and installing source control measures to address these impacted areas and mitigate the further migration of released contamination. Soil remedial actions shall be implemented as the demolition (which is substantially completed) proceeds in compliance with the EPA Consent Decree.

Ongoing monitoring and investigations confirm the existence of an impacted groundwater plume extending off-property into residential neighborhoods. The extent of the corrective action required for the groundwater has not been completely identified or planned with the regulatory agencies.

ASARCO is subject to a criminal investigation relating to prepetition conduct at the East Helena plant. Two grand jury subpoenas have been issued, and ASARCO is responding to them. ASARCO has been advised by the United States Attorney's office that they intend to proceed with presenting possible criminal charges to the grand jury associated with the East Helena plant. ASARCO is in settlement discussions with the United States Attorney to resolve these possible charges.

(4) AR Sacaton Site.

This site, located in Pinal County, Arizona, is owned by AR Sacaton, a wholly-owned subsidiary of ASARCO, and is currently utilized as a record storage facility for ASARCO's historical records. The site consists of nearly 2,020 acres, including a well field and a number of metal buildings that were built in 1972.

In the early 1960's ASARCO discovered a moderate-sized copper deposit northwest of Casa Grande, Arizona. The construction of the copper concentrator was completed and milling commenced in 1974 and continued until 1984 when economic open pit mine reserves were exhausted. At the time of closing in 1984, Sacaton had an underground reserve of 16.5 million tons at 1.25 percent copper. In addition, there is also a probable resource of 46 million tons at 0.98 percent copper as stated with a moderate degree of confidence.

A smaller underground copper reserve was targeted adjacent to and northwest of the open pit mine. Another site, called Park/Salyer, is located to the southwest. Both mineral deposits contain high grade copper based on historical geological summary reports, but any additional mining opportunities at the site are totally dependent on the success of the recovery of 1,023 acres of land, a portion of which includes the deposits mentioned above, transferred initially to AMC in 2004 for $5 million to raise cash to pay past due operating expenses of ASARCO. As discussed in Section 2.24(g) below, AR Sacaton and ASARCO have jointly sued AMC and the current owner to recover the properties transferred as

constructively fraudulent transfers under the bankruptcy laws. If the transferred properties are recovered, the possibility of realizing value for the undeveloped minerals at the site is enhanced.

There are no on-going corrective action activities at the site, and no remedial investigation or remedial actions are being considered at this time. The ADEQ filed a Proof of Claim against ASARCO (as a former operator of the Sacaton site), a portion of which asserts liability relating to the Sacaton site. In informal discussions with the ADEQ regarding its claim, the ADEQ has suggested that up to $40 million of its Claim should be apportioned to the Sacaton site.

(5) Perth Amboy.

ASARCO operated the Perth Amboy, New Jersey facility as a nonferrous metals refinery from 1894 through 1976. Following the transfer of the refining functions to the Amarillo Copper Refinery, the Perth Amboy site transitioned into an industrial/commercial warehouse facility.

The Perth Amboy site is a port facility located in an historical industrial area on the Arthur Kill Sound. The site occupies 70.5 acres including a waterfront pier, bulkhead, and 16 buildings. There are also several remaining mill and refining structures that are unused and not part of the 16 building warehouse complex.

The City of Perth Amboy declared the site a "redevelopment zone" in 1997, and has evaluated the potential to include the site in the City's comprehensive long-range development plan. **The City has selected a designated redeveloper known by the acronym PA-PDC.**

Currently there are 17 leases on-site, which utilize 44 percent of the total available warehouse space and create a gross annual cash flow of approximately $1 million.

There are no on-going corrective actions. However, ASARCO is performing groundwater investigations and evaluating remedial options for hydrocarbon and metal impacts in response to requirements by the New Jersey Department of Environmental Protection. The full extent of required remedial action has not been identified.

At least five Business Days prior to the date that PA-PDC is required to file an objection to the Plan or vote on the Plan, ASARCO will provide PA-PDC with any available information regarding whether it intends to sell the Perth Amboy property or transfer it to an Environmental Custodial Trust, and provide any available details concerning such sale or transfer.

(6) Miscellaneous Assets.

ASARCO holds various non-core assets that it has accumulated over its history and that will remain with Reorganized ASARCO after the Effective Date. ASARCO estimates that the current aggregate value of these assets is less than $50 million. These assets include a promissory note from AMC, on which a payment of approximately $20 million is due in October 2009. Other assets within this category include marketable securities in other companies, various life insurance policies and settlements, and a royalty stream from ASARCO's 2006 sale of coal rights in Sebastian County, Arkansas (as noted in Section 2.11(a) below).

(e) Subsidiary Debtors.

The Subsidiary Debtors are direct or indirect wholly or majority-owned subsidiaries of ASARCO. Prior to 1986, LAQ was in the business of mining asbestos fiber from the Black Lake region of central Quebec, Canada, and CAPCO formerly manufactured various asbestos-containing cement pipe products. Many of the Subsidiary Debtors do not currently have any operations. ASARCO Master owns various tracts of real property, including a site in Houston, Texas that is on the Texas state superfund list. On August 28, 2008, the Debtors entered into an agreement whereby the Houston site and the environmental remediation obligations and liabilities associated with the site, as well as other obligations and risks associated with real property ownership, shall be transferred to ELT/ES for a payment by the Debtors to ELT/ES of $28.9 million. Concurrently, the Debtors entered into a settlement agreement with the State of Texas which, if the ELT/ES transaction closes, would relieve the Debtors from any further environmental liability for the Houston site. A motion seeking approval of both the liability transfer and settlement agreement was filed in the Bankruptcy Court on August 28, **2008, and approved by orders entered on September 22,** 2008.

1.2 Current Management of the Debtors.

(a) ASARCO.

ASARCO's current directors are Carlos Ruiz Sacristán (chairman of the board), Edward R. Caine, and H. Malcolm Lovett, Jr. As discussed in Section 2.7 below, since December 15, 2005, ASARCO has a three-member board of directors, with one director (Mr. Ruiz) appointed by ASARCO's indirect parent ASARCO Incorporated and two independent directors (Mr. Caine and Mr. Lovett). If either Mr. Caine or Mr. Lovett resigns or is otherwise unable to serve, a replacement director shall be selected by the remaining members of the board, subject to approval of the Bankruptcy Court. The Committees and the FCR shall have an opportunity to interview any such replacement director prior to the hearing on approval.

Subsequent to its appointment in December 2005, the board undertook an initiative to improve ASARCO's management and operations. Beginning in late 2005, it commenced a search for a new Chief Executive Officer and Chief Financial Officer. The board hired Alvarez & Marsal in April 2005 to supplement internal financial and operating staff and improve financial and accounting practices, and then hired a new Chief Financial Officer in July 2006. In 2006, the board revamped and expanded compensation and retention programs and then worked with existing management and creditor constituents to improve labor relations, develop an expanded capital expenditure program, and implement a revised mine plan in order to improve production levels and efficiencies.

ASARCO's current senior executive officers are:

Name	Title
Joseph F. Lapinsky	Chief Executive Officer and President
Donald B. Mills	Chief Financial Officer
Douglas E. McAllister	Executive Vice President, General Counsel, and Secretary
John B. George	Vice President, Administration
Gary A. Miller	Vice President, Commercial
Manuel E. Ramos Rada	Vice President, Metallurgical Operations
Thomas L. Aldrich	Vice President, Environmental Affairs
John D. Low, Jr.	Vice President, Mining Operations
Oscar Gonzalez Barron	Treasurer
Russell A. Smith	Controller

(b) The Subsidiary Debtors.

Attached hereto as **Exhibit O** is a list of the current officers and directors of the Subsidiary Debtors.

(c) Compensation and Benefits of Officers and Directors.

ASARCO's directors are paid $100,000 annually for their service as directors and are reimbursed their reasonable expenses, if any, of attendance at each meeting of the board of directors or such other actions as required of a director while serving in such capacity, including the reimbursement of all expenses incurred in performing due diligence or investigation of ASARCO. The by-laws provide that members of special or standing committees may be allowed like compensation for attending committee meetings. ASARCO's directors are also entitled to indemnification to the fullest extent provided under Delaware law and directors' and officers' insurance.

Mr. Lapinsky receives an annual base salary of $500,000, pursuant to a two-year employment agreement with an automatic one-year renewal term in the absence of advance notice of termination by either party, and an expiration date set one year after the effective date of a plan of reorganization, unless the parties agree to extend it for an additional year.

Mr. Lapinsky is eligible for an annual bonus of up to 75 percent of base salary, which is determined at the sole discretion of the board of directors and contingent upon his employment on January 1 following the performance year. He is also eligible for a one-time retention payment equal to 35 percent of his initial base salary, payable 50 percent on the effective date of a plan of reorganization and 50 percent three months after such effective date, contingent upon his employment on the date payment is due or upon termination due to death, disability or circumstances giving rise to severance eligibility as set forth below.

Additionally, Mr. Lapinsky is eligible to receive a success bonus equal to two times his initial base salary reduced by (1) the aggregate retention payment set forth above and (2) 15 percent, 30 percent, or 50 percent of his initial base salary depending on whether the effective date of a plan occurs after December 31, 2007 but before April 1, 2008, after March 31, 2008 but before July 1, 2008, or after June 30, 2008, respectively. The success bonus shall be payable three months after the effective date of a plan, contingent upon Mr. Lapinsky's employment on the date the payment is due or upon termination due to death, disability, or circumstances giving rise to severance eligibility as set forth below.

Mr. Lapinsky's employment agreement provides for severance in an amount equivalent to 24 months of Mr. Lapinsky's base salary as in effect at that time, provided that the severance benefits shall be limited such that the sum of the severance benefits, success bonus, and the retention payment shall not exceed three times the base salary. Severance shall be payable only if the employment relationship is either terminated by ASARCO other than for cause or disability, or by Mr. Lapinsky for good reason (as set forth in the agreement). In the event of such termination or resignation, Mr. Lapinsky also shall be entitled to life insurance, medical and long-term disability benefits on the same terms as provided immediately prior to such termination or resignation, for the greater of 12 months or the remainder term of the agreement. The severance obligations include a pro rata portion of the annual bonus based on target level and number of days of employment elapsed during the performance calendar year prior to termination or resignation.

Other benefits to be provided to Mr. Lapinsky under his employment agreement include the following: four weeks paid vacation each year; use of an automobile in accordance with company policy; reimbursement of travel expenses and living expenses for a limited period of time; reimbursement of reasonable and customary out-of-pocket expenses (including relocation expenses and up to $20,000 for all expenses incurred in connection with the negotiation and preparation of the employment agreement); and participation in ASARCO's benefit plans, consistent with the benefits afforded to other employees generally. Furthermore, on or prior to the effective date of a plan of reorganization, ASARCO shall obtain a standby irrevocable letter of credit in favor of Mr. Lapinsky and beneficiaries in an amount equal to the aggregate of the retention payment, the success bonus, and the severance and other applicable benefits. Mr. Lapinsky received a one-time "extraordinary performance bonus" in the amount of $85,000 in October 2007.

Additionally, Mr. Lapinsky shall be entitled to indemnification to the full extent available under Delaware law as an officer of ASARCO, in accordance with the LLC Agreement, and on the same terms afforded the current directors and Mr. McAllister during his tenure as interim chief executive officer. *See* Section 2.7 below for a description of Mr. McAllister's service as an officer of ASARCO.

Mr. McAllister receives an annual base salary of $250,000. He is entitled to indemnification, to the full extent provided under Delaware law, and to participate in ASARCO's salary, incentive, and employee retention and recruiting plan (which is discussed below in Section 2.16(d)).

Mr. Perrell receives from the Asbestos Subsidiary Debtors a monthly fee of $4,000 and any reasonable and necessary travel expenses incurred in the performance of services as officer and sole director of the Asbestos Subsidiary Debtors. ASARCO guarantees payment of this compensation. Mr. Perrell is also entitled to indemnification from the Asbestos Subsidiary Debtors.

1.3 Factors Leading to the Need for Bankruptcy Relief.

In 2005, ASARCO was suffering from the effects of a downturn in the copper market. Additionally, despite its efforts to negotiate new contracts with its labor unions, ASARCO was experiencing a labor strike at its copper-mining, smelting, and refining facilities. Furthermore, ASARCO was subject to substantial environmental claims and was burdened by Asbestos Personal Injury Claims pending against it and the Asbestos Subsidiary Debtors. ASARCO also had nearly $440 million in bond debt. As a result of the foregoing, ASARCO elected to seek protection under the bankruptcy laws for the benefit of all its creditors and stakeholders.

(a) Longstanding Insolvency.

In 1999, Grupo Mexico acquired ASARCO in a leveraged buyout. ASARCO was saddled with the debt from the transaction, including an $817 million loan from various banks. After paying down some of that debt by selling two of its non-mining subsidiaries, the company remained indebted on a $450 million revolving credit facility (in addition to the $440 million in bond debt). By late 2001, ASARCO also faced claims of trade creditors, asbestos claimants, and environmental claimants – all debts it was unable to pay as they became due. ASARCO monetized insurance policies, sold

valuable mining properties for surface value, and curtailed crucial operational stripping for want of funds. These desperate actions afforded the company little relief. At the end of fiscal 2003, ASARCO had a negative cash flow of $151.1 million.

In the midst of this financial crisis, in 2002 to 2003, Grupo Mexico decided that ASARCO should sell its most valuable asset, its controlling interest in SCC to AMC, another of Grupo Mexico's subsidiaries. The DOJ filed suit to block the transaction out of concern that ASARCO would be unable to pay the environmental obligations on which it was already in default, as well as substantial future claims. The government settled the suit, agreeing to dismiss its request that ASARCO be enjoined from proceeding with the sale and providing ASARCO a three-year limitation regarding enforcement of certain environmental claims in exchange for the restructuring of the terms of the proposed sale, including the addition of a $100 million promissory note assigned to an environmental trust. *See* Section 3.9(g) for further discussion of the Prepetition ASARCO Environmental Trust. In addition to funding the trust as part of the SCC transaction, AMC gave ASARCO $500 million in Cash and a note with a nominal value of $123 million and forgave intercompany debt of $41.75 million. ASARCO's officers at the time testified that the transaction gave the company no additional working capital. After the sale, ASARCO continued in crisis mode, unable to resume normal operations or catch up from years of operational neglect despite the substantial rise in copper prices.

In 2007, ASARCO filed suit against AMC alleging that the SCC sale was a fraudulent transfer. *See* Section 2.24(c) below.

The Parent asserts that the terms of the transaction were negotiated openly and transparently with the DOJ, and the price AMC paid for the SCC shares was agreed to by the DOJ, and found to be reasonably equivalent to the value of the shares by independent third party advisors and directors (including Ernst & Young Corporate Finance, as well as ASARCO's general counsel and independent directors). The Parent asserts that current and former ASARCO officers testified that after the transaction, they believed Grupo México and AMC were doing everything possible to keep ASARCO viable during what was a severe downturn in the copper industry.

The Debtors disagree with the Parent's conclusions and assert that Debtors' description of the above events are more accurately described in Section 2.24(c) of this Disclosure Statement.

(b) Environmental Obligations.

As a result of ASARCO's more than 100 years of operating history, ASARCO and certain of its non-operating subsidiaries are subject to actual and potential environmental remediation and reclamation obligations at numerous sites around the country. There are more than 100 sites spread over approximately 16 states, in which ASARCO or one of its subsidiaries is alleged to be responsible for environmental clean-up costs. ASARCO is a party to numerous consent decrees and lawsuits brought by federal and state governments and private parties as a result of its lead, zinc, cadmium, arsenic, and copper mining, smelting, and refining operations. The three-year limitation regarding enforcement of certain environmental claims of the federal government described above ended in early 2006, causing ASARCO to feel rising pressure from federal and state governments to meet increased remediation demands.

(c) Asbestos-Related Claims.

The Debtors' alleged asbestos liabilities relate primarily to historical operations of CAPCO and LAQ. Although LAQ has not milled asbestos since the late 1980's and CAPCO has not produced asbestos-containing products for over a decade, by the late 1990's, both CAPCO and LAQ had been named in thousands of asbestos lawsuits around the country. As a result of the massive asbestos litigation, five of ASARCO's non-operating subsidiaries filed the Asbestos Subsidiary Cases.

ASARCO was also named as a defendant in a large number of the asbestos actions against CAPCO and LAQ. ASARCO took the position that it had never directly mined, milled, manufactured, or sold asbestos or asbestos-containing products and therefore should have no liability for any materials or products mined, milled, manufactured, or sold by CAPCO or LAQ. Many of the asbestos claimants took a different position, arguing that ASARCO was liable for the materials or products mined, milled, manufactured, or sold by CAPCO or LAQ under various Alter Ego Theories. Although a limited number of the Claims (estimated at less than one percent of the total active asbestos-related claims filed as of the Petition Date) are based on direct theories of liability arising primarily from alleged exposure to asbestos at facilities owned or operated by ASARCO, the majority are derivative of Claims against CAPCO or LAQ.

(d) Labor-Related Issues.

Unionized workers, represented primarily by the USW, and certain other hourly paid employees representing nearly 1500 employees in total (about 70 percent of the workforce), went on strike beginning on July 2, 2005. The plants affected by the strike were ASARCO's refinery in Amarillo, Texas, its smelter in Hayden, Arizona, as well as ASARCO's Ray, Mission, and Silver Bell copper mines and associated mills. At the center of the strike were nine collective bargaining agreements. Eight of these agreements, covering about 750 workers at ASARCO's Mission and Silver Bell mines and its smelters in Hayden and Amarillo, had expired in 2004. The ninth contract, which expired on June 30, 2005, covered about 800 workers at the Ray mine. ASARCO used salaried employees and some temporary workers to operate these plants during the period of the strike.

Because it is a high cost producer in the copper industry, ASARCO sought to reduce costs, and a significant component of the company's cost structure was its labor costs. Since approximately June 2004, ASARCO had been negotiating new collective bargaining agreements and retiree benefits with union officials. During this period, ASARCO was owned and directed by the Parent. The Unions filed charges against ASARCO with the National Labor Relations Board, accusing it of failing to bargain in good faith. Thereafter, the Unions commenced a four-month strike.

(e) Bond Debt.

On the Petition Date, ASARCO had approximately $440 million in long-term bond debt, with maturities ranging from April 2013 to October 2033, as follows:

Bond	**Maturity**	**Face Value**
CSFB JP Morgan Sec Debentures at 7.875%	April 15, 2013	$100.00m
Nueces River Env Bond (IRB) Series 1998 A 5.60%	April 1, 2018	$22.20m
CSFB Corporate Debentures at 8.50%	May 1, 2025	$150.00m
Gila County - Installment Bond 5.55%	January 1, 2027	$71.90m
Lewis & Clark County Env Bond (IRB) 5.60%	January 1, 2027	$33.16m
Nueces River Env Bond (IRB) 5.60%	January 1, 2027	$27.74m
Lewis & Clark County Env Bond (IRB) 5.85%	October 1, 2033	$34.80m
Total		**$439.8m**

SECTION 2
EVENTS DURING THE REORGANIZATION CASES

2.1 Commencement of the Reorganization Cases.

The Debtors filed voluntary petitions for reorganization under chapter 11 of the Bankruptcy Code in the Bankruptcy Court at various times in 2005, 2006, and 2008 as is shown in **Exhibit K** attached hereto. The Reorganization Cases are being jointly administered as *In re ASARCO LLC, et al.*, Case No. 05-21207.

2.2 First Day Relief.

(a) Asbestos Subsidiary Debtors.

When the Asbestos Subsidiary Debtors filed their bankruptcy cases on April 11, 2005, they concurrently filed several "first day" motions. As a result, the Bankruptcy Court entered orders granting joint administration of the cases; extending the time for filing Schedules; authorizing the retention of Jordan, Hyden, Womble, Culbreth, & Holzer, P.C. as their attorneys; establishing procedures for interim compensation and reimbursement of expenses for professionals; and authorizing the Asbestos Subsidiary Debtors to (1) file a consolidated list of creditors in lieu of a matrix, (2) file a consolidated list of the Asbestos Subsidiary Debtors' largest creditors, and (3) serve all required case notices.

The Bankruptcy Court also approved notice procedures for asbestos claimants and authorized the Asbestos Subsidiary Debtors to list addresses for counsel of represented asbestos claimants in the creditors' matrix in lieu of the asbestos claimants' addresses. As a result, the Asbestos Subsidiary Debtors were authorized to send notices relating to their bankruptcy cases to counsel of record for the individual asbestos claimants, and were not required to send such notices

directly to asbestos claimants who are represented by counsel who receive notice. The Bankruptcy Court also entered an order directing all counsel who receive notice of the Asbestos Subsidiary Cases and the related adversary proceeding (which is discussed below in Section 2.19(b)) to notify their affected clients of the pendency of the proceedings.

(b) ASARCO.

In connection with the Reorganization Cases, the Debtors devoted significant attention to continuing ASARCO's operations in chapter 11 with as little disruption and loss of productivity as possible, maintaining the confidence and support of employees and service providers, obtaining post-petition financing, and establishing procedures for the smooth and efficient administration of these cases.

In order to provide for the continued and uninterrupted service of its employees, ASARCO obtained authority on the Petition Date, in accordance with its stated policies and in its sole discretion, to honor and pay in full the accrued and unpaid compensation, benefit, and reimbursement obligations to employees, and authorize and direct all applicable banks and other financial institutions to honor and pay any and all checks drawn on ASARCO's payroll and other disbursement accounts in respect of such employee obligations, provided that sufficient funds were available in the applicable accounts to make those payments.

In addition, the Debtors obtained authority shortly after the Petition Date to continue their prepetition insurance program.

Other "first day" relief included: (1) joint administration of the Reorganization Cases; (2) an extension of time to file Schedules; (3) authority to file a consolidated list of creditors in lieu of a matrix and to serve all notices in the Reorganization Cases; (4) an extension of the notice procedure approved in the Asbestos Subsidiary Cases for asbestos claimants to ASARCO, thereby authorizing ASARCO to serve notices related to the Reorganization Cases upon counsel of record for asbestos or toxic tort claimants rather than notifying each individual claimant; (5) retention of attorneys for ASARCO; (6) an order restraining utilities from discontinuing, altering, or refusing service, and establishing procedures for determining that adequate assurance has been provided to utilities; and (7) authority to maintain the Debtors' cash management systems, to continue to use prepetition bank accounts, checks, and other business forms, and to continue to apply existing investment guidelines.

All of the foregoing relief was essential to minimize disruptions to ASARCO's business as a result of the commencement of the Reorganization Cases and to permit the Debtors to make a smooth transition to operations in chapter 11.

2.3 Retention of Professionals by the Debtors.

(a) Retention of Professional Persons and Entry of Interim Compensation Order.

The Debtors have obtained Bankruptcy Court approval to retain a number of Professional Persons to represent them in their Reorganization Cases. **Exhibit J** to this Disclosure Statement contains a list of the Professional Persons retained by the Debtors pursuant to a separate retention application and order.

By order entered on December 15, 2005, the Bankruptcy Court established procedures for interim compensation and reimbursement of expenses of professionals of ASARCO and the ASARCO Committee that are retained by separate application and order. Pursuant thereto, court-approved professionals may submit a monthly statement to ASARCO, counsel to the Debtors' post-petition lenders, the U.S. Trustee, and a representative of the ASARCO Committee. If no objection is served within 20 days after receipt of the monthly statement, ASARCO may pay 80 percent of the fees and 100 percent of the out-of-pocket expenses requested in the statement. The order further provides for the professionals to file with the Bankruptcy Court interim fee applications approximately every four months.

(b) Retention of Lehman Brothers as Financial Advisor to Debtor.

On August 30, 2005, ASARCO engaged Lehman Brothers Inc. as exclusive financial advisor to provide financial advisory and investment banking services with respect to its financial restructuring. Since that time, Lehman Brothers has provided assistance to ASARCO in evaluating and addressing the complex financial and economic issues raised by the Reorganization Cases and conducting a process to identify and select a plan sponsor.

In addition to the services envisioned in the original engagement letter from August 30, 2005, Lehman Brothers provided many other services at the request of ASARCO's management, including, without limitation: (1) on-site personnel for extended periods during 2005 and 2006 to support ASARCO's chief executive officer, chief financial officer, and finance staff on issues critical to the operations of the business; (2) creation and implementation of Debtor's post-petition employee recruiting and retention strategy; (3) key assistance in the efforts to hire a permanent chief executive officer and new chief financial officer; (4) support to the board of directors in the process of selecting and hiring Alvarez & Marsal LLC; (5) assistance in negotiations with labor and advice in connection with the business impact of the 2007 labor agreement; (6) expert litigation support for the fraudulent transfer action filed in connection with the South Mill; (7) introduction of bidders as part of the auction of the Tennessee Mines Division; (8) assistance in implementation of changes to ASARCO's internal management reporting; and (9) assistance in the evaluation, analysis, and implementation of a strategic hedging program.

(c) Ordinary Course Professionals.

By order entered on October 3, 2005, the Bankruptcy Court permitted the Debtors to employ Professional Persons in the ordinary course of their business without the necessity of filing individual retention applications for each such professional, and to pay the ordinary course professionals in the ordinary course of business without formal application to the Bankruptcy Court by any such professional; *provided, however*, that such fees and disbursements do not exceed an average of $20,000 per month (calculated on a rolling six-month average) per professional. With respect to those ordinary course professionals who do not exceed the $20,000 per month limitation, the Debtors were authorized, in their discretion, to pay 100 percent of their interim fees and disbursements upon the submission to the Debtors of an appropriate invoice setting forth in reasonable detail the nature of the services rendered. In addition to the ordinary course professionals included in the Debtors' original list, the Debtors have filed a number of supplements to the ordinary course professionals list.

By order entered on April 20, 2007, the Bankruptcy Court extended the ordinary course professionals order and the interim compensation order (described above in Section 2.3(a)) to apply to all of the Debtors including any Debtor in bankruptcy cases subsequently filed by affiliates of the current Debtors, but not including the Asbestos Subsidiary Debtors.

2.4 Appointment of Official Committee of Unsecured Creditors for ASARCO.

On August 25, 2005, the U.S. Trustee appointed an official committee of unsecured creditors for ASARCO. The current membership of the ASARCO Committee is as follows:

Deutsche Bank Trust Company Americas
Attn: Stanley Burg
60 Wall Street
NYC 60-2715
New York, NY 10005

United Steelworkers
Attn: David R. Jury
Five Gateway Center
Pittsburgh, PA 15222

Wilmington Trust Company
Attn: Steve Cimalore
Rodney Square North
1100 North Market Street
Wilmington, DE 19890

The Doe Run Resources Company
Attn: Lou Marucheau
1801 Park 270 Drive, Suite 300
St. Louis, MO 63146

Pension Benefit Guaranty Corporation
Attn: Roger Reiersen
1200 K Street, N.W.
Washington, D.C. 20005-4026

Gold Fields Mining, L.L.C.
Roger B. Wolcott, Jr., President
14062 Denver West Parkway
Golden, CO 80401

The ASARCO Committee has retained the following professional persons:

Name	**Description of Services**
Reed Smith LLP	Counsel
Fulbright & Jaworski L.L.P.	Local Counsel
FTI Consulting, Inc.	Financial Advisors
Bates White LLC	Consultant on Asbestos and Silica Related Matters

Name	**Description of Services**
Reed Smith LLP	Counsel

2.5 Appointment of an Official Committee of Unsecured Creditors for the Asbestos Subsidiary Debtors and Appointment of an Official Committee of Asbestos Claimants.

On April 27, 2005, the U.S. Trustee appointed an official committee of unsecured creditors for the Asbestos Subsidiary Debtors. The current membership of the Asbestos Subsidiary Committee is as follows:

Barbara Zondervan
c/o Robert Phillips
Simmons Cooper, LLC
707 Berkshire Blvd.
PO Box 521
East Alton, IL 62024

Thomas Brown
c/o Ryan A. Foster
Ryan A. Foster Law Firm
440 Louisiana St., Suite 2100
Houston, TX 77002

Melvin Eldon Boggs
c/o Steve Baron and Natalie Duncan
Baron & Budd, P.C.
3102 Oak Lawn Ave., Suite 1100
Dallas, TX 75219

Kenna Hall Terrell
c/o Steven Kazan
Kazan McClain Abrams Lyons Greenwood & Harley
171 Twelfth St., Suite 300
Oakland, CA 94607

Robert H. Lawhorn
c/o Charles Finley
Williams Kherkher Hart Boundas, LLP
8441 Gulf Freeway, Suite 600
Houston, TX 77017

Benito T. Caceres
c/o Eric Bogdan
The Bogdan Law Firm
8866 Gulf Freeway, Suite 515
Houston, TX 77017

James A. Bailey
c/o Brian Blevins
Provost Umphrey Law Firm
490 Park St.
Beaumont, TX 77704

Robert Ryan
c/o Christina Skubic
Brayton Purcell
222 Rush Landing Rd.
Novato, CA 94948

Timothy Crisler
c/o Lou Thompson Black
Brent Coon and Associates
Weslayan Tower
24 East Greenway Plaza, Suite 725
Houston, TX 77046

Myra Meiers
c/o Thomas W. Bevan
Bevan & Associates, LPA
10360 Northfield Rd.
Northfield, OH 44067

Samuel M. Cox
c/o Thomas M. Wilson
Kelley & Ferraro, LLP
2200 Key Tower
127 Public Square
Cleveland, OH 44114

The Asbestos Subsidiary Committee has retained the following professional persons:

Name	**Description of Services**
Stutzman, Bromberg, Esserman, & Plifka**, P.C.**	Counsel
L Tersigni Consulting PC	Financial Advisors (terminated on 6/6/07)
Charter Oaks Financial Consultants, LLC	Financial Advisors
Risk International	Insurance Advisors
David P. Anderson and The Claro Group, LLC	Insurance Advisors
Legal Analysis Systems, Inc.	Asbestos Claims Consultant
Law Offices of Dean Baker	Connecticut Local Counsel

By order entered on August 26, 2008, and upon the Debtors' motion, the Bankruptcy Court directed the U.S. Trustee to appoint the Asbestos Claimants' Committee to represent the specific class of creditors with asbestos-related claims against the Debtors in the Reorganization Cases. The Asbestos Claimants' Committee consists of the current members of the Asbestos Subsidiary Committee and the following three additional members who have Asbestos Premises Liability Claims:

Gary Ellis
c/o Robert Phillips
Simmons Cooper, LLC
707 Berkshire Blvd.
P.O. Box 521
East Alton, IL 62024

Elizabeth Scanlon
c/o Robert Phillips
Simmons Cooper, LLC
707 Berkshire Blvd.
P.O. Box 521
East Alton, IL 62024

Rory Lewis
c/o Christina Skubic
Brayton Purcell
222 Rush Landing Rd.
Novato, CA 94948

The new Asbestos Claimants' Committee shall have all the rights and powers of an official committee in the Reorganization Cases, and the existing Asbestos Subsidiary Committee shall continue its existence in the Asbestos Subsidiary Cases for purposes of fulfilling its obligations in connection with any and all pending matters including matters in which the Asbestos Subsidiary Committee has been granted standing by order of the Bankruptcy Order and for any other proper purpose. ~~It is expected that~~**By order entered on September 16, 2008,** the Asbestos Claimants' Committee ~~will share professionals with the Asbestos Subsidiary Committee~~**obtained authority to employ Bromberg, Esserman & Plifka, P.C. as its bankruptcy counsel**.

2.6 Appointment of a Future Claims Representative.

By order entered on April 19, 2005, the Bankruptcy Court approved the selection of Judge Robert C. Pate as the legal representative in the Asbestos Subsidiary Cases to represent the interests of future asbestos-related claimants. By orders entered on August 15 and 26, 2008, the Bankruptcy Court appointed Judge Pate as the legal representative for future Claimants with asbestos-related Claims against ASARCO and the other Subsidiary Debtors.

Judge Pate is a former Texas State District Judge holding visiting status, and is a solo practitioner in Corpus Christi, Texas with extensive experience in complex business and personal injury cases. Judge Pate has been appointed in numerous complex bankruptcy proceedings to provide special services to the Court and litigants, including *In re TransTexas Gas Corporation, et al.*, Case No. 99-21550 and *In re EnRe, L.P.*, Case No. 02-21354, both filed in the Bankruptcy Court. Judge Pate was appointed and serves as the future claims representative in the silicosis mass-tort bankruptcy case, *In re Clemtex, Inc.*, Case No. 01-21794, also filed in the Bankruptcy Court. In that case, the Bankruptcy Court confirmed a consensual plan of reorganization, pursuant to which a trust for present and future silicosis claimants was created, and a channeling injunction was imposed. Judge Pate receives $350.00 per hour as compensation for his services, and reimbursement of his out-of-pocket expenses. Judge Pate's resume is attached hereto as **Exhibit I**.

The FCR has obtained approval of the Bankruptcy Court to retain the following Professional Persons:

Name	**Description of Services**
Oppenheimer, Blend, Harrison & Tate, Inc.	Counsel
Legal Analysis Systems, Inc.	Asbestos Claims Consultant
Charter Oaks Financial Consultants	Financial Advisors

2.7 Corporate Governance and Appointment of Examiner.

In September 2005, all of ASARCO's prepetition directors resigned from the board of directors. On or about September 23, 2005, Carlos Ruiz Sacristán and Javier Perez Rocha were appointed as directors by ASARCO's ultimate parent, Grupo Mexico. In early October 2005, Mr. Rocha resigned from the board, leaving Mr. Ruiz as the sole director. On or about November 14, 2005, Daniel Tellechea resigned as chief executive officer.

In November 2005, the ASARCO Committee, the Asbestos Subsidiary Committee, and the FCR filed pleadings seeking the appointment of a chief restructuring officer and raising questions about the independence of Mr. Ruiz as sole director. Pursuant to the Corporate Governance Stipulation, agreed to by the ASARCO Committee, the Asbestos Subsidiary Committee, the FCR, ASARCO, the Parent, and Mr. Ruiz, and entered by the Bankruptcy Court on December 15, 2005, two independent directors, H. Malcolm Lovett, Jr. and Edward R. Caine, were appointed to join Mr. Ruiz, and Douglas McAllister was appointed as interim chief executive officer. Mr. McAllister had previously served as vice president, general counsel and secretary of ASARCO for approximately four years. The stipulation also implemented controls and amendments to ASARCO's LLC Agreement to assure the independence of its board of directors from the interests of ASARCO's indirect parent companies, AMC and Grupo Mexico, set compensation, and provided indemnity and insurance for the directors and Mr. McAllister. The LLC Agreement was amended, by written consent of the directors dated January 9, 2006, and effective

as of December 15, 2005, to implement the changes required by the stipulation. The Bankruptcy Court approved additional amendments to the LLC Agreement by order entered on April 3, 2006.

On January 23, 2006, the board unanimously determined to create a special committee of independent directors to handle matters where conflicts of interest may be present. By written consent in lieu of a meeting on February 3, 2006, the board appointed the independent committee to oversee transactions with Grupo Mexico and its affiliates. Thereafter, additional matters, including all litigation regarding the Tax Sharing Agreement between ASARCO and AMC, and the SCC Litigation, were referred to the independent committee.

In mid-2006, the board selected Joseph F. Lapinsky as president and permanent chief executive officer, and Tom S.Q. Yip as vice president and chief financial officer. Their employment agreements were approved, effective July 1, 2006, by the Bankruptcy Court on July 13, 2006. Mr. McAllister became executive vice president and also resumed his former duties as general counsel and secretary. Similarly, the Asbestos Subsidiary Debtors each selected William Perrell as sole director and president, and his employment was approved by the Bankruptcy Court on August 22, 2006. Mr. Yip later resigned, and Donald Mills now serves as ASARCO's chief financial officer.

The Corporate Governance Stipulation permits the two independent directors to hire, at ASARCO's expense, independent counsel and other advisors. By order entered on March 12, 2007, the Independent Committee was authorized to retain Porter & Hedges L.L.P. as independent counsel to the independent committee to address matters relating to its role and responsibilities in that capacity.

On January 23, 2007, the Parent filed a motion to amend the Corporate Governance Stipulation and the LLC Agreement to provide for ASARCO to have a five-member board of which three directors would be appointed by the Parent. Objections to this motion were filed by ASARCO, the ASARCO Committee, the Asbestos Subsidiary Committee, the FCR, the USW, the majority bondholders and the United States on behalf of the EPA, the USDA, and the Interior. After a hearing thereon on February 16, 2007, the Bankruptcy Court ruled that there was not sufficient evidence to alter the Corporate Governance Stipulation.

On March 23, 2007, the Parent filed a motion seeking access to information or, alternatively, for an order amending the Corporate Governance Stipulation to provide for a five-member board, with three members appointed by it. The motion sought to compel ASARCO to provide the Parent's financial advisor with immediate access to financial and operational data in order to allow the Parent, subject to its due diligence review, to propose a plan of reorganization that would pay all creditors in full and allow the Parent to retain its Interest in ASARCO. During the April 11, 2007 hearing thereon, ASARCO agreed to provide the Parent and all qualified, interested plan sponsors equal access to financial and operational information for the purpose of submitting chapter 11 plan sponsor proposals for ASARCO's consideration, upon execution of a mutually agreeable confidentiality agreement and ASARCO's completion of an electronic data room. On May 1, 2007, the Bankruptcy Court entered an order on the motion, which denied the request for amendment of the Corporate Governance Stipulation, and directed ASARCO and the Parent to promptly negotiate a mutually acceptable confidentiality agreement. Upon execution of such agreement, the order called for ASARCO to provide the Parent, on a non-exclusive basis, access to the information that has been or is shared with Harbinger Capital Partners or any of its affiliates.

On August 13, 2007, the Parent filed a motion seeking to require ASARCO to obtain consent from the Parent before entering into a settlement or compromise that results in a cash payment or claim allowance in excess of $10 million. Objections to this request were filed by ASARCO, the ASARCO Committee, the Asbestos Subsidiary Committee, and the FCR. After conducting a hearing thereon, the Bankruptcy Court denied the motion by order entered on November 20, 2007. The Parent filed a notice of appeal from that order, thereby initiating Civil Action No. 07-461. By order entered on April 18, 2008, the District Court denied the appeal as procedurally infirm and substantively without merit. On May 19, 2008, the Parent filed a notice of appeal to the United States Court of Appeals for the Fifth Circuit from the District Court's order, which is pending as Docket No. 08-40570. On August 12, 2008, the appeal was dismissed without prejudice to the right of either party to reinstate it by letter to the Clerk of the Fifth Circuit within 180 days after entry of the order (or any extension of such time period) and, if the appeal is not reinstated within that time, it will be considered dismissed with prejudice.

On January 10, 2008, the Parent filed a motion seeking the appointment of an examiner to investigate the good faith of ongoing plan negotiations among the Debtors and certain constituents, conduct a valuation of the Debtors, investigate the good faith of the settlements of claims reached by ASARCO with the asbestos claimants, and investigate whether ASARCO has been properly fulfilling its fiduciary duties to the Parent. Numerous objections were filed. After conducting a hearing on the motion on February 8, 2008, the Bankruptcy Court entered an order on March 4, 2008, which

directed the appointment of an examiner. While any party could ask the Bankruptcy Court to assign specific duties to the examiner at any time, the examiner was not given any duties at that time.

On March 11, 2008, the Parent filed a petition for writ of mandamus in the District Court, seeking a writ of mandamus ordering the Bankruptcy Court to assign to an examiner the topics listed in the Parent's motion. The Parent asserted that the Bankruptcy Court constructively disregarded sections 1104(c) and 1106(b) of the Bankruptcy Code by assigning no duties to the examiner. The District Court granted the Parent's request for expedited consideration of the petition and set oral arguments for April 22, 2008. However, prior to the oral arguments, the Parent filed an unopposed motion to dismiss its mandamus petition, which was granted on April 18, 2008.

On April 9, 2008, the Bankruptcy Court entered its Order Establishing the Scope of the Examiner Pursuant to 11 U.S.C. § 1104(b). In that order, the Bankruptcy Court directed the examiner to monitor and assess whether the Plan Sponsor Selection Meeting (as defined in Section 2.28 below) was conducted in a manner consistent with the Interim Order Granting Motion of ASARCO LLC for an Order Approving Bid Procedures in Connection with Selecting a Chapter 11 Plan Sponsor and Exit Transaction under a Chapter 11 Plan. Any party, including the examiner, may request an expansion or reduction of the examiner's powers and duties.

On April 14, 2008, the U.S. Trustee filed an application for approval of his appointment of Michael Denis Warner of the law firm of Warner Stevens L.L.P. as the examiner. By order entered on April 16, 2008, Mr. Warner was appointed as examiner. By order entered on May 20, 2008, Mr. Warner was authorized to employ the law firm of Warner Stevens L.L.P. as his counsel in the Reorganization Cases.

Mr. Warner monitored the plan sponsor selection process (which is discussed in Section 2.28 below) and provided the Bankruptcy Court with a favorable report. Among other things, the Examiner reported that the Debtors had provided him with open access to the negotiation process with potential plan sponsors. He reported that the Debtors had fully cooperated with him and that he had participated in conferences with bidders, including repeated conferences with the Parent during the plan sponsor selection meeting. The Examiner further reported that each bidder had access to the same information and that the Debtors had maintained a level playing field such that no bidder was provided an advantage over any other bidder. The Examiner was not charged with conducting his own evaluation of the bids received, and he did not do so. The Examiner reported, however, that the Debtors were cautious not to chill the bidding, and that the Debtors properly, reasonably, and sufficiently consulted with the Creditor Constituents with regard to the evaluation of bids submitted. The Examiner also reported that the plan sponsor selection process was conducted in accordance with the Bid Procedures Order.

The Parent asserts that pursuant to the Corporate Governance Stipulation, the Parent currently does not have the unilateral power of a sole owner to replace the members of ASARCO's board of directors. The Parent has consistently taken the position that because the Parent has no power to remove and replace directors at will, the majority of the board has caused ASARCO to pursue certain actions that, in the Parent's view, are inconsistent with their fiduciary duties to the Parent. ASARCO disagrees with this characterization.

2.8 Payment of Prepetition Obligations to Certain Critical Vendors.

ASARCO obtained authority to pay prepetition amounts owed to six critical vendors, conditioned upon their providing goods and services post-petition on terms mutually acceptable to ASARCO and the vendor, and approval and funding of a debtor in possession credit facility. In each instance, payment of the critical vendors' prepetition claims was vital to ASARCO's reorganization efforts because (a) the goods and services provided by them were the only meaningful source from which the Debtors could procure the goods and services; (b) failure to pay the critical vendors would likely result in loss of the goods and services; and (c) such loss would have an immediate and severe impact that would jeopardize ASARCO's operations and ability to reorganize. The amount paid to critical vendors totaled about $4 million.

2.9 Extensions of Exclusivity.

The Bankruptcy Court has entered several orders extending the Debtors' exclusive periods to file a chapter 11 plan of reorganization and solicit acceptances of such plan. Most recently, on July 2, 2008, the Bankruptcy Court entered an order extending the Debtors' exclusive periods to file and solicit acceptances of the plan until August 1, 2008 and January 16, 2009, respectively. The Debtors' exclusive right to file a plan was modified to allow the Parent and AMC to file a competing plan and solicit acceptances of that plan. ASARCO filed its Plan and Disclosure Statement on July 31, 2008. The Parent and AMC filed their plan of reorganization and disclosure statement on August 26, 2008.

Harbinger Capital Partners Master Fund I, Ltd. filed a notice of appeal from the Bankruptcy Court's earlier July 20, 2007 order extending exclusivity and two related orders on discovery issues. The appeal is pending before the District Court as Civil Action No. 07-325.

2.10 Executory Contracts and Unexpired Leases.

(a) Extension of Time to Assume or Reject Unexpired Leases of Nonresidential Real Property.

The Bankruptcy Court has entered several orders extending the time by which ASARCO must determine whether to assume or reject its unexpired leases of nonresidential real property. By order entered on August 4, 2008, the Bankruptcy Court extended this deadline until January 1, 2009.

(b) Motions Under Section 365 of the Bankruptcy Code.

Since their bankruptcy filing, the Debtors have filed motions, and obtained authority, pursuant to section 365 of the Bankruptcy Code, to assume certain executory contracts and unexpired leases and to reject others.

(c) Assumption of Shareholders' Agreement and Related Contract Regarding Copper Basin Railway, Inc.

Copper Basin Railway, Inc. owns a Class III short-line freight railroad located in South Central Arizona. The railroad is ASARCO's sole means of transporting work-in-process inventory to and from the Ray mine and the Hayden smelter. On the Petition Date, ASARCO owned 45 percent of the outstanding capital stock (1,800 shares) of Copper Basin Railway, Inc., with the remaining 55 percent of the stock (2,200 shares) owned by Rail Partners II, LLC f/k/a Rail Partners, LP.

The stockholders agreement dated April 10, 1986, among Copper Basin Railway, Inc. and the predecessors in interest to Rail Partners and ASARCO, provided a "put" right in favor of Rail Partners, pursuant to which Rail Partners could require ASARCO to buy all of Rail Partners' capital stock in Copper Basin Railway, Inc. for the fair market value of such shares (with such fair market value determined by agreement or, if no agreement could be reached, by third party independent appraiser). The stockholders agreement also provided "call" rights in favor of ASARCO, pursuant to which ASARCO could require Rail Partners to sell it either (1) the 45 percent of Rail Partners' capital stock formerly held by Green Bay, (2) the 10 percent of Rail Partners' capital stock formerly held by Durden, or (3) both, either at the same or different times, for the fair market value of such stock, determined in the same manner as described above for the put right.

By motion filed on August 29, 2006, as amended on September 8, 2006, ASARCO sought to assume the stockholders agreement and a related contract for the sale of the shares owned by Rail Partners, cure all defaults and to purchase Rail Partners' 55 percent equity interest in Copper Basin Railway, Inc., thereby obtaining control and sole ownership of this critical transportation asset. ASARCO was forced to take action at that time, rather than addressing the option rights at Confirmation, because Washington Corporation sought to control the railroad by acquiring Rail Partners. Objections to the motion were filed by the ASARCO Committee, the Asbestos Subsidiary Committee, and Rail Partners. The Bankruptcy Court entered an order approving the motion on September 12, 2006, whereby ASARCO was authorized to assume the stockholders agreement and the sale contract, effective as of the date on which the original motion was filed, and to purchase Rail Partners' 55 percent interest in Copper Basin Railway, Inc. for an agreed-upon total purchase price of $11,455,000. That purchase closed on September 26, 2006.

2.11 Asset Sales.

(a) Completed Real Property Sales.

The Debtors have obtained Bankruptcy Court orders authorizing them to sell certain real property. The significant sales are listed below.

Property	Buyer	Proceeds and Other Consideration Realized by the Estate
Coal rights in Sebastian County, Arkansas, owned by	Hartshorne Carbon Company	$500,000 Cash and a royalty to be paid over 35 years

Property	Buyer	Proceeds and Other Consideration Realized by the Estate
ASARCO		
Tacoma, Washington, owned by ASARCO	MC Construction Consultants, Inc.	$4.7 million Cash and assumption of certain (primarily environmental) liabilities by buyer. ASARCO may also realize additional proceeds of up to $5 million, pursuant to a Development Payout Agreement
Hardshell Mine Property in Santa Cruz, Arizona, owned by ASARCO	Arizona Minerals, Inc.	$4,000,000 cash and $4,500,000 to be paid pursuant to a promissory note secured by a Lien on the property
Tennessee Mines Division, owned by ASARCO	Glencore Ltd.	$63,551,286
Approximately 125.957 acres of vacant real property in El Paso, Texas, owned by ASARCO	MEGACON, LLC	$4,180,263
Salt Lake City real property owned by ASARCO	Olene S. Walker Housing Loan Fund	$1,732,440

(b) Proposed Real Property Sales.

Property	Stalking Horse	Proposed Sales Price	Status
Globe, Colorado facility owned by ASARCO	Globeville I, LLC	Assume certain (primarily environmental) liabilities and provide other consideration	Bidding procedures order entered on November 7, 2006; buyer is conducting due diligence

Pursuant to the applicable Environmental Custodial Trust Agreement, if the Globe, Colorado property has not been sold prior to the Effective Date, this property and ASARCO's obligations as seller under the sales contract shall be transferred to the Environmental Custodial Trust. If the sale closes after the Effective Date, the Environmental Custodial Trust Funding set aside for this property shall be reallocated to other Environmental Custodial Trusts as directed by the United States.

(c) Stock Sales.

On September 11, 2006, ASARCO sought authority to sell stock in certain publicly-traded companies which, pursuant to a separate Bankruptcy Court order, was filed under seal to avoid any detrimental impact on the stock market that might result from ASARCO's sale of such stock. The sale motion was approved by order entered on September 19, 2006, and permitted ASARCO to sell the stock free and clear of liens, claims, encumbrances, and interests and to open a brokerage account for that purpose.

On April 3, 2008, ASARCO filed a motion seeking authority to sell certain stock free and clear of liens, claims, encumbrances and interests, which was approved on April 28, 2008. ASARCO is authorized, but not obligated, to sell (1) 388,002 shares of Metlife Company stock; (2) 16,800 shares of Nymex Holdings Inc. stock; (3) 134 shares of Freeport McMoRan Copper & Gold Inc. stock; and (4) 2,956 shares of stock in various agricultural cooperatives, including 1,404 shares of Ag-Land FS, 840 shares of Gateway Co-op and 712 shares of Riverland FS. While the stock is unencumbered, ASARCO obtained approval, out of an abundance of caution, to sell it free and clear of any liens, claims, encumbrances or interests, pursuant to section 363(f) of the Bankruptcy Code. Any such liens or other encumbrances would attach to the proceeds of the sale of the assets, subject to the rights and defenses of ASARCO, if any, with respect thereto.

ASARCO has been engaged in the process of selling the stock on the open market. To date, ASARCO has sold a substantial majority of the stock, which has yielded approximately $21.25 million. ASARCO continues to maintain a modest portfolio of a few low value stocks.

(d) *De Minimis* Sales of Personal Property.

By agreed order entered on March 28, 2006, the Debtors obtained authority to sell *de minimis* personal property (with a value of less than $100,000) in the ordinary course of business, without need for Bankruptcy Court approval upon 10 Business Days' notice to the parties on a notice list. They have used this procedure a number of times to sell *de minimis* personal property.

2.12 Purchases.

Pursuant to the order entered on December 30, 2005, ASARCO was authorized to assume an agreement with Pitney Bowes Credit Corporation for the lease of five haul trucks and a shovel, cure prepetition defaults, and exercise the option to purchase three of the haul trucks and the shovel. Pursuant to an order entered on December 4, 2006, ASARCO was authorized to exercise its option to purchase the two haul trucks remaining under this lease agreement. ASARCO cured the defaults and exercised the options to complete the purchase of all five haul trucks and the shovel for approximately $4.5 million.

Pursuant to agreed orders entered on January 19, 2006, June 30, 2006, September 18, 2006, and November 27, 2006, ASARCO was authorized to assume several equipment leases with Banc of America Leasing & Capital, LLC relating to certain mining and other equipment, cure the defaults, and exercise the options to purchase the equipment. ASARCO cured the defaults and exercised the options to complete the purchase of the equipment for approximately $8.9 million.

Pursuant to an agreed order entered on January 6, 2006, ASARCO was authorized to assume an equipment lease with M&T Credit Services, LLC relating to an electric mining shovel, cure the defaults, and exercise its option to purchase the shovel. ASARCO cured the defaults and exercised the option to complete the purchase of the electric mining shovel for approximately $2.5 million.

By order entered on March 28, 2006, ASARCO obtained authority to purchase from Liebherr Mining & Construction Equipment, Inc. d/b/a Liebherr Mining Equipment Co. nine haul trucks to be delivered in 2007 and 2008, with an option to buy 12 additional trucks in 2009, 2010, and 2011, for a purchase price of $3.5 million per truck, subject to an agreed-upon price escalation and other terms and conditions set forth in the purchase agreements and related documents. ASARCO completed the purchase of the nine haul trucks, which were delivered in 2007 and 2008, for approximately $32.6 million. Subsequently, the board authorized ASARCO to move forward with the purchase of additional trucks in 2009 and 2010 for a purchase price of approximately $4 million per truck, and the company exercised its option for those years.

Pursuant to an agreed order entered on September 15, 2006, ASARCO was authorized to assume an equipment lease with Wachovia Financial Services, Inc. relating to two haulpak trucks, a fork lift, five 100-ton railroad ore cars, and other equipment. ASARCO assumed the equipment lease, and purchase the leased equipment for $1,250,000.

Pursuant to an order entered on April 2, 2007, ASARCO was authorized to replace the primary crusher at the Ray mine by installing a new crusher in a different location and decommissioning the existing crusher at the earliest date possible. ASARCO purchased the replacement crusher, conveyor, and support wall for approximately $44.8 million. It is anticipated that this work will cure slope degradation issues, and may increase ASARCO's cash flow by approximately $74.4 million over the life of the project on an undiscounted basis.

By agreed order entered on March 25, 2008, ASARCO was authorized to assume an equipment lease and related agreements with BNY Capital Resources Corporation, whereby ASARCO leases five haul trucks and various mining equipment, cure defaults, and exercise the option to purchase the equipment under the agreement. ASARCO cured the defaults and exercised the options to complete the purchase of the five haul trucks and the mining equipment for an aggregate total of approximately $1.7 million.

In each instance, the purchased assets are indispensable to ASARCO's successful operation of its mines and contribute to increased production and therefore revenue.

2.13 Proofs of Claim and Administrative Claims.

(a) Bar Dates for Proofs of Claim.

By order entered on April 28, 2006, the Bankruptcy Court set August 1, 2006 as the general bar date, and September 30, 2006 as the asbestos claims bar date, for the Debtors other than the 2006 Subsidiary Debtors and the 2008 Subsidiary Debtors. An asbestos-related Proof of Claim form was approved for use in connection with all Proofs of Claim for asbestos claims. Pursuant to the Bar Date Order, asbestos claimants were permitted to obtain an exemption from filing a Proof of Claim by supplying ASARCO's asbestos claims-data management consultants, Claro Group, with certain information on the asbestos claims electronic database prior to June 30, 2006.

The Bar Date for filing Claims against the 2006 Subsidiary Debtors was May 21, 2007 for non-governmental creditors and June 25, 2007 for governmental creditors.

The Bar Date for filing Claims against the 2008 Subsidiary Debtors is September 16, 2008 for non-governmental creditors and October 21, 2008 for governmental creditors.

Claims which were not filed by the applicable Bar Date (except as otherwise specifically provided by order the Bankruptcy Court) are forever barred and discharged.

(b) Objections to Claims.

More than 100,000 general and asbestos-related Claims have been filed in the Reorganization Cases. In conjunction with their ongoing review and reconciliation of the Proofs of Claim, the Debtors determined that many of the Proofs of Claim may be targeted for disallowance and expungement, reduction and allowance, or reclassification pursuant to objections that are similar in nature as to one or more proofs of claim. Pursuant to the order entered on November 5, 2007, the Debtors were authorized to pursue omnibus objections to Proofs of Claim, in accordance with certain procedures and guidelines consistent with Bankruptcy Rule 3007(f).

Since that time, the Debtors have filed a number of omnibus claim objections seeking the disallowance of certain Proofs of Claim on various grounds.

(c) Administrative Claims Bar Date.

On July 16, 2008, the Debtors filed a motion seeking entry of an order establishing September 19, 2008 as the last day for Entities that assert Administrative Claims against the Debtors to file a proof of Administrative Claim form. The motion was granted by order entered on July 30, 2008 as amended by ~~stipulation~~**stipulations** and agreed ~~order~~**orders** entered on August **15, 2008 and September** 15, 2008. The following types of Claims are excluded, and are not subject to the Initial Administrative Claims Bar Date:

- Administrative Claims of one Debtor against another Debtor but only to the extent such Administrative Claims (1) are less than $1 million or (2) relate to a transaction that has been expressly approved by prior order of the Bankruptcy Court;
- Administrative Claims of professional persons retained pursuant to an order of the Bankruptcy Court for compensation of fees and reimbursement of expenses and any administrative claims by professionals for the United Steelworkers;
- Administrative Claims of the members of the Committees and counsel to such members for compensation of fees and reimbursement of expenses;
- Administrative Claims for post-bankruptcy goods or services due and payable in the ordinary course of the Debtors' business;
- Administrative Claims of current or former employees, or labor unions representing such individuals or benefit plans to whom contributions or premiums are made under a collective bargaining agreement or the Coal Act, for post-bankruptcy wages, compensation, expenses,

grievances, medical benefits, retirement benefits or any other post-bankruptcy benefits under an employee benefit plan of a Debtor or court-approved post-bankruptcy retention, severance or recruiting plan, including, without limitation, any amounts authorized to be paid by the Debtors under the order authorizing payment of prepetition wages and benefits;

- Administrative Claims previously allowed by order(s) of the Bankruptcy Court;
- Administrative Claims on account of which a motion requesting allowance and payment already has been filed in the Bankruptcy Court, against the Debtor(s);
- Administrative Claims held by the U.S. Trustee which arise under section 1930(a)(6) of title 28 of the United States Code;
- Administrative Claims of professionals and their counsel, including the Examiner, and Administrative Claims of current officers and directors of a Debtor and their counsel;
- Administrative Claims relating to claims of federal and state governmental agencies under state or federal environmental laws that relate to property owned by the Debtors;
- Administrative Claims for payments required under settlement agreements approved by the Bankruptcy Court; ~~and~~
- Administrative Claims relating to liabilities that the Plan Sponsor shall assume under the Plan Sponsor PSA**; and**
- **Administrative Claims held by Asbestos Personal Injury Claimants**.

Holders of Administrative Claims that are required, but fail, to file a proof of Administrative Claim prior to the Initial Administrative Claims Bar Date shall be barred, estopped, and enjoined from asserting such Claims against the Debtors and their Estates, and shall not be entitled to receive further notices regarding such Administrative Claims.

~~By motion filed on August 20, 2008, the Asbestos Subsidiary Committee sought entry of a stipulation and agreed order that would exclude Administrative Claims held by Asbestos Personal Injury Claimants from the Administrative Claims Bar Date.~~

2.14 Schedules and Statements of Financial Affairs.

The Debtors have filed their schedules and statements of financial affairs required under section 521 of the Bankruptcy Code and Bankruptcy Rule 1007, and have subsequently filed certain amendments thereto. Copies of the Debtors' original and amended schedules and statements may be viewed online any time through the Bankruptcy Court's PACER System at *www.ecf.txsb.uscourts.gov* or at the Debtors' restructuring website *www.asarcoreorg.com*.

2.15 Financial.

(a) DIP Financing.

With the assistance of Lehman Brothers, ASARCO obtained the approval of the Bankruptcy Court for a DIP Facility provided by The CIT Group/Business Credit, Inc. as DIP Agent to enable ASARCO to have additional liquidity during the pendency of the Reorganization Cases. Under the DIP Facility, the DIP Agent made a revolving line of credit available to ASARCO for working capital, capital expenditures, general corporate purposes, and costs of administration. Under the DIP Facility, the revolving line of credit was in the maximum amount of $75 million, inclusive of an amount equal to $50 million for letters of credit, which revolving line of credit was subject to being increased to an amount not to exceed $150 million at ASARCO's option, subject to appraisals and availability. The initial borrowing base was subject to a minimum availability reserve of $10 million at all times. The utilized portion of the DIP Facility would bear interest at rate of either the prime rate plus 1.00 percent or LIBOR plus 2.50 percent, at the DIP Agent's option.

All amounts owing by ASARCO under the DIP Facility were secured by superpriority blanket liens pursuant to section 364(c)(2), (c)(3), and (d)(1) of the Bankruptcy Code on ASARCO's real and personal property, subject to prior Liens and a carve-out in a maximum amount of $5 million for (1) professional fees and expenses; (2) fees pursuant to 28 U.S.C. § 1930; and (3) out-of-pocket expenses of the members of the ASARCO Committee. Such amounts were also subject to a superpriority claim pursuant to section 364(c)(1) of the Bankruptcy Code over all other Claims against ASARCO, other than Claims seeking payment out of the carve-out or from the collateral excluded from the DIP Liens.

Because of improved cash flow resulting from high copper prices, ASARCO did not utilize the DIP Facility. Prior to its expiration, ASARCO elected not to pursue renewal of the DIP Facility, and it expired on its own terms on or about December 15, 2007.

(b) Letter of Credit Facility.

To replace the letter of credit sub-facility under the DIP Facility, ASARCO negotiated the terms of a $5 million senior secured twelve month credit facility for the issuance of letters of credit with JPMorgan Chase Bank, N.A., and sought approval of the Credit Facility by motion filed on March 31, 2008. The Credit Facility was needed because, in the ordinary course of business, ASARCO is required to post letters of credit from time to time. The terms and conditions of the Credit Facility are set forth in the motion. The request was approved by order entered on April 25, 2008, which was supplemented by a Stipulation and Order entered on July 7, 2008.

(c) Secured Intercompany DIP Credit Facility.

By motion filed on August 5, 2008, ASARCO and the Asbestos Subsidiary Debtors sought approval for ASARCO to loan, on a senior secured basis, up to $10 million to the Asbestos Subsidiary Debtors, and for the Asbestos Subsidiary Debtors to enter into a secured debtor in possession term loan credit facility of up to $10 million from ASARCO, pursuant to section 364 of the Bankruptcy Code. ~~A hearing on this motion is scheduled for~~**The request was approved by order entered on** September 19, 2008.

Because the Asbestos Subsidiary Debtors have no current operations and currently generate no income, they are unable to obtain unsecured credit to continue to fund their reorganization fees, costs, and expenses including (1) professional fees and expenses payable pursuant to the order establishing procedures for interim compensation of professionals or other order of the Bankruptcy Court; (2) taxes and other statutory fees and costs; (3) U.S. Trustee fees as required by law; and (4) administrative expenses incurred in the ordinary course of business.

The intercompany loan shall be secured by a first priority Lien on the Asbestos Subsidiary Debtors' personal property and amounts due shall constitute superpriority administrative expense Claims under section 364(c)(1) of the Bankruptcy Code. ASARCO shall also have a right to credit all amounts due under the intercompany loan as a portion of ASARCO's contribution to the Asbestos Trust under the Plan.

(d) Cash Collateral.

Mitsui & Co. (U.S.A.), Inc. is the only party that asserts a Lien on personal property of ASARCO that may be sold and converted to cash in the ordinary course of business. Mitsui asserts a Lien only on silver inventory and the proceeds thereof. Pursuant to the Agreed Final Order Authorizing Use of Cash Collateral in Limited Circumstances, ASARCO agreed to continue to maintain the proceeds of Mitsui's alleged collateral in trust for the benefit of Mitsui in a separate segregated bank account. ASARCO may request the use of Mitsui's alleged cash collateral subject to the provision of five days' notice, an approved budget, and adequate protection to Mitsui. If ASARCO uses Mitsui's alleged cash collateral and the Bankruptcy Court finds that Mitsui's interests are not adequately protected, Mitsui is entitled to a superpriority administrative expense claim under sections 503(b) and 507(a)(1) and (b) of the Bankruptcy Code.

(e) Hedging Program.

Because of uncertainty over the future of copper prices, ASARCO worked with its financial advisor Lehman Brothers to develop a strategic hedging program in order to preserve copper prices above production costs for a portion of its production in 2007 and 2008, enabling ASARCO to reorganize with a more stable liquidity position. By order entered on May 9, 2006, ASARCO received authority to implement such a program. Under the hedging order, ASARCO's board of directors was authorized to establish a hedging committee to recommend and execute specific trades to implement the hedging program in accordance with the parameters and procedures established by the board of directors, upon notice to

certain specified parties. The order further authorized ASARCO to use up to $30 million in the implementation of the hedging program, which sum was subsequently increased by an additional $10 million following notice to the specified parties. All contracts under the hedging program originally were required to settle on or before December 31, 2007, but this time period was subsequently extended through December 31, 2008. ASARCO has spent approximately $30 million to implement the hedging program, pursuant to the Bankruptcy Court's order.

2.16 Labor Unions and Employee-Related Matters.

(a) Settlement with the Unions Regarding the Collective Bargaining Agreements.

As discussed in Section 1.3(d) above, a contributing factor to ASARCO's bankruptcy filing was the strike of a large portion of its workforce that began in early July 2005. After many weeks of negotiations, ASARCO and the Unions representing ASARCO employees were able to enter into a Memorandum of Understanding in November 2005, pursuant to which the striking workers returned to work commencing in December 2005.

The collective bargaining agreement covering the Ray mine workers expired on June 30, 2005, and the employees at the smelter and the other mines had been working without an agreement for over a year. The settlement between ASARCO and the Unions extended those collective bargaining agreements, with certain amendments, until December 31, 2006. As part of the settlement, ASARCO agreed to continue making contributions to the company's pension plans, and continue paying disability benefits to employees. ASARCO also agreed not to seek temporary or permanent relief from the collective bargaining agreements or the retiree benefits under sections 1113 or 1114 of the Bankruptcy Code during this time period.

The Memorandum of Understanding included a successorship clause, pursuant to which ASARCO agreed not to consummate a change-of-control transaction unless certain conditions had been satisfied, and the Unions agreed to negotiate in good faith for collective bargaining agreements with any prospective buyer.

The Unions had filed charges against ASARCO with the National Labor Relations Board, accusing it of failing to bargain in good faith. Pursuant to the settlement, these complaints were withdrawn.

(b) Approval of New Collective Bargaining Agreement with Unions.

For the following year, the parties honored and continued to operate pursuant to the terms of the Memorandum of Understanding. In August 2006, the parties resumed labor negotiations. On December 21, 2006, after months of arduous negotiations, ASARCO reached an understanding with the USW, on behalf of itself and the Unions, on the key terms of the new CBA that would replace the existing agreements. The parties continued negotiating until they reached a final agreement on the terms of the CBA, as set forth in a letter of understanding dated January 22, 2007.

The CBA includes phased-in wage increases for ASARCO's hourly workers, and provides for one-time signing bonuses and other bonuses tied to copper prices. A "work assignment flexibility" provision allows ASARCO to adapt its workforce to meet changing needs by, for example, assigning a certain percentage of employees across departments and sharing maintenance crews across plants.

Under the special successorship provision, ASARCO agreed not to consummate any plan of reorganization, sell or transfer any operating plant or significant part thereof, or engage in any other change-of-control transaction unless the prospective buyer shall have recognized the USW as the bargaining representative for ASARCO workers, and made an agreement with the USW establishing the terms of employment to be effective as of the Effective Date of such plan of reorganization, sale or other change of control. In connection with this provision, the USW is obligated to negotiate in good faith with any prospective buyer and to offer terms and conditions that are reasonable and substantially the same as those offered to any other prospective buyer; *provided, however*, that the Union may offer non-identical terms and conditions if those terms reflect differences in the nature of the prospective buyer. The USW commitment to offer fair and reasonable and substantially similar terms is expressly conditioned upon the prospective buyer bargaining in good faith and providing relevant information reasonably requested. The Bankruptcy Court has the power to terminate the special successorship provision entirely if, upon motion of ASARCO or the ASARCO Committee, the Bankruptcy Court finds that the USW breaches its obligation or if the Bankruptcy Court finds, in light of exigent circumstances, that termination of the application of the ~~Special Successorship Clause~~**special successorship clause** is necessary to the success of the chapter 11 process.

ASARCO and the USW also entered into the Second Stipulation and Order Regarding Modification to Collective Bargaining Agreement, which clarifies the potential impact of the CBA upon a Parent ~~Retained Equity Plan~~**retained equity plan** (as ~~defined~~**discussed** below) and provides that: (1) as long as the Parent does not exercise control of ASARCO during the Reorganization Cases, the Parent is not a party or signatory to the CBA and is not bound by any of the CBA's terms; (2) the special successorship clause applies to a plan of reorganization where the Parent retains a majority of equity or controlling equity in the reorganized debtors ~~(a "Parent Retained Equity Plan")~~, and if pursuant to that clause the Bankruptcy Court determines that (A) the USW has failed to satisfy its obligations under the special successorship clause or (B) in light of exigent circumstances it is necessary to a successful chapter 11 process, the Bankruptcy Court may order that the special successorship clause does not apply; and (3) the Bankruptcy Court retains jurisdiction to determine at a confirmation hearing on any Parent ~~Retained Equity Plan~~**retained equity plan** whether any provision of the CBA would violate the Parent's rights under section 1129(a) or (b) of the Bankruptcy Code and, if the Bankruptcy Court so finds, the Bankruptcy Court has the authority to terminate the CBA.

The Bankruptcy Court approved the CBA and the second stipulation on March 15, 2007. The following day, ASARCO, the USW and the Parent entered into another Stipulation and Order, pursuant to which the Parent agreed not to seek a stay of implementation of the order approving the CBA, while ASARCO and the USW agreed not to argue that the failure to obtain a stay mooted any appeal thereof.

On March 28, 2007, ASARCO and the USW gave notice of a modification to Article 11, Section B(2) of the CBA. The modification is reflected in a letter agreement dated March 20, 2007, between ASARCO and the USW. Article 11, Section B(2) originally provided that, except during maintenance and repair outages and temporary production outages or shortfalls, ASARCO would not replace product that could have been produced at an ASARCO facility with product from other than Canadian or U.S. facilities that provide substantially equivalent wages and benefits, unless the ASARCO facility is operating at full capacity. The amendment deletes the references to Canada and the U.S., so that, under the specified circumstances, ASARCO may purchase product from any facility regardless of location, so long as the replacement facility provides comparable employment terms to its workers.

The Parent, which had objected to the CBA, filed a notice of appeal from the order, thereby initiating Civil Action No. 07-133 in the District Court. On June 11, 2007, the USW and ASARCO entered into another Stipulation and Order, which was filed in the pending appellate case and modified the second stipulation to clarify that the Parent is not a signatory or party to the CBA and is not bound by its terms except as provided in the special successorship clause as modified by the stipulation or under applicable labor law. Briefing and oral argument in the appellate case have occurred, but the District Court has not yet ruled on the appeal.

The Parent asserts that the bargaining between the USW and the Parent is currently the subject of unfair labor practice charges that have been filed against the USW and are pending before the National Labor Relations Board, alleging, among other things, that the USW bargained in bad faith by insisting as a condition of agreement that the Parent agree to illegal and permissive subjects of bargaining and thus engaged in bad faith bargaining within the meaning of the labor laws. The Parent asserts that it remains willing to negotiate, in good faith, an acceptable collective bargaining agreement with the USW and other labor unions, but may also pursue its legal remedies including before the Bankruptcy Court as part of the Confirmation Hearing to address the special successorship provision. The USW and the Debtors dispute this assertion.

(c) Settlement of Retiree Litigation.

On July 9, 2003, ASARCO, Silver Bell, and Encycle/Texas, Inc. filed an action against the USW and others in federal court in Arizona seeking a declaration that changes to retiree medical benefits made earlier that year were legal under the Labor Management Relations Act and ERISA. On September 8, 2003, the defendants filed an answer and counterclaimed against ASARCO.

On September 19, 2005, ASARCO initiated Adversary Proceeding No. 05-02078, seeking a declaration that the prosecution of claims against ASARCO and Encycle/Texas violated the automatic stay and requesting an injunction prohibiting prosecution of such claims during the pendency of the Reorganization Cases. On November 14, 2005, ASARCO obtained an order staying the Arizona litigation pursuant to a stipulation by the parties.

As part of the CBA negotiations, ASARCO, the Unions, and the individual members of the class of retirees reached a final agreement on the resolution of the Arizona litigation, which addresses all the claims among the parties

regarding retiree medical benefits. The Bankruptcy Court approved the settlement agreement by order entered on March 15, 2007.

(d) Approval of a Salary, Incentive and Employee Retention and Recruiting Plan.

Because of the uncompetitive compensation structure of ASARCO, the impact of the bankruptcy and the highly competitive labor market in mining and related fields, ASARCO experienced significant loss of key personnel. In order to help ASARCO retain valued employees and recruit to fill critical vacancies, ASARCO worked with Lehman Brothers beginning in the Fall of 2005 to develop a retention and recruitment plan for its salaried employees. The program has three components: (1) a revision in salary structure designed to improve competitiveness of its pay levels; (2) an employee retention bonus component; and (3) a variable incentive component. In addition to these components, approximately $1 million is available to be applied at the discretion of the board of directors for salary, retention, and incentive payments.

The 2006 retention and recruitment plan helped stem the tide of departing personnel for a period of time but did not keep pace with the impact of the record high copper price environment on the local labor markets in which ASARCO competes. Consequently, ASARCO continued to suffer vacancies across its operating, planning, engineering, and corporate departments, leaving it with inadequate personnel to address key needs and unable to fill such vacancies because of its below-market compensation structure.

By motion filed on May 11, 2007, ASARCO proposed to revise and update its retention and recruitment plan by (1) setting a target salary range consistent with comparable salaries paid in the market; (2) increasing the incentive bonus payment scale for specific grades and shifting the allocation on target bonuses across company and operating unit criteria; (3) granting the board of directors discretion to increase or decrease incentive bonuses on a discretionary basis up to 105 percent; and (4) carrying forward the unused discretionary bonus pool approved by the Bankruptcy Court from the 2006 plan and increasing it by $900,000 for 2007 to allow for additional salary, incentive, retention, and other adjustments recommended by management and approved by the board in its discretion. The motion was approved by order entered on June 4, 2007.

By motion filed on August 8, 2007, ASARCO sought authority to implement a severance plan as part of its 2007 assessment and update of ASARCO's overall compensation program. The severance program provides specific protection for eligible employees against a termination or reduction in job quality. The motion was approved by order entered on August 31, 2007.

The market for qualified employees with the experience required for ASARCO's operations remains extremely competitive and, despite the implementation of these programs, ASARCO continues to be challenged in its efforts to adequately staff its operations.

(e) Extension of Collective Bargaining Agreement for Globe Plant.

The collective bargaining agreement covering four employees working at ASARCO's plant in Globe, Colorado expired on May 31, 2006. ASARCO and the United Steelworkers of America, Local 8031-07 agreed to extend the existing agreement for an additional year. The Bankruptcy Court approved the extension of the agreement by order entered on August 21, 2006, and also authorized ASARCO to honor employee benefit obligations under the agreement. The extension, which expired on May 31, 2007, ensured that ASARCO had the necessary work force to comply with its remediation obligations at the Globe plant. The Globe plant closed on August 31, 2006.

(f) Assumption of Certain Workers' Compensation Insurance Agreements.

By motion filed on March 22, 2007, ASARCO asked the Bankruptcy Court to authorize it to assume certain of its existing workers' compensation insurance agreements with AIG and to approve its entry into a renewal insurance program with AIG. ASARCO's insurance broker, Willis of Arizona, Inc., solicited bids for insurance coverage in 2007, and a proposal from AIG was determined to be the most competitive. As a condition to obtaining new policies, ASARCO had to pay approximately $155,000 to cure obligations relating to workers' compensation coverage in 2004. The Bankruptcy Court approved ASARCO's request by order entered on April 16, 2007.

(g) Settlement of Certain Workers' Compensation Claims.

On June 6, 2008, ASARCO filed a motion seeking approval of its proposed settlement with certain former employees who had asserted workers' compensation claims with an alleged aggregate value of $6.8 million. They claimed that their hearing was impaired as a result of working in zinc mines formerly owned and operated by ASARCO's former Tennessee Mines Division in eastern Tennessee. Pursuant to the settlement, each Claimant shall receive an agreed-upon payment in an amount set forth on an exhibit to the motion, with the Allowed Claims totaling approximately $4.5 million. ASARCO also sought, pursuant to section 362(d)(1) of the Bankruptcy Code, a limited modification of the automatic stay to allow any settling Claimants who so choose to seek approval of the settlement in the Tennessee state court where the hearing loss claims were originally filed or could have been filed, or the Tennessee Department of Labor. In addition, on September 17, 2007, ASARCO obtained approval of a settlement with former employees who contended that their prepetition hearing-loss judgments or settlements were secured. ASARCO agreed to pay certain of those claimants a total of about $1.7 million out of the proceeds from the post-petition sale of the Tennessee Mines Division. The remaining claimants received allowed claims totaling approximately $1.4 million.

(h) Payment of Union Professional Fees and Expenses.

In the summer and fall of 2006, ASARCO and the USW were in negotiations regarding the collective bargaining agreements, which were set to expire at the end of 2006. In order to adequately represent the interests of ASARCO's bargaining unit employees and retirees in such negotiations, the USW needed assistance from qualified professionals to address the legal and financial issues. By order entered on August 21, 2006, the Bankruptcy Court authorized ASARCO to pay up to $500,000 of the USW's professional fees and expenses, provided the professionals submit to a fee statement review process and file fee applications approximately every four months.

By motion filed on August 23, 2007, ASARCO sought to increase the aggregate cap on the USW's professional fees that ASARCO is authorized to pay from $500,000 to $1.5 million. The Parent objected to the request. The Bankruptcy Court conducted hearings on the motion on November 1, 2007 and February 8, 2008, and then took the matter under advisement.

(i) Canadian Pension Plan Funding Obligations.

(1) ASARCO.

By motion filed on January 4, 2008, ASARCO sought authority to cure the underfunding of the salaried pension plan for ASARCO Exploration Company of Canada Limited, Federated Metals Canada Limited, and Enthone-OMI (Canada) Inc. and to complete the wind-up and termination of the plan.

As part of the process of closing these companies' Canadian operations in 1999 through 2002, the pension plan began the wind-up process. At the time, the plan was underfunded. ASARCO's predecessor agreed in January 2003 to cure the underfunding in installment payments over five years; however, no installment payments were made and, for years, the required annual wind-up reports were not filed. ASARCO has become current through the 2005 wind-up report and obtained an extension for filing the 2006 wind-up report.

By order entered on January 29, 2008, the Bankruptcy Court authorized ASARCO to pay, within its discretion, any amounts owed to the pension plan and related expenses as ultimately negotiated by the parties and subject to variables such as the annuities return rate and interest rates at the time of calculation, and otherwise complete the wind-up (or termination) of the pension Plan.

(2) LAQ.

LAQ sold its rights under a Joint Venture Agreement with United Asbestos Corp. Ltd. concerning operation of an asbestos mining concession and other assets at Black Lake in the Province of Québec to its subsidiary Lac d'Amiante du Canada Ltée on June 18, 1986 by the Memorandum of Agreement of the same date. Lac d'Amiante du Canada Ltée remained a wholly-owned subsidiary of LAQ. On that same day, a limited partnership agreement was signed among Lac d'Amiante du Canada Ltée, Camchib, Bell Asbestos Mines Ltd., and Asbestos Corporation Limited as limited partners, and LAB Chrysotile Inc. as general partner, to carry on the business of the mine.

Also on June 18, 1986, the parties to the limited partnership agreement entered into the Actuarial Basis for Transfer, which set forth their agreement regarding establishing pension plans for the limited partnership's employees. Under the agreement, LAB Chrysotile agreed to set up pension plans to cover employees of the limited partnership and the partners agreed to transfer certain assets from their plans to LAB Chrysotile's plans, and in the case of Lac d'Amiante du Canada Ltée, from LAQ's plans. Canadian regulations interfered with the planned transfer of pension assets.

LAQ subsequently sold its ownership interest in Lac d'Amiante du Canada Ltée to 2733-2915 Québec, Inc. As part of the sale, the parties stipulated that the assets of the LAQ Retirement Benefit Plan for Salaried Employees and the LAQ Retirement Income Plan for Hourly Rated Employees would be transferred to LAQ prior to closing, subject to the obligations contained in the Actuarial Basis for Transfer. In a separate agreement between Lac d'Amiante du Canada Ltée and LAQ prior to closing, LAQ agreed to "assume and indemnify and hold harmless [Lac d'Amiante du Canada Ltée] in respect of all such obligations to the extent of the amount of such assets lawfully received and entitled to be retained by [LAQ]."

LAB Chrysotile filed Proof of Claim No. 18184 on March 23, 2007, seeking $703,894.63 (CA$822,360.10) for the payment of retirement benefits to former LAQ employees. Because the only obligation LAQ has under its agreement with Lac d'Amiante du Canada Ltée is limited to "the extent of the amount of such assets lawfully received and entitled to be retained by [LAQ]," LAQ disputed this Claim and does not believe it has continuing pension obligations.

(j) Payment of Employee Benefit Obligations.

ASARCO has, over the course of the Reorganization Cases, received authority from the Bankruptcy Court to make quarterly pension plan payments for salaried and hourly employees, make disability payments to current and former employees, cure deficiencies in its retirement plans, and cure other compliance issues relating to certain benefit plans, and has made such payments in accordance with applicable law.

2.17 Insurance.

(a) Insurance Coverage Litigation.

In 2001, ASARCO, LAQ, and CAPCO filed a petition in the 94th District Court of Nueces County, Texas, initiating Cause No. 01-02680-C against certain insurance companies, seeking a declaration that the insurance companies were obligated to defend and indemnify them against asbestos Claims pending in various lawsuits filed across the country. The lawsuit is currently pending in the 105th District Court of Nueces County, Texas as Cause No. 01-02680-D. Under the Plan, this lawsuit shall be transferred to the Asbestos Trust. The only remaining defendants in the lawsuit are FFIC and certain London market insurers. In the action, ASARCO is seeking reimbursement of prepetition indemnification and defense costs, a declaration as to the coverage obligations under insurance policies sold to ASARCO by the insurance companies, and damages under statute and common law on a variety of extracontractual grounds, including bad faith and improper claims handling. The insurance policies sold to ASARCO by these insurance companies are included on the list of insurance policies attached to the Plan as **Exhibit 8**.

FFIC had removed the lawsuit from state court to the District Court, after the April 2005 bankruptcy filings of LAQ and CAPCO, thereby creating Civil Action No. 05-00323. The District Court referred the lawsuit to the Bankruptcy Court, thereby initiating Adversary Proceeding No. 05-02053. The debtors filed a motion to remand the lawsuit to Nueces County, and FFIC filed a motion for withdrawal of the reference of the lawsuit. On January 25, 2006, the Bankruptcy Court remanded the lawsuit to Nueces County and issued an interim report suggesting that the withdrawal of reference motion was moot. FFIC filed notices of appeal from both of these rulings, thereby initiating Civil Action Nos. 06-00064 (the appeal from the interim report) and 06-00065 (the appeal from the remand order). In orders entered in both appeals on March 7, 2007, the District Court affirmed the Bankruptcy Court's order remanding the lawsuit to state court.

While the lawsuit seeks coverage for both products claims and premises claims, ASARCO entered into prepetition settlement agreements with American Home Assurance Company and Century Indemnity Company, as successor to, *inter alia*, Insurance Company of North America and California Union Insurance Company, regarding premises claims. All matters relating to these settlement agreements are confidential, but for the fact that settlement has been reached. Thus, while additional policies remain available as a source of insurance coverage, ASARCO is precluded from identifying them on the list of insurance policies that is attached to the Plan as **Exhibit 8**.

ASARCO also entered into prepetition settlement agreements with a number of insurance companies that were originally named as defendants in the lawsuit, but were dismissed as a result of those settlements. A number of those settlements are the subject of fraudulent conveyance actions that were timely filed but have not been served, in accordance with a Bankruptcy Court order staying service until a specified number of days following the Effective Date. *See* ~~Article~~**Section** 2.24(i), (j), and (l)(3) below. The insurance policies that are subject to these fraudulent conveyance actions, and from which insurance recovery is being sought through such actions, are referenced on the list of insurance policies that is attached to the ~~plan~~**Plan** as **Exhibit 8**.

(b) Post-Petition Settlements with Certain London Market Insurers.

On July 26, 2006, ASARCO filed a motion seeking approval of its settlement with certain participating London market insurers of the insurance coverage litigation discussed in Section 2.17(a) above. The settlement generated $18,943,000.36 for the Debtors' Estates (or nearly 80 percent of the limits of the policies being settled with respect to the settling carriers). The Bankruptcy Court approved the settlement by order entered on September 14, 2006.

On February 28, 2007, ASARCO filed a motion seeking approval of its settlement agreement with another one of the London market insurers, Sovereign Marine and General Insurance Company Limited, which in effect allowed Sovereign to become a party to the earlier settlement agreement with the participating London market insurers and resulted in ASARCO's recovery of approximately $1 million thus far. The Bankruptcy Court approved the settlement by order entered on March 23, 2007.

(c) Escrow of Certain Insurance Proceeds.

The Asbestos Subsidiary Debtors, ASARCO, the Asbestos Subsidiary Committee, and the FCR entered in an escrow agreement regarding insurance proceeds that were recovered as the result of an Asbestos Insurance Settlement Agreement. The escrow agreement was set forth in a July 8, 2005 Stipulation and Order Regarding Certain Insurance Proceeds, which was approved by the Bankruptcy Court on that date and issued as an order. Due to the payment of the Asbestos Subsidiary Debtors' reorganization fees, costs and expenses, the amount remaining in the escrow account is *de minimis*.

(d) Efforts to Recover from Certain London Market Insurers Not Subject to Suit.

In addition to pursuing insurance recovery through the Nueces County lawsuit discussed in Section 2.17(a) above and the avoidance actions discussed in Sections 2.24(i) and (j) below, ASARCO is seeking recovery outside of standard litigation from certain London market insurers that are either insolvent, in liquidation, or subject to a protective order that prohibits pursuit of a traditional lawsuit against them but against whom a claim may be filed through other means. ASARCO is pursuing recovery through the procedures that are required for each such London market insurer. The insurance policies sold to ASARCO by these insurance companies are identified on the list of insurance policies that is attached to the Plan as **Exhibit 8**.

2.18 Tax Issues.

(a) The Tax Refund.

As a result of the carryback of certain losses of ASARCO's predecessor, ASARCO NJ, that were incurred prior to Grupo Mexico's acquisition of ASARCO NJ in 1999, ASARCO contends that it is entitled to a tax refund from the IRS for federal income taxes ASARCO NJ paid during 1987, 1988, and 1989. ASARCO has been attempting to collect the tax refund, which is a substantial cash asset of ASARCO's Estate, from the IRS since 2003.

More specifically, ASARCO NJ was the common parent of the ASARCO NJ Consolidated Group that filed consolidated federal income tax returns on a calendar year basis for the taxable years 1987 through 1999. ASARCO NJ paid the federal income taxes reported on the consolidated federal income tax returns filed by the ASARCO NJ Consolidated Group, including those filed for the taxable years 1987 through 1989.

In May 2003, ASARCO NJ filed a claim for refund with the IRS based on the carryback of specified liability losses under Internal Revenue Code sections 172(b)(1)(C) and (f), from the taxable years: (1) 1994 and 1995 to the taxable year 1987; (2) 1998 to the taxable year 1988; and (3) 1999 to the taxable year 1989.

On January 26, 2006, the IRS issued a Notice of Partial Allowance and Partial Disallowance of the refund claim. The amounts of the refund claim allowed pursuant to the partial allowance notice are $1,750,684 for the taxable year 1987, $21,336,162 for the taxable year 1988, and $17,392,575 for the taxable year 1989. The total overpayment of tax allowed by the partial allowance notice is $40,479,421. As a result of the merger in 2005 of ASARCO NJ with and into ASARCO, ASARCO succeeded to the ownership of the refund claim and the Tax Refund under Delaware contract and statutory law.

On February 5, 2007, ASARCO filed a complaint for declaratory and injunctive relief against the Asbestos Subsidiary Debtors, Rinker Material South Central, Inc. f/k/a American Limestone, Enthone Inc., EI Liquidation, Inc., and OMI International Corporation, AMC, and the Parent, thereby initiating Adversary Proceeding No. 07-02011. The complaint seeks, *inter alia*, a declaration that the Tax Refund is property of ASARCO's Estate.

On April 11, 2007, the Bankruptcy Court entered a Stipulation and Agreement Regarding the Defense of Tax Refund Complaint on Behalf of the Subsidiary Debtors' Estates, wherein the Asbestos Subsidiary Debtors, each of their respective Estates, the Asbestos Subsidiary Committee, and the FCR agreed that the Asbestos Subsidiary Committee and the FCR should take responsibility for the representation of the interests of the Asbestos Subsidiary Debtors in the Tax Refund adversary proceeding.

By stipulation and order entered on June 1, 2007, Rinker acknowledged that it had no right or entitlement to the refund claim or to any portion of the amounts recovered under the refund claim or to the Tax Refund; as a result, claims against Rinker in this adversary proceeding were dismissed. In the stipulation, Rinker also designated Covington to act as agent for the ASARCO NJ Consolidated Group with respect to the refund claim and the Tax Refund.

By stipulation and order entered on January 3, 2008, the Asbestos Subsidiary Debtors designated Covington to act as agent for the ASARCO NJ Consolidated Group with respect to the refund claim and the Tax Refund; as a result, Count II of the complaint against the Asbestos Subsidiary Debtors was dismissed. By stipulation and order entered on February 25, 2008, ASARCO and CAPCO stipulated that CAPCO is entitled to $51,321 plus a pro rata portion of the statutory interest accrued on the overpayment of tax, less a pro rata portion of any fees payable to Arthur Andersen LLP or Deloitte & Touche LLP relating to the refund claim or the Tax Refund. The Asbestos Subsidiary Debtors, other than CAPCO, acknowledged that they have no right or entitlement to the refund claim or any portion of the Tax Refund. As a result, Count I against the Asbestos Subsidiary Debtors was dismissed.

On December 21, 2007, motions for summary judgment were filed by AMC and the Parent, and by ASARCO. A hearing on the motions was held on January 31, 2008. The Bankruptcy Court requested additional briefing on certain issues raised at the hearing on the motions for summary judgment. On March 31, 2008, ASARCO filed a brief addressing those issues, and AMC and the Parent filed a responsive brief on May 16, 2008. **On July 10, 2008, ASARCO filed a reply to AMC's and the Parent's responsive brief.**

At the January 31, 2008 hearing, the Bankruptcy Court also requested that the parties attempt to agree to an escrow arrangement authorizing payment of the Tax Refund to an escrow agent while reserving all rights of the interested parties. An escrow arrangement to this effect was negotiated and may be implemented if it becomes economically advantageous to transfer the Tax Refund to an escrow agent.

The DOJ filed a Proof of Claim on behalf of the United States of America, asserting a right of setoff pursuant to common law, sections 106(c), 506, or 553 of the Bankruptcy Code, 26 U.S.C. § 6402(d), or 31 U.S.C. § 3720A against, and to the extent of, the Tax Refund. The setoff claim is resolved pursuant to the Plan.

(b) Tax Sharing Agreement with and Tax Claims by AMC.

The stock of ASARCO NJ was acquired by Grupo Mexico in November 1999. During the year 2000, Grupo Mexico formed and transferred the stock of ASARCO NJ to AMC, which transfer terminated the ASARCO NJ Consolidated Group and created the AMC Consolidated Group having AMC as the common parent and including the ASARCO NJ Subgroup. On January 14, 2004, ASARCO NJ entered into a Tax Sharing Agreement with AMC, which provided that ASARCO NJ would pay to AMC an amount equal to the federal income tax liability attributable to the taxable income of the ASARCO NJ Subgroup that would have been paid if the ASARCO NJ Subgroup had filed a separate consolidated federal income tax return, giving effect to any net operating or capital loss carryovers incurred by the ASARCO NJ Subgroup not previously utilized by the ASARCO NJ Subgroup in computing its liability under the Tax Sharing Agreement. The Tax Sharing Agreement was effective for taxable years ending on or after December 31, 2003. On February

17, 2005, the Tax Sharing Agreement was amended in anticipation of the merger of ASARCO NJ into ASARCO. The Amendment provides that the Tax Sharing Agreement shall apply to the ASARCO Subgroup in substantially the same manner as it did with respect to the ASARCO NJ Subgroup, except as modified by the amendment.

At the time that both the Tax Sharing Agreement and the amendment were entered into, the Refund Claim had not been not allowed. The amendment provides that in the event that any tax refund claimed by ASARCO NJ prior to the date of the amendment should be received by AMC, Parent, or one of their subsidiaries, such tax refund must promptly be turned over to ASARCO without offset other than for "professional fees that are directly related to preparing, pursuing or other services provided in connection with the claim for refund." ASARCO has not determined whether to accept or reject the Tax Sharing Agreement and the amendment.

At the January 31, 2008 summary judgment hearing, counsel for AMC and the Parent argued for the first time that ownership of the Tax Refund is affected by the Tax Sharing Agreement and amendment, and that summary judgment in ASARCO's favor would circumvent the terms of these agreements. On March 31, 2008, ASARCO filed a brief arguing that the Amendment is consistent with ASARCO's ownership of the Tax Refund under Delaware law and merely provides for the payment of the Tax Refund to ASARCO should the Tax Refund be paid by the IRS to any party other than ASARCO. On May 16, 2008, AMC and the Parent filed a response, asserting that the Tax Sharing Agreement and amendment provide that the Tax Refund must be paid to AMC, Parent, or one of their subsidiaries, and that AMC should be allowed to offset against the Tax Refund the amount of the federal income taxes owed by the AMC Consolidated Group for 2007 that are attributable to the ASARCO Subgroup. On July 10, 2008, ASARCO filed a reply to AMC~~'s~~ and Parent's responsive brief**. On or about September 19, 2008, AMC and the Parent filed an Administrative Claim against ASARCO in the amount of $516,200,000 for taxes alleged to be due the Parent under the tax sharing agreement and alleged post-bankruptcy taxes owed to the IRS and other taxing authorities. ASARCO disputes this Administrative Claim, but as with any litigation matter, the outcome of this controversy cannot be predicted at this time**.

2.19 Asbestos Litigation

(a) Injunctive Relief Regarding Asbestos Claims.

On April 12, 2005, the Asbestos Subsidiary Debtors filed a complaint initiating Adversary Proceeding No. 05-02030, seeking declaratory and injunctive relief to stay or enjoin the prosecution of asbestos claims against ASARCO (which at that time was not yet in bankruptcy), certain of its non-Debtor subsidiaries, and the then-current officers and directors of ASARCO and the Asbestos Subsidiary Debtors. On April 15, 2005, the Bankruptcy Court entered a temporary restraining order and agreed preliminary injunction, which remains in effect.

On July 26, 2006, ASARCO and the Asbestos Subsidiary Debtors filed a complaint initiating Adversary Proceeding No. 06-02056, seeking declaratory and injunctive relief to stay or enjoin the prosecution and enforcement of asbestos claims against any of the participating London market insurers. This request was made in accordance with a provision of ASARCO's settlement agreement with the participating London market insurers (discussed in Section 2.17(b) above), which required ASARCO to use its reasonable best efforts to obtain an injunction pursuant to section 105(a) of the Bankruptcy Code in favor of the participating London market insurers. On September 14, 2006, the Bankruptcy Court entered a preliminary injunction, which remains in effect.

(b) Estimation of Derivative Asbestos Claims.

Approximately 102,000 Claimants filed asbestos-related Claims or submitted electronic claims data against ASARCO or one or more of the Debtors.[2] In a number of these claims against the Asbestos Subsidiary Debtors, and in prepetition lawsuits, ASARCO was alleged to be liable for the Derivative Asbestos Claims. ~~Having~~**Maintaining that it** never manufactured or sold asbestos or asbestos-containing products, ASARCO denied liability; this issue has been resolved by the global resolution of the Debtors' asbestos liabilities as reflected in the Plan.

On June 15, 2005, ASARCO filed a complaint initiating Adversary Proceeding No. 05-02048 against the Asbestos Subsidiary Debtors and the FCR, seeking a declaration that it was not liable for the Derivative Asbestos Claims.

[2] Many Claimants have asserted Claims against more than one Debtor, resulting in a total asbestos-related Claim count significantly higher than 102,000.

Pursuant to a stipulation approved on April 25, 2006, the Asbestos Subsidiary Committee and the FCR were granted standing to prosecute the Derivative Asbestos Claims on behalf of the Asbestos Subsidiary Debtors' Estates and were authorized to take the lead role in the prosecution of this adversary proceeding on behalf of the Asbestos Subsidiary Debtors' Estates and to prosecute all claims, defenses, and counterclaims against ASARCO related to the Derivative Asbestos Claims.

In March 2006, ASARCO filed a motion seeking an estimation of the amount of ASARCO's liability, if any, for the Derivative Asbestos Claims, and proposing a procedure for such estimation proceedings. Objections to the estimation motion were filed by the Asbestos Subsidiary Committee, the FCR, and FFIC.

On May 9, 2006, the Asbestos Subsidiary Committee and the FCR, on behalf of the Asbestos Subsidiary Debtors, filed their Amended Complaint Realigning Parties and Seeking to Hold ASARCO LLC Liable for Tort Liabilities of the Subsidiary Debtors. In the amended complaint, they sought a judgment declaring that ASARCO is liable for the Asbestos Subsidiary Debtors' asbestos-related liabilities under Alter Ego Theories.

ASARCO was able to reach an agreement with the Asbestos Subsidiary Committee and the FCR regarding some aspects of the procedure for resolution of the Derivative Asbestos Claims. The settlement agreement provided for a stipulated process in a contested matter under section 502 of the Bankruptcy Code to establish the aggregate amount of ASARCO's liability, if any, for the asbestos-related liability of the Asbestos Subsidiary Debtors. The amount of the Derivative Asbestos Claims, if any, would be incorporated into ASARCO's plan of reorganization, and used for all purposes, including voting, feasibility, best interests of creditors test, fair and equitable test, no unfair discrimination test, distribution, and other plan-confirmation related matters. The Bankruptcy Court entered an order approving the settlement agreement on March 20, 2007. The order included an addendum which resolved concerns raised by FFIC in an objection, and provided for the estimation proceedings to be conducted to provide for "insurance neutrality." By motion filed on November 30, 2007, ASARCO and the Asbestos Subsidiary Debtors sought to extend the insurance neutrality addendum to all insurance companies that are or may become interested parties in the Reorganization Cases, rather than have its benefits and protections afforded only to FFIC. Objections were filed by Century Indemnity Company, American Home Assurance Company and Lexington Insurance Company, and Mt. McKinley Insurance Company and Everest Reinsurance Company. An agreement was eventually reached with all parties other than Mt. McKinley Insurance Company and Everest Reinsurance Company, and an order of the Bankruptcy Court dated May 29, 2008 extends insurance neutrality to all insurance companies other than those two.

On March 5, 2007, the parties submitted their estimates of the maximum aggregate asbestos-related liability of the Asbestos Subsidiary Debtors as of April and August 2005, the respective Petition Dates of the Asbestos Subsidiary Debtors and ASARCO. The estimates ranged from $180 million to $2.655 billion, not including the Asbestos Premises Liability Claims, Demands, or the costs of defense.

By order dated September 20, 2007, the Bankruptcy Court appointed the Honorable Elizabeth W. Magner, United States Bankruptcy Judge for the Eastern District of Louisiana, to mediate estimation of the Derivative Asbestos Claims. Mediation talks began in October, and continued in November, December, and January 2008. The focus of the discussions quickly expanded from the Derivative Asbestos Claims to encompass a consensual plan of reorganization, and Judge Magner began a dialogue among ASARCO and its key constituencies. Because the talks were productive, the parties asked the Bankruptcy Court to postpone the estimation hearing, which was set to begin on January 2, 2008. These discussions ultimately resulted in development of a global resolution of the Debtors' asbestos and environmental liabilities, which became part of a consensual plan of reorganization **and in the parties' view, obviated the need for an estimation hearing**. The parties also decided on a structure for the sale process during the mediation sessions, as is further discussed in Section 2.27 below.

The global resolution of the Debtors' asbestos and environmental liabilities is contained in the Plan. ASARCO entered into separate settlement agreements with the United States and various states (as discussed in Section 2.20 below), on the one hand, and with the Asbestos Subsidiary Committee and the FCR, on the other hand, but each of these agreements is conditioned upon confirmation of a plan providing for the resolution of the Claims of other constituents and the sale of the Plan Assets to the Plan Sponsor.

The Asbestos Settlement Agreement, which ASARCO negotiated with Judge Pate, in his capacity as FCR for the Asbestos Subsidiary Debtors, and the Asbestos Subsidiary Committee, contemplates global resolution of all asbestos-related claims against all Debtors. During the course of these negotiations, all parties understood that the settlement would be subject to review and approval by Judge Pate, in his capacity as FCR for the Debtors other than the Asbestos Subsidiary Debtors (pursuant to orders entered in August 15 and 26, 2008), and the Asbestos Claimants' Committee (appointed by the

U.S. Trustee on August 26, 2008). Judge Pate, in his capacity as FCR for the Debtors other than the Asbestos Subsidiary Debtors, and the Asbestos Claimants' Committee have reviewed the settlement. **The Asbestos Settlement Agreement has not yet been signed, but the Debtors believe it will be signed in substantially the form attached as Exhibit 9 to the Plan.**

In particular, the Asbestos Settlement Agreement provides for the following:

- the establishment of an Asbestos Trust;
- the channeling of the Unsecured Asbestos Personal Injury Claims and Demands to the Asbestos Trust, pursuant to section 524(g) of the Bankruptcy Code;
- the Debtors' contribution of the Asbestos Trust Assets (which include up to $750 million in Cash (less any outstanding amounts due under the Secured Intercompany Secured DIP Credit Facility), the Asbestos Trust's share of the Litigation Trust Interests, the Asbestos Insurance Recoveries (directly or indirectly), and 100 percent of the interests in Reorganized Covington, with a potential supplemental distribution of up to $102 million in Cash) to the Asbestos Trust;
- the release by the Asbestos Subsidiary Committee and the FCR, on behalf of each of the Asbestos Subsidiary Debtors, of the ASARCO Protected Parties from (1) any and all claims and causes of action that the Asbestos Subsidiary Debtors may now have or have in the future based on Alter Ego Theories or similar theories seeking to impose liability on any ASARCO Protected Party for claims of asbestos-related injury asserted against the Asbestos Subsidiary Debtors and (2) any and all claims relating to intercompany transactions or dealings between ASARCO and the Asbestos Subsidiary Debtors relating to Unsecured Asbestos Personal Injury Claims and Demands;
- the dismissal with prejudice of all claims in Adversary Proceeding No. 05-02048 discussed above and the contested matter seeking to resolve the issues of ASARCO's liability for the Derivative Asbestos Claims and the aggregate amount of any such liability;
- the Asbestos Subsidiary Committee's agreement to recommend that holders of Unsecured Asbestos Personal Injury Claims vote in favor of the Plan and specifically in favor of the creation of the Asbestos Trust and the entry of the Permanent Channeling Injunction; and
- the agreement of the Asbestos Subsidiary Committee and the FCR to support confirmation of the Plan.

The Debtors believe that the proposed treatment of Unsecured Asbestos Personal Injury Claims as outlined in the Plan is appropriate and in the best interest of the Debtors' Estates and constituents for the following reasons, among others. The Plan addresses both premises claimants who have direct claims against ASARCO and other Debtors and subsidiary product liability claimants who have direct claims against the Asbestos Subsidiary Debtors and indirect claims against ASARCO. The claimants' expert in the proceedings to estimate the Derivative Asbestos Claims has estimated that liability for the second set of claims at between $1.3 billion and $2.1 billion. Based on settlement data that pre-dated the Asbestos Subsidiary Debtors' bankruptcy filings by over a year, ASARCO's expert estimated the subsidiary claims liability at between $267 million and $430 million. The low end of that range is based on 2000 and 2001 settlement data. The range based on the 2002 to early 2004 settlements was approximately $400 million to $430 million. None of these liability estimates include the costs associated with the defense of claims or claim administration. The Debtors' cost of defending asbestos-related claims has historically been higher than the amounts paid to resolve the claims.

Under the global settlement agreement incorporated into the Plan, distributions to the Asbestos Trust are expected to total at least $750 million (not including the Asbestos Trust's right to 50 percent of the Litigation Trust Interests), but no assurances can be given. The FCR and the Asbestos Claimants' Committee reserve the right to oppose Confirmation of the Plan if there appears to be a significant risk that the level of distribution cannot be realized.

In addition to the Asbestos Subsidiary Debtors' asbestos-related liability, ASARCO and other Debtors also face a modest number of direct premises liability claims. Although insurance coverage in place provides some coverage for

ASARCO's premises claims, there is additional exposure that is resolved by the treatment of asbestos claimants under the Plan.

At the Confirmation Hearing, the Bankruptcy Court will make an informed, independent judgment as to the reasonableness of the settlement in accordance with the standards set out in *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414 (1968). The Debtors intend to present evidence as to the reasonable range of Unsecured Asbestos Personal Injury Claims, Miscellaneous Federal and State Environmental Claims, and Claims relating to the Environmental Custodial Trust sites. The Bankruptcy Court already has a complete record on the Residual Environmental Claims.

The Parent opposes the Debtors' proposed Asbestos Settlement Agreement, which is embodied in the Plan. The Parent contends that the corporate veil cannot be pierced to hold ASARCO liable for the asbestos-related liabilities of LAQ and CAPCO. Moreover, even if the corporate veil is pierced, the Parent believes that the Asbestos Claimants' Committee and the FCR have significantly overstated the alleged estimated damages, and therefore that the Allowed Amounts of Asbestos Personal Injury Claims and Demands would be significantly less than is allotted in the proposed Asbestos Settlement Agreement. Moreover, the Parent asserts that uncapped recoveries from Litigation Proceeds render the Plan unconfirmable.

The Debtors deny the Parent's contentions and believe that the Plan does not pay creditors more than what those creditors are legally entitled and should be confirmed over the Parent's objection.

On August 26, 2008, the Parent filed a motion seeking to have the Bankruptcy Court estimate the maximum amount of Asbestos Personal Injury Claims (as well as unresolved environmental Claims) for purposes of distributions under the Debtors' Plan and the Parent's Plan. The Parent believes that the relief requested in the Parent's estimation motion, if granted, would enable the Bankruptcy Court to liquidate the relevant claims efficiently and would enable the claims estimation process to proceed on a parallel track with the plan confirmation process. The Debtors believe the Parent's estimation motion is unnecessary because the Debtors' Plan incorporates a settlement with the holders of those Claims, and the Parent's Plan contemplates resolution of Claims over time and through the state court litigation system. Because the Parent asserts its plan is a full-payment plan and proposes Claims resolution post-confirmation, estimation is unnecessary. At the hearing held on September 23, 2008 on the Parent's estimation motion, the Bankruptcy Court ruled that estimation issues will await plan confirmation.

(c) Parent's Motion to File Under Seal Objections to Asbestos-Related Proofs of Claim.

On March 3, 2008, the Parent sought authority to file under seal its objections under section 502 of the Bankruptcy Code and Bankruptcy Rule 3007 to asbestos-related Proofs of Claim. The motion alleged that the Parent's review of such Proofs of Claim uncovered glaring facial deficiencies throughout the asbestos claim universe which rebut any presumption of validity. The Parent sought authority to file the objections under seal because they would describe certain confidential medical information as well as the claimants' Social Security numbers. This motion was approved by order entered on April 15, 2008. The Parent thereafter filed under seal objections to certain asbestos-related Proofs of Claim.

Responses to the objections were filed by ASARCO, the Asbestos Subsidiary Committee, the FCR, and certain Asbestos Personal Injury Claimants represented by Lipsitz & Ponterio, LLC, contesting the Bankruptcy Court's jurisdiction to adjudicate such Claims. The Bankruptcy Court conducted a hearing thereon on June 6, 2008, heard arguments from counsel, requested briefing on whether it has jurisdiction to decide challenges to the validity of these Proofs of Claims, heard additional arguments from counsel on July 15, 2008, and took the matter under advisement.

To date, the Parent has filed objections to 65 asbestos-related Proofs of Claim. **Of the 65 objections filed, the Parent asserts that 58 Proofs of Claim have so far been withdrawn or expunged by the Bankruptcy Court.**

2.20 Estimation of Environmental Claims and Omnibus Objections to Environmental Claims.

ASARCO has, for over 100 years, been engaged in the mining, smelting, and refining businesses. As a result of these activities, ASARCO has acquired responsibility for liabilities arising under Environmental Law, at over 100 sites, asserted by the federal government as well as many state governments, Indian tribes, and private parties. The United States filed a Proof of Claim asserting Claims in stated amounts ranging from $3.6 to $4 billion. Sixteen states filed Proofs of Claim asserting liabilities in stated amounts ranging from $3.8 to $4 billion. At least two Indian tribes filed Proofs of Claim asserting approximately $800 million in Claims, and private parties filed Proofs of Claim in amounts totaling almost $2

billion. These private party Claims are mostly, but not entirely, duplicative of Claims filed by state and federal governments. When analyzed to eliminate obvious duplication, these Proofs of Claim assert approximately $6.5 billion of Claims in determined amounts, with a significant number of additional Claims in "undetermined" amounts. These environmental Claims would create an unsecured class too ill-defined to achieve confirmation of a plan of reorganization unless the vast majority of them are resolved either through estimation by the Bankruptcy Court or settlement.

On January 30, 2007, ASARCO filed a motion asking the Bankruptcy Court to estimate the environmental Claims, and received numerous objections to this request. On March 23, 2007, after extensive negotiations with federal and state governments and PRPs, the Bankruptcy Court entered a case management order establishing agreed-upon procedures for estimation of ASARCO's environmental Claims at 21 sites (including past and future response and natural resource damage Claims, but excluding Toxic Tort, property damage, and similar Claims). The asserted liabilities at these sites accounted for approximately $6 billion of the $6.5 billion in environmental Claims asserted in determined amounts, along with the most significant environmental Claims asserted in undetermined amounts. The case management order divided the covered sites into four groups, and set discovery and trial timetables for each group.

As a result of the process initiated by the case management order, three estimation hearings were held as to portions of the three Residual Environmental Settlement Sites, which represent approximately $3 billion of the environmental Claims. Settlements were reached prior to scheduled estimation hearings as to all or part of the 19 Previously Settled Environmental Sites, whereby another $3 billion of environmental Claims were resolved for approximately $529 million in Allowed Unsecured Claims or Cash. All but two of these settlements are pending approval of, or have been approved by, the Bankruptcy Court. Two sites originally scheduled for estimation hearings were not addressed by these hearings or settlements.

Toward the end of the schedule established by the case management order, the DOJ attended the mediation before Judge Magner, which was initially intended to focus upon estimation of the Derivative Asbestos Claims. *See* Section 2.19(b) above. When that mediation expanded to include discussions of a consensual plan, the parties reached an agreement in principle on a plan-based structure of settlement encompassing the sites addressed by the First CMO, as well as the majority of the remaining environmental Claims. At that time, the Debtors and the DOJ asked the Bankruptcy Court to defer ruling on the Residual Environmental Settlement Sites which had been the subject of estimation hearings. The environmental components that are incorporated into the Plan are as follows:

- owned, non-operating sites with identified environmental issues shall be placed into one or more Environmental Custodial Trusts along with approximately $244 million for remediation and restoration costs and $30 million for administration costs of the trusts;

- environmental Claims relating to the Previously Settled Environmental Sites as to which settlements were reached prior to the scheduled estimation hearings, shall be classified as Class 7 Previously Settled Environmental Claims, with Allowed Unsecured Claims totaling approximately $529 million;

- environmental Claims relating to the vast majority of remaining state and federal environmental Claims, including two sites listed in the First CMO that were neither settled nor estimated, shall be classified as Class 8 Miscellaneous Federal and State Environmental Claims, with Allowed Unsecured Claims totaling approximately $103 million; and

- environmental Claims of the United States and the State of Washington relating to the Residual Environmental Settlement Sites shall be classified as Class 9 Residual Environmental Claims, with Allowed Unsecured Claims that shall be satisfied by a distribution of up to $750 million, supplemental distributions of $102 million (to the extent of Available Plan Funds), and Litigation Trust Interests.

These components and the related settlements that are incorporated into the Plan are illustrated in the chart below. *See* components 1 to 4 in the chart below.

(a) Environmental Custodial Trust Sites.

The Environmental Custodial Trust sites comprise approximately 24 sites where ASARCO owns a site with identified environmental issues. ASARCO hired Environmental Resources Management, one of the world's largest

environmental consulting firms, to evaluate the potential costs associated with these sites. Environmental Resources Management determined the expected cost of cleaning up identified liabilities at each site, so that ASARCO's board of directors and management could make informed business judgments in connection with bankruptcy planning. Based on its research and analysis, Environmental Resources Management determined that the costs to clean up identified liabilities at the Environmental Custodial Trust sites would likely range between approximately $168.5 million and $230 million.

(b) Residual Environmental Settlement Sites.

The Residual Environmental Settlement Sites consist of the Coeur d'Alene, Idaho site, the Omaha, Nebraska lead site, and the Tacoma, Washington smelter plume site. The Residual Environmental Claims relating to these sites consist of the Claims of the United States for the Coeur d'Alene site and the Omaha site, and the Claims of the State of Washington for future costs at the Tacoma site. Under the global settlement incorporated into the Plan, the combined distributions that the United States and the State of Washington are expected to receive for these sites total at least $750 million (not including their right to 50 percent of the Litigation Trust Interests), but no assurances can be given. The United States and the State of Washington reserve the right to oppose Confirmation of the Plan if there appears to be a significant risk that this level of distribution cannot be realized.

The following chart summarizes the Residual Environmental Claims settlement on a site-by-site basis:

Coeur d'Alene		
Past Costs and Future Oversight	$41,464,000	
Natural Resource Damages	$67,500,000	
Future Response Costs	$373,179,000	
Site Subtotal		$482,143,000
Omaha		
Response Costs	$187,500,000	
Site Subtotal		$187,500,000
Tacoma		
Response Costs	$80,357,000	
Site Subtotal		$80,357,000
TOTAL		**$750,000,000**

The United States and the State of Washington are eligible for a supplemental distribution as to each Residual Environmental Settlement Site, should funds be available. The total supplemental funds that may be available to these claimants is $102 million, to be distributed as set forth below if the entire amount of the supplemental distribution can be made. Otherwise, distributions shall be made on a pro rata basis (based on each site's percentage share of the total Residual Environmental Claims settlement).

Site	**Supplemental Distribution**
Coeur d'Alene	$65,571,448
Omaha	$25,500,000
Tacoma	$10,928,552
TOTAL	**$102,000,000**

The chart below sets forth the potential settlement amount per site, including the supplemental distribution, for each of the Residual Environmental Settlement Sites.

Site	**Residual Settlement Amount**	**Supplemental Distribution**	**Potential Total Settlement**
Coeur d' Alene	$482,143,000	$65,571,448	$547,714,448
Omaha	$187,500,000	$25,500,000	$213,000,000
Tacoma	$80,357,000	$10,928,552	$91,285,552
TOTAL			**$852,000,000**

The potential total settlement amounts reflected in the chart above are the result of significant analysis, expert opinion, negotiation, and reflection on the potential outcome of the estimation hearings conducted for each of the Residual Environmental Settlement Sites.

(1) Coeur d'Alene.

In its post-trial brief and related exhibits, the federal government asserted that its total Claim at the Coeur d'Alene site was approximately $2.6 billion. ASARCO's experts opined that the government's Claim should be $120.7 million. The Coeur d'Alene Claims include past costs, oversight, future response costs, and natural resource damages. Three key factors affect the resolution of the Claims relating to the Coeur d'Alene site: (1) the timing and actual scope of the government's proposed "comprehensive remedy" including the selection of an appropriate discount rate; (2) the applicability in the estimation hearing of the 22 percent divisibility share for ASARCO that the federal district court in Idaho found in prior litigation (which is discussed in Section 2.26(c) below); and (3) the appropriate amount and basis for the government's Claim for natural resource damages. Uncertainty regarding how the Bankruptcy Court would resolve these issues in estimating the Claims at Coeur d' Alene creates a wide range of reasonably possible outcomes for the court's final decision. ASARCO believes that the settlement providing for a $482 million Unsecured Claim together with Litigation Trust Interests and a possible supplemental distribution is within the range of reasonable outcomes from the estimation hearing.

The following three charts set forth the estimates of the various cost components for the Coeur d'Alene, Omaha, and Tacoma sites as presented by ASARCO, the government, and their respective experts at the estimation hearings, as well as the related settlement amounts:

Cost Component	ASARCO estimate	Settlement	Government estimate
Past Costs	$36,000,000	**$41,464,000**	$180,020,000
Oversight	$2,470,000		$67,660,000
Future Response	$74,650,000	**$373,179,000**	$1,983,840,000
Natural Resource Damages	$7,520,000	**$67,500,000**	$333,200,000
TOTAL	$120,700,000	**$482,143,000**	$2,564,720,000

(2) Omaha.

The federal government's expert witnesses asserted that the government's total Claim at the Omaha lead site was approximately $406 million. ASARCO's experts opined at the estimation hearing that the government's Claim should be $5 million. In post-trial briefing, ASARCO's experts calculated the effect of incorporating some disputed government assumptions and developed a cost estimate that ranged from $6.8 million to $21.5 million. The key issues at the Omaha site are whether joint and several liability should be imposed upon ASARCO and whether the EPA's response actions are inconsistent with the National Contingency Plan.

Cost Component	ASARCO estimate	Settlement	Government estimate
Future Response	$5,000,000	**$187,500,000**	$406,000,000

(3) Tacoma Smelter Plume.

The expert witnesses for the State of Washington asserted that its total Claims for future response costs at the Tacoma smelter plume site were approximately $112.7 million. ASARCO's experts opined that the State of Washington's Claim should be $7.65 million. (The parties reached a settlement of the past cost and natural resource damages Claims prior to the estimation hearing, and the resulting Claims are included among the Class 7 Previously Settled Environmental Claims.) The two key issues are the number of properties and the cleanup cost per property. The State of Washington and ASARCO both presented bases for identifying the total number of residential yards and undeveloped properties that might require remediation.

Cost Component	ASARCO estimate	Settlement	Government estimate
Future Response	$7,650,000	**$80,357,000**	$112,700,000

(4) Union Pacific Railroad Company's Contentions.

Union Pacific Railroad Company asserts that the Residual Environmental Claims settlement requires substantial and material consideration of non-bankruptcy law. Therefore, Union Pacific Railroad Company asserts that mandatory withdrawal of the reference to the district court would be required if a motion to withdraw the reference were filed, because the Bankruptcy Court would not have jurisdiction to hear the environmental settlement issues. Similarly, Union Pacific Railroad Company asserts the applicable settlement standards to approve the

Residual Environmental Claims settlement are both applicable Bankruptcy Rule 9019 and all applicable environmental law settlement standards, including CERCLA.

(c) Miscellaneous Federal and State Environmental Sites.

The Miscellaneous Federal and State Environmental sites comprise approximately 26 sites, including the two sites that were originally scheduled for estimation but were neither settled nor estimated, where either the federal government, a state government, or both have filed environmental Claims against ASARCO. The amounts stated in the original Proofs of Claim at these sites range from $320 million to $360 million in the aggregate, with several Proofs of Claim asserting Claims in undetermined amounts. In the fall of 2007, as it was finalizing settlement agreements on the Previously Settled Environmental Sites, ASARCO reviewed available information relating to the Miscellaneous State and Federal Environmental Sites at the company's various document repositories in preparation for litigation or settlement of the environmental Claims at these sites. ASARCO relied on the knowledge of its employees, outside technical consultants, and legal counsel to develop a litigation strategy for each of these sites. ASARCO anticipated approaching the Miscellaneous State and Federal Sites on a site-by-site basis, as it had under the First CMO; however, as a result of the agreement in principle reached at the mediation, ASARCO was instead able to settle the environmental Claims relating to Miscellaneous State and Federal Environmental Sites globally for approximately $103 million.

(d) Previously Settled Environmental Sites**.**

Except for one Claim related to residential yards in Montana, the settlements relating to the Previously Settled Environmental Sites have either already been approved by the Bankruptcy Court pursuant to a motion filed pursuant to Bankruptcy Rule 9019, or are the subject of a pending motion filed under Bankruptcy Rule 9019.

(e) PRP Claims.

On March 14, 2008, in order to address the PRPs' Claims, the Debtors filed a motion to implement a procedure for handling Environmental Claims made by PRPs, to disallow the PRPs' Claims for future environmental costs under section 502(e)(1)(B) of the Bankruptcy Code, and to disallow Claims barred by contribution protection provided by numerous settlement agreements pursuant to section 113(f)(2) of CERCLA. The PRP Claims which are not disallowed under section 502(e)(1)(B) of the Bankruptcy Code or section 113(f)(2) of CERCLA must be estimated pursuant to section 502(c) of the Bankruptcy Code. In the estimation proceedings, the PRPs must establish ASARCO's share, if any, of the liability on these Claims, and the extent that such Claims are not duplicative of Claims of federal or state governments.

After negotiations with a number of PRPs, ASARCO proposed a case management order establishing procedures for disallowance or estimation of the PRPs' Claims, which the Bankruptcy Court approved by order entered on May 9, 2008. The second case management order provides for the PRPs' Claims to be divided into bands, and establishes procedures for discovery, mediation, and hearings on the PRPs' Claims. ASARCO anticipates that the majority, if not all, of the PRP Claims in component 6 and some of the Claims in component 5 in the chart below can be resolved pursuant to section 502(e)(1)(B) of the Bankruptcy Code or section 113(f)(2) of CERCLA. ASARCO estimates all currently unresolved PRP Claims to be resolved for between $150.3 million to $268.6 million. *See* components 5 and 6 in the chart below.

The Bankruptcy Court entered a third case management order establishing procedures for disallowance or estimation of PRP claims at the Perth Amboy site on June 24, 2008. As with the previous two case management orders, the this order establishes procedures for discovery, mediation, and a hearing to estimate PRP claims at the Perth Amboy site. The costs for any claims resolved under the third case management order are included in component 5 below. After accounting for the claims addressed by the global plan structure and those being addressed by the second case management order, there are a few remaining environmental components:

- other miscellaneous Claims, which are largely resolved, totaling approximately $114 million and estimated by ASARCO at $38.5 million;
- the administrative costs to operate the Environmental Custodial Trusts, estimated at $30 million;
- the United States' Late-Filed Claim relating to the Blue Ledge site, estimated by the United States at between $9 and $25.6 million, which is classified in Class 10; and

- owned, operating sites with environmental liabilities, which shall be assumed by the Plan Sponsor under the Plan Sponsor PSA, if ultimately approved by the Bankruptcy Court.

The following chart summarizes the Claim amounts and proposed resolution of environmental Claims, as described above.

Environmental Claims (in $ Millions)		
Component	**Amount Proposed/ Estimated**	**Creditor Claim[3]**
Proposed Global Settlement - Main Components		
1. Environmental Custodial Trusts	approximately $244.0	n/a[4]
2. Previously Settled Environmental Sites	approximately $529.0	$3,050.2 - $3,132.4
3. Residual Environmental Sites (Coeur d'Alene, Omaha, and Tacoma)	$750.0 plus certain supplemental amounts	$3,083.4
4. Miscellaneous Federal and State Environmental Sites	approximately $103.0	$345.2 - $360.3
Main Component Subtotal	**$1,626.00**	**$6,747.4 - $6,844.7**
Other Components Not Addressed Above		
5. PRP Costs (excluding future response costs at Miscellaneous Federal and State Environmental Sites below)	$24.0	$268.6
6. PRP Future Costs at Miscellaneous Federal and State Environmental Sites[5]	$0.0	$179.8
7. Other Miscellaneous Claims[6]	$38.5	$113.5
8. Administrative Costs of Environmental Custodial Trusts	$30.0	n/a
9. Late-Filed Claims (Blue Ledge and New Jersey)	n/a[7]	n/a
Other Component Subtotal	**$92.5**	**$561.9**
Combined Total	**$1,718.5**	**$7,309.3 - $7,406.6**

[3] Claim amounts derived from Proofs of Claim, creditor updates, or expert reports.

[4] A creditor estimate of these costs is not applicable because the Environmental Custodial Trusts cover owned, non-operating sites for which creditors were not required to file Proofs of Claim.

[5] ASARCO estimates PRP Claims that are purely duplicative of governmental claims at $0.

[6] Includes Claims relating to the Houston site (discussed in Section 1.1(e) above); past response costs incurred by the EPA in connection with site investigation activities at and around the Hayden smelter complex; natural resource damage Claims relating to the Ray mine/Hayden smelter complex; the El Paso Paving SEP Claim; the State of Texas's Claim relating to the Gulf Industries site; and the State of Ohio's Claim relating to the Columbus site.

[7] The federal government's Blue Ledge site Claim shall be classified as a Class 10 Late-Filed Claim, which shall not be paid until Allowed Claims in senior Classes have been Paid in Full **and Classes 5 and 9 have been paid the Class 5 and Class 9 Primary Payment and the Class 5 and Class 9 Supplemental Distribution**.

ASARCO believes that the amounts listed above represent a reasonable compromise of what in most cases are varying estimates of the funds necessary to address reasonable cleanup contingencies and provide reasonable compensation for natural resource damages. It is possible, perhaps even likely, that at any given site actual cleanup expenditures may be higher than anticipated. It is also possible, perhaps even likely, that the United States or one or more states may uncover additional sites not previously associated with ASARCO. Although such Claims might under some legal theories be considered non-dischargeable, under the Plan, the United States and states effectively have no further recourse against ASARCO. However, the United States shall continue to have access to the Prepetition ASARCO Environmental Trust to the extent that AMC continues to fund it. AMC has not defaulted on any payments owed to the Prepetition ASARCO Environmental Trust thus far. A promissory note with $25 million in principal remaining due is held by the Prepetition ASARCO Environmental Trust, and payments of $12.5 million plus interest are due in May 2009 and May 2010. ~~**[Of this amount, approximately $4.2 million is already contemplated by settlements with the United States for remediation of the Previously Settled Environmental Sites.]**~~ Funds that are paid into the Prepetition ASARCO Environmental Trust are not property of the estate, and the United States has broad discretion in determining how those monies are spent.

The Parent opposes the settlement of the Residual Environmental Claims and the Miscellaneous Federal and State Environmental Claims and proposes to conclude the estimation of these unresolved environmental Claims and to pay, in Cash, the aggregate amount determined by the Bankruptcy Court. Moreover, the Parent asserts that uncapped recoveries from Litigation Proceeds to the holders of Residual Environmental Claims render the Debtors' Plan unconfirmable.

The Debtors deny the Parent's contentions and believe that the Debtors' Plan does not pay creditors more than what those creditors are legally entitled and should be confirmed over the Parent's objection.

As set forth in Section 2.19(b) above, the Parent's estimation motion seeks to have the Bankruptcy Court estimate the maximum amount of unresolved environmental Claims (as well as Asbestos Personal Injury Claims) for purposes of distributions under the Debtors' Plan and the Parent's Plan. The Parent believes that the relief requested in the Parent's estimation motion, if granted, would enable the Bankruptcy Court to liquidate the relevant Claims efficiently and would enable the Claims estimation process to proceed on a parallel track with the plan confirmation process.

The Debtors believe the Parent's estimation motion is unnecessary because the Debtors' Plan incorporates a settlement with the holders of those Claims, and the Parent's Plan contemplates resolution of Claims over time and through the state court litigation system. The Debtors believe that because the Parent asserts its plan is a full-payment plan and proposes Claims resolution post-confirmation, estimation is unnecessary. At the hearing held on September 23, 2008 on the Parent's estimation motion, the Bankruptcy Court ruled that estimation issues will await plan confirmation.

2.21 Estimation of Toxic Tort Claims and Omnibus Objection to Toxic Tort Liabilities.

Approximately 850 Toxic Tort Claims were filed against the Debtors in the aggregate amount of approximately $1.47 billion, with additional Toxic Tort Claims filed in undetermined amounts. In a majority of the prepetition lawsuits on which these Claims are based, the Claimants alleged some type of physical harm or property damage arising from alleged exposure to lead or toxic substances resulting from the Debtors' operation of various sites located in Hayden, Arizona, Tar Creek, Oklahoma, El Paso, Texas, and other locations.

On May 31, 2007, ASARCO filed a motion to establish procedures for the handling of omnibus objections to Toxic Tort Claims and estimation of certain toxic tort liabilities. By order entered on July 30, 2007, the Bankruptcy Court entered a case management order establishing procedures for the handling of omnibus objections to, and the estimation of, ASARCO's Toxic Tort Claims.

On October 23 and 24, 2007, the Debtors and counsel for several of the toxic tort claimants conducted a mediation, and hundreds of personal injury Claims and some property damage Claims were resolved pursuant to five separate memoranda of understanding. The parties thereafter negotiated five separate settlement agreements and, by motion filed on January 23, 2008, the Debtors sought approval of these settlements. Pursuant to the settlements, (a) the Claims resulting from the Debtors' operations of a site in Tar Creek, Oklahoma shall be satisfied with Allowed Unsecured Claims in the aggregate amount of $20,782,500; (b) the Claims resulting from the Debtors' operations of the Ray mine and the Hayden smelter shall be satisfied with Allowed Unsecured Claim in the aggregate amount of $4,800,000; and (c) the Claims resulting from the El

Paso Smelter shall be satisfied with Allowed Unsecured Claims in the aggregate amount of $2,387,500. On February 20, 2008, the Bankruptcy Court entered an order approving the settlements, and on March 3, 2008, entered an order approving the settlements for claimants who are minors.

Certain property damage Claims relating to the Debtors' operations in Tar Creek, Oklahoma remained outstanding after the October 2007 mediation. Mediation of those Claims occurred on November 27, 2007, with an additional mediation session on February 15, 2008. Through the mediation, the parties were able to resolve, subject to court approval, all of the appearing claimants' property damage claims. The parties thereafter negotiated a settlement agreement whereby the Claimants shall have Unsecured Claims in the aggregate amount of $7 million. The settlement was approved by the Bankruptcy Court by order entered on July 14, 2008.

As a result of these various settlements, the Debtors have resolved a substantial majority in number of their alleged toxic tort liabilities. The Debtors shall address the remaining Toxic Tort Claims through the claim objection process. ASARCO estimates that the Toxic Tort Claims total approximately $58.5 million to $68.5 million.

2.22 Litigation and Settlement of Mission Mine Leases.

ASARCO's Mission Mine is located on lands owned by ASARCO, lands rented by ASARCO from the State of Arizona, and lands leased to ASARCO on the San Xavier Indian Reservation.

In 1959, the Secretary of the Interior, acting through the Bureau of Indian Affairs, entered into or approved the Mission Mine Leases with ASARCO's predecessor in interest, on behalf of owners of interests in trust allotments, currently held by the Nation and several individuals, within the leaseholds. The agreements consisted of two mining leases for Tract I and Tract II, and 21 business leases.

The Mission Mine Leases provide in part that, in exchange for the privilege of conducting its operations on Tracts I, II and III, ASARCO must make certain rental and royalty payments to the United States for the use and benefit of the Landowners and comply with certain provisions in the Mission Mine Leases and federal regulations governing the condition of the premises that might arise as a result of the operations. The regulations, in particular, include specifications for the reclamation of the premises during the operations and after the cessation of the operations.

For years, ASARCO, the Nation, and the United States disagreed about the nature and the breadth of reclamation ASARCO was required to perform. After extensive and lengthy negotiations, ASARCO, the Nation, and the United States were able to resolve their disputes. Their agreement is memorialized in the Mission Mine Settlement Agreement attached to the Plan as **Exhibit 15-A**, as amended on July 1, 2008 by the amendment to the settlement agreement attached to the Plan as **Exhibit 15-B**. The Mission Mine Settlement Agreement contains the following key terms, among others:

- Within 10 days after the effective date of the Mission Mine Settlement Agreement, ASARCO was to, and did, deposit $33 million (plus the amount of $2,600 per day for each day starting on and including February 1, 2008 until the date of the deposit) into an escrow account for the purposes of funding the implementation of the mine reclamation component of the agreed mining and reclamation plan.

- On the effective date of the Mission Mine Settlement Agreement, the United States' Claim for prepetition royalties alleged to be related to the Tract I lease shall be allowed as an Unsecured Claim in the amount of $225,000 for the benefit of the landowners. No other pre-petition Claims (except the cure claim specified below) shall be allowed.

- Within 10 days after the effective date of the Mission Mine Settlement Agreement, ASARCO shall pay the United States, for the use and benefit of the landowners, $172,755.53 in Cash as a cure payment for prepetition royalties and penalties alleged to be related to the Tract II lease. This payment has been made.

- ASARCO is permitted to continue mining on the land.

- ASARCO shall assume the Mission Mine Unexpired Agreements.

- While ASARCO remains contractually obligated to perform the reclamation outlined in the agreed mining and reclamation plan, ASARCO shall be reimbursed from the Mission Mine escrow account as it performs the work. ASARCO is relieved of all obligations to perform reclamation once the Mission Mine escrow account is exhausted or once the remaining balance in the account is insufficient to pay for further reclamation activities.

On March 14, 2008, ASARCO filed its motion for assumption of the Mission Mine Unexpired Agreements and approval of the Mission Mine Settlement Agreement. The motion was approved by order entered on April 9, 2008.

UNLESS OBJECTIONS ARE FILED TO THE PLAN, THE TERMS OF THE MISSION MINE SETTLEMENT AGREEMENT SHALL BE BINDING ON ALL PARTIES OWNING LANDS AFFECTED BY THE MISSION MINE LEASES.

2.23 Settlement with Seaboard Surety Company and St. Paul Fire & Marine Insurance Company.

Prior to the Petition Date, SPT, as surety, issued certain surety bonds on behalf of ASARCO, as principal, including, without limitation, the Mission Bonds in favor of the United States or the Interior. The Mission Bonds bonded certain of ASARCO's obligations relating to its mining operations at the Mission Mine. The aggregate penal sum[8] of the Mission Bonds is $11,654,896.

In addition to the Mission Bonds, Seaboard also issued the Flow Through Bonds on behalf of ASARCO, as principal, in order to bond ASARCO's obligations to various other entities. The aggregate penal sum amount of the Flow Through Bonds is $12,357,861. ASARCO and SPT reached an agreement resolving the disputes between them, which is memorialized in the SPT Settlement Agreement attached to the Plan as **Exhibit ~~16~~ 17.**

On March 14, 2008, ASARCO filed a motion seeking approving of the SPT Settlement Agreement. The motion was approved by order entered by the Bankruptcy Court on April 9, 2008. In accordance with the SPT Settlement Agreement, SPT made the SPT Payment to ASARCO, and the SPT Settlement Agreement is to made a part of the Plan.

2.24 Preferences and Fraudulent Conveyance Actions.

(a) Preferences.

A preference is a transfer to a creditor in payment of an existing debt made within certain statutorily determined time periods before the commencement of a bankruptcy case. Pursuant to section 547(b) of the Bankruptcy Code, the trustee or the debtor in possession may recover preferences for the benefit of all creditors of the estate in order to prohibit the debtor from favoring some creditors over others on the eve of bankruptcy and frustrating the Bankruptcy Code's goal of equitable distribution to all creditors. To establish a preference and recover funds paid out, the trustee or the estate must prove that a transfer of a debtor's property was made:

- to or for the benefit of a creditor;
- on account of an existing debt;
- while the debtor was insolvent;
- within 90 days (or one year, if to an "insider") before the debtor's bankruptcy petition was filed; and

[8] The "penal sum" of a surety bond represents the maximum amount that the surety could be liable to the obligee on the surety bond.

- so as to enable the creditor to receive more than it would have received if the transfer had not been made, the debtor was liquidated under chapter 7 of the Bankruptcy Code and the creditor received the distributions it would have received in a chapter 7 case.

The preference statute excepts payments made "in the ordinary course of business" according to ordinary business terms, and these payments are not recoverable from creditors. Also excepted are payments made for new value or a substantially contemporaneous exchange of money and goods. Additional defenses to preference liability are set forth in section 547(c) of the Bankruptcy Code.

The Debtors have analyzed potential preferential transactions with third parties during the 90-day period prior to the bankruptcy filings in order to estimate potential recovery. The analysis also took into consideration the three primary defenses (ordinary course payment, new value, and contemporaneous exchange) and factored deposits held by vendors into estimates of potential net recovery.

As a result of this analysis, the Debtors have filed adversary proceedings in the Bankruptcy Court seeking to recover preferential transfers from approximately 165 defendants who received more than $50,000 each from a Debtor during the preference period. As discussed below in Section 2.24(l)(3), ASARCO has obtained an extension of the time for serving the summonses and complaints in these adversary proceedings.

(b) Fraudulent Transfers.

The successful prosecution of a claim by or on behalf of a debtor or its creditors under the applicable fraudulent transfer law generally requires a determination that the debtor effected a transfer of an asset or incurred an obligation to an entity either:

- with an actual intent to hinder, delay, or defraud its existing or future creditors (a case of "actual fraud"); or

- in exchange other than for a "reasonably equivalent" value or a "fair consideration," when the debtor:

  – was insolvent or rendered insolvent by reason of the transfer or incurrence;

  – was engaged or about to engage in a business or transaction for which its remaining assets would constitute unreasonably small capital; or

  – intended to incur, or believed that it would incur, debts beyond its ability to pay as they mature

  (each a case of "constructive fraud").

In the case of either actual fraud or constructive fraud involving a transfer of assets, the ~~unpaid creditors affected thereby~~**bankruptcy estate** may be entitled to equitable relief against the transferee of the assets in the form of a recovery of the transferred property or the value of the avoided transfer. The relief in the case of an avoided obligation might take the form of a subordination of that obligation to the claims of creditors entitled to relief.

The measure of insolvency for purposes of a constructive fraud action would depend on the fraudulent transfer law being applied. Generally, a transferor is insolvent if, at the relevant time, either:

- the sum of its debts and liabilities, including contingent liabilities, was greater than the value of its assets, at a fair valuation; or

- the fair salable value of its assets was less than the amount required to pay the probable liability on its total existing debts and other liabilities, including contingent liabilities, as they become absolute and mature.

The transactions of the Debtors that could be subject to review and, upon the required showing, avoidance under the applicable fraudulent transfer law, would be limited to those occurring within the relevant limitations period. In the case of actions under section 548 of the Bankruptcy Code, that period would be the 12-month period ending on the Petition Date. In the case of actions under a state fraudulent transfer law, the limitations period ranges from one year to six or more years after the questioned transfer or incurrence of an obligation is effected. Under most state laws, including the laws of Texas, the limitations period is generally four years.

(c) Avoidance Action Against AMC.

On February 2, 2007, ASARCO filed an action against AMC to avoid the transfer of its 54.2 percent controlling ownership interest in SCC. ASARCO contends that the transaction was an actual and constructive fraudulent transfer, and seeks the return of its interest in SCC. As a result of subsequent transactions involving SCC, the stock at issue constitutes about 29.5 percent of currently outstanding stock in SCC, whose current market capitalization is more than $26.5 billion as of July 18, 2008. ASARCO also seeks to recover the SCC dividends it would otherwise have received since the transfer in 2003, which amount to at least $1.7 billion as of July 18, 2008.

In the AMC lawsuit, ASARCO and SPHC assert the following causes of action against AMC: (1) actual fraudulent transfer; (2) constructively fraudulent transfer; (3) civil conspiracy; (4) breach of fiduciary duty; (5) aiding and abetting a breach of fiduciary duty; and (6) punitive damages.

After the withdrawal of the reference, this action is pending before Judge Andrew S. Hanen of the United States District Court for the Southern District of Texas, Brownsville Division, as Civil Action No. 07-00018. A bench trial of the lawsuit began on May 12, 2008 and concluded on June 12, 2008.

On August 30, 2008, Judge Hanen entered a Memorandum Opinion and Order concerning AMC's liability in respect to the transfer in March 2003 of 54.2 percent of the stock of SCC from ASARCO and SPHC to AMC. The opinion may be found at the Debtors' restructuring website at *www.asarcoreorg.com*. Judge Hanen held that AMC was liable for actual fraudulent transfer under Delaware law because it entered into the transaction with full knowledge that ASARCO's creditors would be hindered or delayed as a result. The District Court further held that AMC aided and abetted and conspired with the directors of ASARCO to accomplish the transaction in breach of the ASARCO directors' fiduciary duties owed to ASARCO's creditors. In so doing, the court found that AMC had not paid a fair price for the stock. The court also found that AMC had not committed constructive fraudulent transfer under Delaware law and held that AMC did not itself owe a fiduciary duty to ASARCO's creditors. The court declined to assess punitive damages against AMC.

Judge Hanen has scheduled further proceedings to determine actual damages to be awarded ASARCO and SPHC against AMC resulting from AMC's liability for actual fraudulent transfer and aiding and abetting and conspiring to breach fiduciary duties owed to ASARCO's creditors. ASARCO and SPHC are seeking return of the SCC stock, now being some 29.5% of SCC (currently worth approximately $6 billion), and the $1.85 billion of dividends paid on the stock to AMC since March 2003, as well as compensation for loss of control of SCC, plus up to $320 million in accrued prejudgment interest. ~~AMC claims that ASARCO and SPHC are owed nothing in consequence of AMC's tortious conduct.~~ Judge Hanen has ordered that the stock not be transferred by AMC pending his further order.

The Parent disagrees with the Debtor's characterization of Judge Hanen's decision and argues that, in denying the constructive fraudulent claims brought against AMC, Judge Hanen ruled that AMC paid reasonably equivalent value when it acquired the SCC shares from ASARCO. Specifically, Judge Hanen found that the consideration paid by AMC, determined with reference to an independent valuation conducted at the time, and after negotiations with the DOJ, constituted reasonably equivalent value under applicable law. Judge Hanen also found that AMC is not liable for aiding and abetting a breach of Grupo Mexico's fiduciary duties to ASARCO or its creditors, and AMC is not liable for a conspiracy with Grupo Mexico. The Parent believes that, because AMC already proposed a plan that pays ASARCO's creditors in full and creditors are not entitled to recover under the Bankruptcy Code more than the amount of their claims, Judge Hanen's decision should not have a material impact on AMC.

The Debtors disagree with the Parent's conclusions.

On the Effective Date, this action shall be transferred **to the Litigation Trust. If the Bankruptcy Court or the District Court orders a return of the SCC shares to the Estate, the shares shall go** to the Litigation Trust.

(d) Avoidance Action Against Grupo Mexico.

On or about October 15, 2004, certain creditors of ASARCO filed an action in the Supreme Court of the State of New York, County of New York, styled *Phillip Nelson Burns, et al. v. Grupo Mexico, S.A. de C.V., et al.*, Index No. 0114728/2004 against various defendants, including Grupo Mexico. The creditors allege, among other things, that the transfer of ASARCO's interest in SCC to AMC in 2003 was fraudulent under the New York Debtor and Creditor Law, and that the creditors are entitled to judgment against Grupo Mexico. Upon ASARCO's bankruptcy filing, the claims asserted in this lawsuit became property of ASARCO's Estate pursuant to section 541 of the Bankruptcy Code, and the continued prosecution of the lawsuit was automatically stayed pursuant to section 362(a) of the Bankruptcy Code.

ASARCO and Southern Peru Holdings, LLC removed the claims against Grupo Mexico relating to the fraudulent transfer of ASARCO's interest in SCC (as asserted in the first, second, third, fourth and seventh claims for relief in the amended complaint) to the United States District Court for the Southern District of New York. On November 16, 2007, the New York federal court granted ASARCO and Southern Peru Holdings' motion to substitute and transfer venue, and denied Grupo Mexico's motion to remand or dismiss. The removed claims are now pending in the District Court before Judge Hanen as Civil Action No. 07-00203.

On the Effective Date, this action shall be transferred to the Litigation Trust.

(e) Avoidance Action Against MRI.

On April 9, 2007, ASARCO and ASARCO Master filed a complaint against ~~Montana Resources, Inc. ("~~MRI~~")~~, a subsidiary of the Washington Companies, thereby initiating Adversary Proceeding No. 07-02024. ASARCO seeks to avoid the fraudulent transfer of ASARCO's interest in **MR Partnership,** a Montana-based, mining-operations partnership ~~("MR Partnership"),~~ to its partner MRI. ASARCO's partnership interest, 49.9 percent of one of the most valuable mining operations in the United States, was transferred to MRI after ASARCO failed to meet partnership cash calls prior to its bankruptcy filing. At the time of the cash calls, ASARCO was deeply insolvent and severely undercapitalized. ASARCO's interest in the partnership was transferred for $5 million, a mere fraction of its reasonably equivalent value. ASARCO also objected to MRI's Proofs of Claim which assert Claims in excess of $100 million for reimbursement of contingent environmental liabilities incurred by the MR Partnership pursuant to the indemnification and reimbursement provisions of the partnership agreement.

Pursuant to a settlement agreement approved by the Bankruptcy Court on December 27, 2007, certain of MRI's Proofs of Claim were compromised. MRI's Proofs of Claim seeking indemnification under the partnership agreement for alleged future reclamation obligations totaling $87 million were not compromised and remain pending in the MRI Litigation.

ASARCO objected to MRI's future reclamation Claim under section 502(e)(1)(B) of the Bankruptcy Code, which requires a court to disallow a claim of a party liable with the debtor if the claim is for contribution or reimbursement and is contingent at the time the claim is considered for allowance. In addition, ASARCO objected to the Claim under section 502(d) of the Bankruptcy Code, which requires disallowance of the claim of a claimant from which property is recoverable as a fraudulent transfer or preference. ASARCO also objected to the Claim on the grounds that the indemnification provisions of the partnership agreement are inapplicable to a dissociated partner. ASARCO further denies any liability to MRI because the MR Partnership is profitable and can pay for the reclamation itself, thereby leaving MRI with no damages to assert against ASARCO.

On May 22, 2007, MRI asked that the reference of this adversary proceeding be withdrawn. ASARCO objected to this request. The Bankruptcy Court held a hearing on the motion on June 15, 2007, and issued its report and recommendation on July 6, 2007. The court recommended that the District Court allow the lawsuit to remain in the Bankruptcy Court for pretrial matters. By order entered on December 18, 2007 in Civil Action No. 07-299, the District Court agreed with the Bankruptcy Court's recommendation and denied the motion to withdraw the reference. If MRI can establish a right to a jury trial at the time the lawsuit is ready for trial, then the merits of withdrawing the reference to the District Court will likely be re-examined.

On July 30, 2007, MRI filed a motion seeking dismissal of all causes of action in this adversary proceeding or, alternatively, a transfer of venue of the action to the United States District Court for the District of Montana. The Bankruptcy Court held a hearing on the motion on September 14, 2007. By order entered on April 15, 2008, the Bankruptcy Court denied the motion to dismiss or transfer venue, for the reasons stated orally on the record on April 7, 2008.

On April 25, 2008, MRI filed a notice of appeal from that order, as well as a motion for leave to appeal the order and a separate motion asking the District Court to certify a direct appeal to the United States Court of Appeals for the Fifth Circuit.

On May 28, 2008, the Bankruptcy Court entered an Agreed Revised Comprehensive Discovery, Mediation and Scheduling Order which established a pre-trial schedule and set the trial on this adversary proceeding to commence on June 1, 2009, and continue through June 3, 2009, if necessary.

On August 22, 2008, MRI filed a motion seeking leave to serve a third-party complaint and summons upon Grupo Mexico and AMC.

On the Effective Date, this action shall be transferred to the Litigation Trust**. If ASARCO and ASARCO Master prevail on their constructive fraudulent transfer claims against MRI and MRI asserts a Claim back against the Debtors, that Claim will be addressed by the Litigation Trust. MRI asserts that in the event the MRI Litigation is transferred to the Litigation Trust, and the trust prevails in that action, and MRI is then ordered to turn over the property that is the subject of that action, or its value, to the trust, then MRI shall have a Class 3 Trade and General Unsecured Claim against the Estate for the full amount of the property or amount ordered to be turned over. MRI disagrees that this Claim against the Estate could be addressed by the Litigation Trust.**

The Debtors believe that the Plan's proposed treatment is appropriate and should be approved.

MRI's alleged $87 million Claim will be treated as a Class 3 Trade and General Unsecured Claim if ultimately Allowed, but because it has been objected to, MRI's Claim will not be counted for voting purposes unless MRI asks that it be estimated before Confirmation.

(f) Rosemont Mining Property Avoidance Action.

On August 7, 2007, ASARCO filed a complaint against the Augusta Defendants and the Rosemont Ranch Defendants, thereby initiating Adversary Proceeding No. 07-02056. ASARCO seeks to avoid the June 2004 fraudulent transfer of certain of its property located in Pima County, Arizona to Rosemont Ranch, LLC. The specific allegations can be obtained by reviewing the complaint in this lawsuit, but generally speaking, ASARCO sold the property for $4 million to the Rosemont Ranch Defendants while insolvent, and they then sold the property less than one year later to the Augusta Defendants for approximately $20 million. The property, as admitted publicly by defendant Augusta Resource Corporation (TSX/AMEX:AZC), contains substantial proven and probable mineral reserves.

The defendants have filed various motions to dismiss, withdraw the reference, and to transfer venue to the District of Arizona. The Bankruptcy Court held a hearing on these motions on November 8, 2007, and denied the motion to dismiss and the motion to transfer venue by order entered on April 15, 2008 for the reasons stated orally by the Bankruptcy Court on the record on April 7, 2008. On April 25, 2008, the Augusta Defendants and the Rosemont Ranch Defendants each filed a notice of appeal from that order. The Augusta Defendants also filed a motion for leave to appeal and a motion asking the District Court to certify a direct appeal to the United States Court of Appeals for the Fifth Circuit, but withdrew the request for certification on July 7, 2008. The Rosemont Ranch Defendants joined in both of the motions.

On April 18, 2008, the Bankruptcy Court issued a report and recommendation on the motion to withdraw the reference. The court recommended that the District Court allow the lawsuit to remain in the Bankruptcy Court for pretrial matters.

On August 17, 2008, the District Court remanded the matter to the Bankruptcy Court so that it could file written findings of fact and a memorandum and recommendation on the issues raised by the motion for leave to appeal. On August 29, 2008, the Bankruptcy Court recommended that the motion for leave to appeal be denied. That same day, the Bankruptcy Court issued Findings of Fact and Conclusions of Law Denying Augusta Defendants' Motion to Transfer Case to Another District.

On the Effective Date, this lawsuit shall vest in Reorganized ASARCO.

(g) Sacaton Avoidance Action.

On August 8, 2007, ASARCO and AR Sacaton, LLC filed a complaint against AMC, Tri-Point Development, LLC, CRM/Casa Grande, LLC, Vanguard Properties, Inc., and First American Exchange Company, LLC, thereby initiating Adversary Proceeding No. 07-02071. ASARCO and AR Sacaton seek to avoid the January 2004 fraudulent transfer of real property near Casa Grande, Arizona which contains substantial underground copper reserves, and also object to AMC's Proof of Claim. AR Sacaton quit claimed the property to AMC in exchange for an "emergency loan" of $5,000,000, which ASARCO and AR Sacaton believe was less than the property's reasonably equivalent value.

Certain of the defendants filed a motion to dismiss the adversary proceeding or, alternatively, to transfer the venue to the District of Arizona and a motion to dismiss ASARCO as a party. The Bankruptcy Court held a hearing on the motions on November 28, 2007, and took them under advisement. By order entered on April 15, 2008, the Bankruptcy Court denied a motion to dismiss the complaint or transfer venue, for the reasons stated orally on the record on April 7, 2008. A separate motion to dismiss remains pending. Also pending is a motion to amend the pleadings to add WHM Copper Mountain Investments, LLC, as a defendant. Tri-Point Development, LLC, CMR Casa Grande, LLC~~,~~ and Vanguard Properties, Inc. filed a notice of appeal from the order denying the transfer of venue as a motion for leave to appeal. By separate motion, they asked the District Court to certify a direct appeal to the United States Court of Appeals for the Fifth Circuit.

AMC filed a motion to realign ASARCO as a defendant in this adversary proceeding. The plaintiffs objected. After conducting a hearing on the request on February 27, 2008, the Bankruptcy Court took the matter under advisement.

On the Effective Date, this lawsuit shall vest in Reorganized ASARCO.

(h) ASARCO Committee's D&O Litigation.

On August 8, 2007, the ASARCO Committee derivatively filed a complaint on behalf of ASARCO's Estate against certain individuals who served as directors and officers of ASARCO, thereby initiating Adversary Proceeding No. 07-02077. The ASARCO Committee seeks to recover damages of no less than $100 million and related equitable relief from the defendants for their alleged breach of their fiduciary duties to ASARCO and its creditors.

ASARCO elected not to pursue the claims set forth in this adversary proceeding~~,~~ but consented to the ASARCO Committee's prosecution of them on behalf of ASARCO's Estate. The Bankruptcy Court entered a stipulation and order authorizing the ASARCO Committee to pursue these claims on August 8, 2007 (as corrected on August 20, 2007). AMC and the Parent filed a motion for leave to appeal, as well as a notice of appeal, from the stipulation and order, which initiated Civil Action No. 07-00104 in the District Court.

In an advisory filed in the Bankruptcy Court, the ASARCO Committee stated that once service has been effected on all defendants, it intends to file a motion seeking to stay this adversary proceeding.

On the Effective Date, this action shall be transferred to the Litigation Trust.

(i) Avoidance Action Against Insurance Companies.

On April 10, 2007, the Asbestos Subsidiary Debtors filed in the Bankruptcy Court a Complaint to Recover Constructive Fraudulent Transfers against certain insurance companies, thereby initiating Adversary Proceeding No. 07-02025. The Asbestos Subsidiary Debtors had a legal or equitable interest in insurance policies sold by the defendant insurers. Prior to the filing of the Reorganization Cases, the insurers entered into settlement agreements with the Asbestos Subsidiary Debtors or ASARCO that required them to deliver releases in exchange for the consideration paid by the insurers thereunder. The complaint alleges that the Asbestos Subsidiary Debtors received less than a reasonably equivalent value in exchange for the releases and were either insolvent at the time of the transfer of the release or became insolvent as a result of such transfer. The Asbestos Subsidiary Debtors believe that the transfers constitute constructively fraudulent transfers under the fraudulent transfer provisions of the Bankruptcy Code and Arizona or New York law. They seek to avoid the transfers and recover the value of the releases from the defendants.

At the request of the Asbestos Subsidiary Debtors, the Bankruptcy Court abated service of the summons and complaint until 90 days after the effective date of any confirmed plan of reorganization in the Asbestos Subsidiary Debtors' bankruptcy cases.

On the Effective Date, this action shall be transferred to the Asbestos Trust.

(j) Avoidance Actions Against Insurance Companies Filed Under Seal.

On August 8, 2007, ASARCO filed in the Bankruptcy Court five Complaints to Recover Constructively Fraudulent Transfers against various insurance companies, thereby initiating Adversary Proceeding Nos. 07-02065, 07-02066, 07-02067, 07-02068, and 07-02069. These actions seek to avoid, as constructively fraudulent transfers, transfers of assets pursuant to settlements with the defendants.

Because the settlement agreements contain confidentiality provisions, and the facts surrounding the transfers should not be made public, the Bankruptcy Court, by order entered on August 8, 2007, permitted the complaints, exhibits, and related pleadings in these five adversary proceedings filed by ASARCO to be filed under seal.

As discussed below in Section 2.24(l)(3), ASARCO has obtained an extension of the time for serving the summons and complaints in these adversary proceedings until 90 days after the effective date of any confirmed plan of reorganization in the Reorganization Cases.

On the Effective Date, these actions shall be transferred to the Asbestos Trust.

As described in Section 2.24(i) and 2.24(j) hereof, the Asbestos Subsidiary Debtors and ASARCO have filed constructively fraudulent transfer suits against certain insurers, including Everest Reinsurance Company, Mt. McKinley Insurance Company, Century Indemnity Company, and American Home Assurance Company, seeking to avoid transfers of assets pursuant to settlements with the defendants. While Everest Reinsurance Company, Mt. McKinley Insurance Company, Century Indemnity Company, and American Home Assurance Company dispute that they have any liability in the avoidance actions, those insurers assert that if such liability is established and coverage is resurrected, they have policy rights to control or consent to the settlement of claims by insureds. Accordingly, Everest Reinsurance Company, Mt. McKinley Insurance Company, Century Indemnity Company, and American Home Assurance Company contend that, if insurance coverage is reinstated, it may be vitiated by the Asbestos Subsidiary Debtors' and ASARCO's failure to comply with policy terms. The Debtors and the Asbestos Subsidiary Debtors dispute this contention.

(k) Avoidance Action Against Mineral Park, Inc.

On September 21, 2006, ASARCO filed a Complaint to Avoid and Recover Fraudulent Transfer and Application for Temporary Restraining Order and Preliminary Injunction against Mineral Park Inc., thereby initiating Adversary Proceeding No. 06-02069 in the Bankruptcy Court. This complaint sought to avoid ASARCO's prepetition sale of its South Mill facility (one of its copper mills) to Mineral Park. Because of the immediate threat of irreparable harm to ASARCO's Estate if the mill was dismantled and moved across the state, the Debtors' management and counsel were forced to commit significant time and resources to this action, which included the involvement of all of ASARCO's high-level executives. ASARCO obtained a preliminary injunction preserving the South Mill pending an expedited trial in February 2007. Lehman Brothers provided expert testimony and negotiated directly with Mineral Park's chief executive officer after settlement negotiations among counsel had been unsuccessful. Through the efforts of Lehman Brothers, a favorable settlement was reached before trial, under which ASARCO repurchased the South Mill – an asset expected to generate over $100 million of cash flow through the life of the Mission Mine – for $9 million. The Bankruptcy Court approved the settlement on February 28, 2007. ASARCO restarted the South Mill in November 2007, and believes it will significantly contribute to the value of the Estate.

(l) Tolling Agreements and Extension and Abatement of Time Period for Service of Summons and Related Complaints.

(1) Approval of Tolling Agreement Regarding Deadline for Asbestos Subsidiary Debtors to Bring Causes of Action Under Chapter 5 of the Bankruptcy Code Against ASARCO.

Bankruptcy Code § 546(a)'s two-year statute of limitations for filing Avoidance Actions and other actions under chapter 5 of the Bankruptcy Code expired as to the Asbestos Subsidiary Debtors on April 11, 2007. ASARCO and the Asbestos Subsidiary Committee entered into an agreement tolling and extending the deadline for the Asbestos Subsidiary Debtors to bring causes of action under chapter 5 of the Bankruptcy Code against ASARCO until October 1, 2007, unless ASARCO, the Asbestos Subsidiary Debtors and the Asbestos Subsidiary Committee agree otherwise in writing. The agreement did not apply to any limitations period that expired prior to April 10, 2007. The Bankruptcy Court approved the agreement by order entered on May 11, 2007. The parties have thereafter entered into several stipulations further tolling and extending the limitations period. Most recently, the parties agreed to toll and extend the limitations periods until December 1, 2008, which was approved by order entered on July 14, 2008.

(2) Approval of Tolling Agreement and Limited Waiver of Statute of Limitations Between ASARCO and Mitsui and Authorization for ASARCO to Enter into Similar Agreements.

ASARCO believes it may have causes of action against Mitsui under chapter 5 of the Bankruptcy Code for avoidance of Mitsui's alleged security interests, recovery of preferential payments, and release of funds in Mitsui's cash collateral account (*see* discussion at Section 2.15(d) above). Mitsui denies that such claims exist, and the parties are currently discussing the potential claims. However, ASARCO's deadline for filing Avoidance Actions against Mitsui and other potential defendants was August 9, 2007, unless this deadline was tolled. ASARCO and Mitsui entered into a Tolling Agreement and Waiver of Statute of Limitations, tolling, extending, and waiving any and all applicable statutes of limitations with respect to any claims that ASARCO and Mitsui may have against each other. Pursuant to the original tolling agreement, the tolling period terminated upon the earlier of one year after the agreement's July 27, 2007 effective date or 90 days after the agreement was terminated by written notice of termination by any party.

ASARCO has other potential Avoidance Actions against other potential defendants, which might also be barred if litigation were not commenced by August 9, 2007. While ASARCO filed hundreds of Avoidance Actions before the deadline, it did not believe that litigation should be commenced against certain potential defendants with whom it is in negotiations or as to which investigations are still pending. ASARCO therefore believed that entering into tolling agreements similar to the one entered into with Mitsui would be beneficial to its Estate, by allowing the parties to preserve their legal rights, while giving them additional time to attempt to resolve claims without need of expensive litigation.

On July 19, 2007, ASARCO filed a motion seeking authorization to enter into the tolling agreement with Mitsui and to enter into agreements with other potential defendants on the same material terms without need of further Bankruptcy Court approval. The motion was granted by order entered on July 27, 2007. ASARCO thereafter entered into tolling agreements with several other potential defendants.

Since the entry of such agreements, some of the claims and causes of action necessitating the agreements were settled or otherwise resolved. Additionally, in July and August 2008, the Debtors extended the termination deadlines of the tolling agreements addressing claims and disputes not yet resolved.

(3) Extension and Abatement of Time Period for Service of Summonses and Related Complaints for Certain Causes of Action Under Chapter 5 of the Bankruptcy Code.

ASARCO's investigation identified approximately 200 Avoidance Actions and other actions under chapter 5 of the Bankruptcy Code, the vast majority of which are garden-variety preference actions. ASARCO and the ASARCO Committee agreed that the best course of action, in light of the expiration of the limitations period on August 9, 2007, was for ASARCO to preserve the causes of action by filing lawsuits, but defer service of the summonses and complaints relating to such claims until such time as there is more clarity in the Reorganization Cases regarding distributions to unsecured creditors under a plan of reorganization. On July 19, 2007, ASARCO filed a motion seeking an extension and abatement of the time period for serving summonses and complaints with respect to such causes of action until 90 days after the effective date of any confirmed plan of reorganization in the Reorganization Cases. The motion was granted by order entered on August 13, 2007.

2.25 Other Litigation in Bankruptcy Court or On Appeal from Bankruptcy Court Orders.

(a) TMD Acquisition Corporation's Adversary Proceedings Against ASARCO.

On November 4, 2005, TMD Acquisition Corporation filed Adversary Proceeding No. 05-02086 against ASARCO seeking a declaratory judgment that a prepetition asset purchase agreement for the Tennessee Mines Division property (which ASARCO sold post-petition to Glencore Ltd. for $65 million) remained executory and that, upon rejection, TMD was entitled to a $250,000 Lien. TMD also filed a Proof of Claim seeking $47.4 million in damages for breach of that contract. ASARCO agreed to pay TMD $475,000 in exchange for a full release of Claims by TMD and its assignee Nord Resources Corporation. By order entered on December 15, 2006, the Bankruptcy Court approved the settlement, and all Claims asserted by TMD or Nord against ASARCO were dismissed with prejudice by order entered on January 19, 2007.

(b) Adversary Proceeding Against the State of Montana.

On October 26, 2006, ASARCO and American Smelting filed Adversary Proceeding No. 06-02079 against the MDEQ, Atlantic Richfield Company, and ARCO Environmental Remediation LLC, seeking declaratory and injunctive relief. The MDEQ had filed a lawsuit (Cause No. C-DV-2003-160) on March 21, 2003, in the Montana First Judicial District Court, Lewis & Clark County against ASARCO, American Smelting, Atlantic Richfield and ARCO Environmental Remediation LLC, seeking a money judgment and various other relief in connection with the alleged contamination and threats of contamination at, and resulting from, the Upper Blackfoot Mining Complex in Lewis & Clark County, Montana. On October 26, 2007, the State of Montana, acting through MDEQ and the Montana Department of Justice, filed a second amended complaint in the Montana litigation, adding claims for natural resource damages. In the adversary proceeding, ASARCO and American Smelting sought a declaration that the prosecution of the Montana litigation against them in the Montana state court violated the automatic stay, and an injunction prohibiting the prosecution of those claims during the pendency of their bankruptcy cases. They also asked the Bankruptcy Court to grant limited relief from the automatic stay and the injunction to permit the Montana litigation to proceed to judgment with respect to all matters brought by the State of Montana, subject to certain conditions.

ASARCO and American Smelting voluntarily dismissed Atlantic Richfield and ARCO from the adversary proceeding, without prejudice, on November 9, 2006, and were thereafter able to resolve the issues raised by the complaint with Montana. On December 4, 2006, the Bankruptcy Court approved a stipulation whereby the parties agreed that the Montana litigation could proceed to judgment with respect to all matters brought by Montana, subject to certain conditions and limitations, including that nothing in the stipulation permits Montana to seek to enforce a money judgment rendered in the Montana litigation. However, the United States, Montana, and Atlantic Richfield and ARCO subsequently entered into settlement negotiations in the context of the environmental estimation proceedings. The parties reached a settlement that resolves all Claims among the parties with respect to the Upper Blackfoot Mining Complex. As part of the settlement, Montana shall dismiss the Montana litigation once certain conditions are met. A motion seeking approval of this settlement was filed with the Bankruptcy Court on April 25, 2008, and was approved by order entered on May 19, 2008. On June 12, 2008, the settlement agreement was also approved by the Montana federal district court, after a 30-day public comment period.

(c) Adversary Proceeding Against Gerald Metals, Inc.

On May 1, 2006, ASARCO filed a complaint against, and an objection to Proof of Claim No. 8351 filed by, Gerald Metals, Inc., thereby initiating Adversary Proceeding No. 06-02033. Gerald and ASARCO engaged in contractual commercial transactions over a number of years for the purchase, toll, and exchange of copper materials. Pursuant to the order entered on October 28, 2006, ASARCO rejected several executory contracts with Gerald. Gerald filed a rejection damages Claim against ASARCO in the amount of $13,904,158, and asserted that $7,166,365.12 of this amount (the amount owed by Gerald to ASARCO under the agreements) was secured as a result of its setoff rights. In its complaint, ASARCO asked that this Claim be disallowed, sought damages resulting from Gerald's failure to pay the amounts due to ASARCO on various outstanding invoices, and sought the turnover of an overshipment of copper in possession of Gerald. Gerald filed a motion for relief from the automatic stay in order to effect its setoff rights, but that motion was consolidated into the adversary proceeding by stipulation and agreed order entered on March 20, 2006.

The parties were able to resolve their disputes and sought approval of their settlement by motion filed on July 3, 2007. The settlement agreement provides for Gerald to pay ASARCO $5,587,656.68, Gerald to have an Allowed Unsecured Claim in the amount of $12,304,158, and the parties to execute mutual releases. The Bankruptcy Court approved

the settlement agreement by order entered on July 27, 2007, and the adversary proceeding was dismissed with prejudice by order entered on August 31, 2007.

(d) Adversary Proceeding Filed by Miguel Hernandez Against ASARCO.

Miguel Hernandez filed a Proof of Claim for $1,000,000 and Adversary Proceeding No. 08-2010 against ASARCO claiming unlawful discrimination in employment based on religion. ASARCO objected to the Claim. A parallel action in federal district court was filed prepetition, but is currently abated. In addition to his Claim for money damages, Mr. Hernandez seeks equitable relief including (1) an injunction against ASARCO engaging in any employment practice which discriminates on the basis of religion; (2) an order requiring ASARCO to provide equal employment opportunities for religious observance and which eradicates the effects of ASARCO's alleged past and present unlawful employment practices; and (3) reinstatement. ASARCO denies liability for any and all of the asserted Claims. ASARCO also believes all of Mr. Hernandez's asserted Claims are dischargeable in bankruptcy and that they will be discharged upon Confirmation of the Plan, so that, at most, they might result in an Unsecured Claim if Mr. Hernandez prevails at trial. My. Hernandez believes that he will prevail on all of his Claims, including his Claims for equitable relief, and that none of his equitable Claims are dischargeable in bankruptcy as a matter of law, so that any plan purporting to discharge such Claims is not confirmable as a matter of law. Mr. Hernandez is expected to object to confirmation of the Plan, and has not waived any of his objections to the Plan by agreeing to withdraw his objection to the Disclosure Statement in exchange for the Debtors' addition of this paragraph to the Disclosure Statement.

(e) The Deens' Claim for Adverse Possession.

Ron and Linda Deen reside on approximately 12 acres in Pinal County, Arizona as described in their filed Proof of Claim. ASARCO has record title to the property, but the Deens assert ownership of the property by right of adverse possession. The Debtors objected to their Deens' Claim and the Bankruptcy Court reclassified it from Secured to Unsecured, and ASARCO therefore believes they have only a general Unsecured Claim. The Deens believe that order does not affect the substance of their claim, *i.e.*, adverse possession. The Deens also believe their claim for adverse possession is unique and should be separately classified in the Plan, and because it is not, the Plan cannot be confirmed. The Deens also believe their adverse possession claim should be litigated in an Arizona state court. ASARCO's Plan calls for sale of the property to Sterlite, but the Deens contend that the property cannot be sold because the Deens own the property, not ASARCO. The Deens will object to Confirmation of the Debtors' Plan, and have not waived any of their objections to the Plan by agreeing to withdraw their objection to the Debtors' Disclosure Statement in exchange for the addition of this paragraph to the Disclosure Statement.

2.26 Litigation Outside of the Bankruptcy Court.

(a) Extension of Deadline for Removal of Civil Actions.

The Bankruptcy Court entered several orders extending the deadline for removing civil actions to the Bankruptcy Court pursuant to 28 U.S.C. § 1452(a). Most recently, by order entered on June 6, 2008, the Bankruptcy Court extended this deadline until October 10, 2008.

(b) Water Rights Issues.

ASARCO faces complex water rights issues relating to its operations at Hayden smelter and Ray mine. These issues arise by virtue of certain settlements between the Gila River Indian Community and others, as well as future water exchanges under the Central Arizona Project (a water delivery and conservation system enacted under Arizona law), which could possibly adversely impact ASARCO. Action has been taken in federal and state courts of relevant jurisdiction to oppose these settlements.

(c) Coeur d'Alene Litigation.

In 1991, the Coeur d'Alene Tribe filed a natural resources damages lawsuit designated as Case No. 91-0342 against a number of defendants, including ASARCO's predecessor in interest referred to herein as ASARCO NJ, in the United States District Court for the District of Idaho. On March 22, 1996, the United States filed an action designated as Case No. 96-0122 on behalf of the Interior, the USDA, and the EPA against ASARCO NJ and other defendants in the Idaho

Court, seeking clean up costs and natural resource damages in excess of $1.5 billion from the defendants, for their alleged release of hazardous materials from their metals mining and smelting facilities. This action was consolidated with the Tribe's action. The only remaining non-Debtor defendant in the lawsuit is Hecla Mining Co., Inc.

The Idaho federal court bifurcated the lawsuit and conducted a Phase I trial on liability and injury in 2001. At the conclusion of the Phase I trial, the court ruled that the defendants, including ASARCO, were liable for response and natural resource damages in the Coeur d'Alene basin. The court further ruled that the liability was divisible and not joint and several, with ASARCO liable for approximately 22 percent and Hecla liable for 31 percent. Phase II of the litigation was to determine the amount of response costs and natural resources damages for which the defendants are liable. The Phase II trial was set to commence on January 17, 2006.

On August 31, 2005, the Idaho court issued a *sua sponte* order staying the Idaho lawsuit as to ASARCO, subject to the right of the parties "to move to lift the stay for good cause shown, for the entry of any stipulation or order, or for any other purpose required to obtain a final determination of the litigation after the stay relating to the bankruptcy filing by Defendant ASARCO is lifted."

On September 13, 2005, the United States filed a Motion and Memorandum of Law for Declaration of Inapplicability of Automatic Stay, wherein it asked the Bankruptcy Court to issue a declaration that continuation of the Idaho Action through entry of a judgment is not subject to the automatic stay of section 362 of the Bankruptcy Code because it constitutes an exercise of the police and regulatory power, exempted from the automatic stay pursuant to section 362(b)(4) of the Bankruptcy Code. ASARCO and the ASARCO Committee filed responses in opposition to this motion. The Bankruptcy Court held a hearing on the motion on December 6, 2005, at which time the court took the matter under advisement. No ruling has been issued on the motion to date.

(d) Other Litigation Relating to Environmental Liabilities.

In addition to the Montana litigation discussed in Section 2.25(b) above and the Coeur D'Alene lawsuit discussed in Section 2.26(c) above, the Debtors are parties to dozens of lawsuits and other proceedings pending in federal and state courts around the country and relating to environmental liabilities. None are presently active. Pursuant to Article 11.20(a) of the Plan, after the Effective Date, the Plan Administrator may, in his discretion, file a notice of discharge with a copy of the Confirmation Order in any lawsuits in which ASARCO or any other Debtor was named as a defendant prior to the Effective Date.

(e) Canadian Litigation.

Several actions were filed in the Superior Court, Province of Québec, District of Montreal, Dominion of Canada, well before the Debtors' bankruptcy filings. Lac d'Amiante du Québec Ltée commenced two actions for account, No. 500-05-015073-925 and No. 500-05-027806-965, against 2858-0702 Québec Inc. and Lac d'Amiante du Canada, Ltée in 1992 and 1996, seeking to impose joint and several liability upon them for payment of CA$44,256,890 plus interest owing as net expenditures under a certain joint venture agreement for mining of asbestos in the Black Lake region of Québec. Lac d'Amiante du Québec Ltée also filed an action for accounting of LAB Chrysotile, Inc. and 2858-0702 Québec Inc. In response, 2858-0702 Québec Inc. filed an action for accounting of Lac d'Amiante du Québec Ltée and ASARCO. Both actions generally seek accountings of costs and distributions under the joint venture agreement.

Woods LLP, Lac d'Amiante du Québec Ltée's counsel in the two actions for account, currently holds in its trust account an amount in excess of CA$591,256.96 as security for costs required under Canadian law.

There has been no activity in any of these actions since 2001, and very little discovery was conducted before that time. For all practical purposes, the actions have been dormant for over a decade. Therefore, Woods LLP has provided no opinion on the merits of the claims or any evaluation on the chances of success. Lac d'Amiante du Québec Ltée does not know if any of the defendants have the ability to pay any judgment that it might obtain if these actions were to proceed to trial.

On the Effective Date, the actions filed by Lac d'Amiante du Québec Ltée shall be transferred to the Asbestos Trust.

2.27 Asset Valuation and Plan Exit Process.

In order to propose a plan of reorganization and exit bankruptcy, the Debtors need not only to determine their liabilities, but also to establish the value of their assets and provide forms of consideration acceptable to their Claimants. The Debtors submitted to the Bankruptcy Court at an April 11, 2007 hearing an exit process timeline (as subsequently updated) that describes the process and tentative timetable, developed by the Debtors' financial advisors Lehman Brothers at the Debtors' request, to identify parties (including creditors, the Parent and third parties) interested in co-sponsoring a Debtor-proposed plan of reorganization~~,~~ and to provide them access to the Debtors' information for the purpose of assessing plan alternatives. Implementation of this centrally coordinated and transparent process was intended to maximize the value of the Debtors' assets and govern the development of a viable plan. The exit process timeline was designed to allow the Debtors to systematically explore all exit options~~,~~ while minimizing disruptions to their business operations and establishing a level playing field for any parties interested in participating in the process.

On April 27, 2007, in accordance with the exit process timeline, the Debtors distributed a background information document to potential plan sponsors. On June 11, 2007, ASARCO distributed a form of confidentiality agreement to potential plan sponsors. On June 19, 2007, the parties that had executed confidentiality agreements as of that time received a confidential information memorandum.

The Debtors and Lehman Brothers spent April, May, and early June 2007 collecting information and populating a virtual data room to be utilized for due diligence. On June 19, 2007, Lehman Brothers opened the virtual data room, and the potential plan sponsors that executed confidentiality agreements were granted access to the data room.

Over the next several months, Lehman Brothers and members of ASARCO's management team provided due diligence support to interested parties so they would be positioned to submit indicative proposals in late August 2007, and by September 2007, nine indicative proposals had been received. In early September 2007, ASARCO and its advisors evaluated the strengths and weaknesses of the various proposals. Lehman Brothers communicated the analysis to ASARCO's board of directors and to the Creditor Constituents (*i.e.*, the ASARCO Committee, the Asbestos Subsidiary Committee, the FCR, the DOJ, the State of Washington, and the USW), and recommended that six of the parties that had submitted proposals proceed with on-site and management due diligence. The board and the Creditor Constituents agreed with the recommendation.

Since September 2007, Lehman Brothers maintained close communications with the interested parties with respect to due diligence support and information about the plans to select a plan sponsor. In November 2007, Lehman Brothers alerted potential plan sponsors that ASARCO and its Creditor Constituents were considering an alternative for reorganization that did not involve a sale. In December 2007, and as a result of the mediation before Judge Magner, Lehman Brothers sent a letter to potential plan sponsors advising them that ASARCO would pursue a sale alternative and inviting them to re-engage in the due diligence and plan process. Lehman Brothers also contacted other parties who had not registered an interest in making a proposal, and similarly invited them to engage in the process.

During the process of the mediation before Judge Magner, which is also discussed above in Sections 2.19(b) and 2.20, ASARCO and its Creditor Constituents developed procedures for selecting the plan sponsor that would provide the highest value to the Debtors' Estates. These efforts culminated in the filing of a motion for approval of such procedures, as discussed in Section 2.28 ~~herein~~**below**.

2.28 Selection of a Plan Sponsor.

On March 18, 2008, the Bankruptcy Court approved, on a preliminary basis, bid procedures for selecting a chapter 11 plan sponsor. The plan sponsor procedures were designed to maximize the value of the assets of the Estates by encouraging bidders to submit qualifying bids in order to participate in a plan sponsor selection meeting and to increase their bids at the meeting relative to other competing bidders. By establishing guidelines for the process, the procedures were intended to advance the process to completion, maintain a level playing field among participants and promote healthy competition. The Bankruptcy Court's March 25, 2008 Bid Procedures Order approving the Plan Sponsor procedures on an interim basis is attached hereto as **Exhibit L-1**.

The deadline to submit bids was April 30, 2008. ASARCO received four qualified bids.

On May 22 and 23, 2008, ASARCO conducted the meeting to select a plan sponsor in the Dallas office of Baker Botts L.L.P. In attendance were approximately 130 people, including the Debtors, the Creditor Constituents, the four

qualified bidders, the Examiner, and their respective advisors. Over the two-day meeting, ASARCO's legal and financial advisors conducted a series of rigorous negotiations with each of the bidders. On the morning of May 23, 2008, ASARCO informed each of the four qualified bidders that ASARCO would select a lead bid later that same day and provide 90 minutes from the announcement of such lead bid or any subsequent lead bid, within which to submit a topping bid, failing which such lead bid would become the winning bid.

The plan sponsor procedures provided that ASARCO and the Creditor Constituents and their advisors would consider "such matters as they deem appropriate including, without limitation," a list of twelve factors in evaluating the highest and best offer. *See* **Exhibit L-1** (Bid Procedures Order, p. 11). After considering Delaware law, relevant provisions of the Bankruptcy Code and other appropriate matters, and after considering each of the twelve factors set forth in the plan sponsor procedures for evaluating the highest and best bid and other considerations as the board of directors of ASARCO in the exercise of its business judgment deemed appropriate, and after consulting with its legal and financial advisors and the Creditor Constituents and their legal and financial advisors, ASARCO's board of directors, in its business judgment, selected Sterlite as the lead bidder. ASARCO informed the other bidders that it selected Sterlite as the lead bid and gave them 90 minutes to top Sterlite's bid, but none did, with two of the three bidders exiting the building prior to the expiration of the 90 minute period. Thus, Sterlite emerged as the Successful Bidder (as such term is defined in the Bid Procedures Order) at the conclusion of the Plan Sponsor Selection Meeting.

On May 30, 2008, ASARCO's board of directors approved and authorized ASARCO to execute a purchase and sale agreement with Sterlite. On May 30, 2008, ASARCO and the Non-Debtor Sellers, as Sellers, and Sterlite, as purchaser, and its parent Sterlite Industries (India) Ltd. signed the Plan Sponsor PSA attached hereto as **Exhibit M**. Background information regarding the Plan Sponsor (provided in its entirety by the Plan Sponsor) is attached hereto as **Exhibit N**.

On June 3, 2008, the Debtors filed a motion for final approval of bid protections in connection with the sale of the Sold Assets to Sterlite. The Bankruptcy Court conducted a hearing on this motion on June 12 and 13, 2008, and entered the Bid Protections Order attached hereto as **Exhibit L-2** on July 1, 2008.

On July 2, 2008, the Parent and AMC filed a notice of appeal from the Bid Protections Order, thereby initiating Civil Action No. 08-214 in the District Court.

The Plan Sponsor PSA provides for a sale of the Sold Assets "as is", "where is", and "with all faults" to Sterlite for $2.6 billion in Cash, subject to the Adjustment Payment. ASARCO shall retain Cash on hand at Closing (estimated to be in excess of $1 billion). The Plan Sponsor shall also assume certain liabilities, including, as discussed in section 3.9(h) below, the Assumed Environmental Liabilities. At the signing of the Plan Sponsor PSA, the Plan Sponsor posted a letter of credit issued by ABN AMRO Bank N.V. in the amount of $50 million. The letter of credit shall be drawn upon as a component of the purchase price or following termination of the Plan Sponsor PSA due to a material breach by Sterlite of any of its representations, warranties or covenants or other agreements thereunder. Alternatively, the letter of credit shall be cancelled without payment to the Sellers, if the agreement is terminated for any reason other than a purchaser breach. Section 11.3 of the Plan Sponsor PSA provides waivers and releases by the Plan Sponsor and the Plan Sponsor Parent.

The Plan Sponsor PSA contains the following deadlines:

- ASARCO must file a plan and disclosure statement by August 1, 2008;
- The Bankruptcy Court must enter an order approving a disclosure statement by October 15, 2008 (which date may be extended until October 30, 2008 if the Plan Sponsor consents);
- An order confirming a plan must be entered by December 15, 2008 (which date may be extended until January 17, 2009 if the Plan Sponsor consents); and
- The Closing must occur by December 31, 2008 (which date may be extended until January 28, 2009 in certain circumstances).

If these deadlines are not met, the Plan Sponsor PSA may be terminated, pursuant to section 12.1 thereof. ASARCO complied with the first deadline by filing the Plan and Disclosure Statement on July 31, 2008.

Pursuant to section 7.10(a) of the Plan Sponsor PSA, ASARCO agreed that neither it nor any of its wholly-owned Subsidiaries nor any of their respective directors or officers would, directly or indirectly, solicit any Acquisition Proposal[9]; *provided*, *however*, that nothing shall prevent ASARCO or its board of directors from taking any of the following actions:

- complying with its obligations under Applicable Law (as such term is defined in the Plan Sponsor PSA) with regard to an Acquisition Proposal; or

- (a) engaging in any negotiations or discussions with any Person who has made an unsolicited bona fide written Acquisition Proposal or (b) recommending an unsolicited Acquisition Proposal to the Creditor Constituents, if in the case of each of clause (a) and (b) above, the board of directors of ASARCO determines in good faith (after consultation with its legal and financial advisors and the Creditor Constituents) that (1) such action would be reasonably likely to be required in order to comply with its fiduciary duties under Applicable Law and (2) such Acquisition Proposal is a Superior Proposal or is likely to lead to a Superior Proposal.

A Superior Proposal is defined in the Plan Sponsor PSA as a bona fide written Acquisition Proposal that the board of directors of ASARCO determines (after consultation with its legal and financial advisors) in good faith:

- is reasonably likely to be consummated in a timely manner, taking into account all factors deemed relevant by the board of directors of ASARCO (including all legal, financial and regulatory aspects of the proposal and the Person making the proposal);

- if consummated would, taking into account all factors deemed relevant by the board of directors of ASARCO (including the Break-Up Fee that would be owed to Sterlite and the costs reasonably likely to be incurred in connection with the negotiation of an Acquisition Proposal), result in a transaction more favorable to ASARCO and its stakeholders than the transactions contemplated by the Plan Sponsor PSA; and

- provides a Deemed Value[10] to ASARCO and its Estate that exceeds, by the Superior Proposal Threshold[11], the Deemed Value of the Plan Sponsor PSA and the transactions contemplated thereby.

Section 7.10(b) of the Plan Sponsor PSA provides that, notwithstanding anything therein to the contrary, the Sellers and their Subsidiaries and their respective officers, directors, employees, attorneys, investment bankers, accountants, and other agents and representatives shall be permitted to (1) maintain and continue to provide access to the data room to Persons that have executed a confidentiality agreement with ASARCO prior to the date of the Plan Sponsor PSA and (2) respond to any inquiries from and provide access to the data room to Persons that have submitted a written bona fide (and unsolicited) Acquisition Proposal that ASARCO determines in good faith is a Superior Proposal (or is reasonably likely to lead to a Superior Proposal) and have executed a confidentiality agreement with ASARCO. No Seller, nor any of its Affiliates shall have any liability to the Plan Sponsor or the Plan Sponsor Parent, either under or relating to the Plan Sponsor

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[9] For reference purposes only, an "Acquisition Proposal" is defined in the Plan Sponsor PSA as any proposal or offer for a merger, recapitalization, share exchange, debt-for-equity exchange, distribution of securities for the benefit of the stakeholders of ASARCO, consolidation, or similar transaction involving a sale or purchase (directly or through a proposed investment in equity securities, debt securities, or claims of creditors) of all or substantially all of the Sold Assets, or all or substantially all of the equity securities of ASARCO or of the Non-Debtor Sellers, other than the transactions contemplated by the terms of the Plan Sponsor PSA.

[10] For reference purposes only, "Deemed Value" is defined in the Plan Sponsor PSA to mean, in respect of the Purchase Price or a Superior Proposal, the aggregate dollar value to the Sellers of all cash and non-cash (as applicable) consideration comprising the Purchase Price or Superior Proposal, as applicable, as determined by the board of directors of ASARCO after consultation with its financial and legal advisors, the Creditor Constituents, and such other advisors as the board of directors of ASARCO chooses, in its sole discretion, to consult.

[11] For reference purposes only, "Superior Proposal Threshold" is defined in the Plan Sponsor PSA to mean $77 million (*i.e.*, $25 million plus the Break-Up Fee).

PSA, the Ancillary Agreements or any Applicable Law, by virtue of entering into or seeking Bankruptcy Court approval of a Superior Proposal or the definitive agreement for such Superior Proposal, in each case, in accordance with the terms of section 7.10 of the Plan Sponsor PSA, following the receipt of any Superior Proposal, except as provided in section 12.2 thereof upon termination of the Plan Sponsor PSA.

In the event that the board of directors of ASARCO determines (in accordance with section 7.10(a) of the Plan Sponsor PSA) to take any affirmative action to approve, or authorize negotiations of, a definitive agreement with respect to any Acquisition Proposal received by the Sellers after the date of the Plan Sponsor PSA, section 7.10(c) of the Plan Sponsor PSA requires the Sellers, as soon as practicable, to provide Sterlite with the material terms and conditions of such Acquisition Proposal.

Section 7.10(d) of the Plan Sponsor PSA gives Sterlite a matching/topping right within four Business Days after Sterlite receives a copy of the material terms and conditions of any Acquisition Proposal pursuant to section 7.10(c) thereof, to deliver to the Sellers an unconditional written offer to improve the terms and conditions contained in the Plan Sponsor PSA so long as the Deemed Value of such improved offer (which Deemed Value shall include the value of the Break-Up Fee that would be owed to Sterlite if such Acquisition Proposal were accepted and consummated) is at least equal to the Deemed Value of such pending Acquisition Proposal. However, Sterlite has no obligation to exercise its matching/topping right or to participate in any proceedings designed to elicit from Sterlite an equal or higher and better offer.

Pursuant to section 12.2(b)(v) of the Plan Sponsor PSA, Sterlite is entitled to a break-up fee of $52 million (which is two percent of the unadjusted $2.6 billion purchase price) if:

- ASARCO terminates the Plan Sponsor PSA after the Bankruptcy Court approves a Superior Proposal or Stand-Alone Plan;[12]
- the Plan Sponsor terminates the Plan Sponsor PSA after ASARCO files a motion, disclosure statement, or other document in the Bankruptcy Court that announces that the board of directors of ASARCO has decided to pursue, or otherwise seeks approval of, an Acquisition Proposal to be consummated between ASARCO and a Person other than Sterlite or its Affiliates;
- the Plan Sponsor terminates the Plan Sponsor PSA after ASARCO files a Stand-Alone Plan in the Bankruptcy Court; or
- the Plan Sponsor terminates the Plan Sponsor PSA after a Stand-Alone Plan is filed in the Bankruptcy Court by a third party and has been approved by the board of directors of ASARCO and is supported by ASARCO.

Sterlite shall have a first priority Administrative Claim against ASARCO in the amount of the break-up fee. However, no Break-Up Fee is owed to Sterlite if:

- Sterlite or the Plan Sponsor Parent has materially breached the Plan Sponsor PSA;
- Sterlite or the Plan Sponsor Parent has engaged in bad faith conduct with respect to the transactions contemplated by the Plan Sponsor PSA; or
- Sterlite or the Plan Sponsor Parent has violated in any material respect the provisions of the Bankruptcy Code, other Applicable Law or a final and non-appealable order of the Bankruptcy Court, in each case relating to the transactions contemplated by the Plan Sponsor PSA.

[12] For reference purposes only, a "Stand-Alone Plan" is defined in the Plan Sponsor PSA as a plan of reorganization sponsored by a Person other than the Plan Sponsor or the Plan Sponsor Parent which the board of directors of ASARCO determines (after consultation with its legal and financial advisors and the Creditor Constituents) in good faith would, if consummated and taking into account all factors deemed relevant by the board of directors of ASARCO, be more favorable to ASARCO and its stakeholders than the transactions contemplated by the Plan Sponsor PSA.

In the event the Plan Sponsor PSA is terminated by Sterlite pursuant to section 12.1(j)(x) thereof following the Sellers' breach of covenant, willful or intentional breach of representations, or fraud, the Sellers shall reimburse Sterlite within two Business Days of such termination for actual and documented expenses of Sterlite not to exceed the sum of $10 million. Sterlite shall have a first priority Administrative Claim against ASARCO in the amount of such expenses.

Pursuant to section 13.1(a) of the Plan Sponsor PSA, the Plan Sponsor Parent irrevocably, unconditionally, and absolutely guarantees, as a primary obligor and not as a surety, to the Sellers the full and timely payment and due and punctual performance and discharge of all of the Plan Sponsor's obligations under the Plan Sponsor PSA and the Ancillary Agreements existing on the date of the Plan Sponsor PSA or thereafter of any kind or nature whatsoever, including, without limitation, the due and punctual payment of the Purchase Price and any other amount that the Plan Sponsor is or may become obligated to pay pursuant to the Plan Sponsor PSA or the Ancillary Agreements (defined in the Plan Sponsor PSA as the Obligations). This guarantee is an unconditional, irrevocable and absolute guaranty of timely payment and performance of the Obligations and not merely of collection. If for any reason whatsoever the Obligations shall not be fully and timely paid or performed, the Plan Sponsor Parent shall promptly honor and perform its obligations to the Sellers upon demand. Pursuant to section 14.7(a) of the Plan Sponsor PSA, the Plan Sponsor and the Plan Sponsor Parent agreed to submit to the jurisdiction of the Bankruptcy Court for, among other things, enforcement of the Plan Sponsor PSA.

Pursuant to section 13.1(g) of the Plan Sponsor PSA, section 13.1 thereof (the Plan Sponsor Parent guarantee provision) shall survive the Closing and shall remain in full force and effect. Moreover, the Plan Sponsor Parent has agreed to indemnify and hold the Sellers harmless from and against and to pay all out-of-pocket costs and expenses (including, without limitation, reasonable legal fees and expenses) incurred by or on behalf of the Sellers in connection with the collection or enforcement of the Plan Sponsor Parent's obligations under section 13.1.

Section 10.1 of the Plan Sponsor PSA provides that the respective obligations of the Sellers, the Plan Sponsor and the Plan Sponsor Parent to consummate the transactions contemplated by the Plan Sponsor PSA are subject to the fulfillment, on or prior to the Closing Date, of each of the following conditions:

- The Bankruptcy Court shall have approved and entered the Confirmation Order, and the Confirmation Order shall have become an Effective Order;

- Any waiting period (including any extension thereof) applicable to the sale to and purchase by the Plan Sponsor of the Sold Assets under the HSR Act or under the regulations of any other applicable governmental antitrust or competition authority, where failure to comply with such regulations would prohibit the consummation of the transactions contemplated by the Plan Sponsor PSA, shall have been terminated or expired;

- No final and non-appealable order issued by any court of competent jurisdiction preventing the consummation of the transactions contemplated thereby shall be in effect; and

- All conditions precedent to the effectiveness of the Plan (other than the Closing) shall have been satisfied or waived by the relevant parties.

Section 10.2 of the Plan Sponsor PSA provides that the obligations of Plan Sponsor and the Plan Sponsor Parent to consummate the transactions contemplated thereby are subject to the fulfillment, on or prior to the Closing Date, of each of the following conditions (any or all of which may be waived by the Plan Sponsor or the Plan Sponsor Parent, in whole or in part, subject to Applicable Law):

- All of the representations and warranties of the Sellers contained in the Plan Sponsor PSA shall be true and correct on and as of the Closing Date, except those representations and warranties of the Sellers that speak of a certain date, which representations and warranties shall have been true and correct as of such date; *provided, however*, that this condition shall be deemed to have been satisfied so long as any failure of such representations and warranties to be true and correct, individually or in the aggregate, would not reasonably be expected to result in a Seller Material Adverse Effect, ignoring solely for purposes of the satisfaction of section 10.2(a) of the Plan Sponsor PSA any reference to Seller Material Adverse Effect or other materiality qualifiers contained in such representations and warranties;

- The Sellers shall have performed, in all material respects, all obligations required by the Plan Sponsor PSA to be performed by the Sellers on or prior to the Closing Date; and

- The Plan Sponsor and the Plan Sponsor Parent shall have been furnished with the deliveries referred to in section 4.2 of the Plan Sponsor PSA.

Section 10.3 of the Plan Sponsor PSA provides that the obligations of the Sellers to consummate the transactions contemplated thereby are subject to the fulfillment, prior to or on the Closing Date, of each of the following conditions (any or all of which may be waived by the Sellers, in whole or in part, subject to Applicable Law):

- All of the representations and warranties of the Plan Sponsor and the Plan Sponsor Parent contained herein shall be true and correct on and as of the Closing Date, except those representations and warranties of the Plan Sponsor and the Plan Sponsor Parent that speak of a certain date, which representations and warranties shall have been true and correct as of such date; *provided*, *however*, that this condition shall be deemed to have been satisfied so long as any failure of such representations and warranties to be true and correct, individually or in the aggregate, would not reasonably be expected to prevent, impede, or materially delay or otherwise affect in any material respect the transactions contemplated by the Plan Sponsor PSA ignoring solely for purposes of the satisfaction of section 10.3(a) thereof any materiality qualifiers contained in such representations and warranties;

- The Plan Sponsor and the Plan Sponsor Parent shall have performed, in all material respects, all obligations required by the Plan Sponsor PSA to be performed by them on or prior to the Closing Date;

- The Sellers shall have been furnished with the deliveries referred to in section 4.3 of the Plan Sponsor PSA; and

- The consents and waivers set forth in sections 5.3(a) and 5.3(b) of the Disclosure Schedule shall have been obtained.

Section 12.1 of the Plan Sponsor PSA governs termination of the agreement. It provides that the agreement may be terminated prior to the Closing Date as follows:

- By the mutual written consent of the Sellers and Sterlite;

- By the Sellers if the Confirmation Order has not been entered on or before December 15, 2008 (or such later date, which in no event shall be later than January 17, 2009, if requested by the Sellers and consented to by the Plan Sponsor, which consent may not be unreasonably delayed or denied) (defined in the Plan Sponsor PSA as the Confirmation Deadline); *provided*, *however*, that the Sellers shall not be permitted to terminate the Plan Sponsor PSA under section 12.1(b) thereof if (a) the failure by the Sellers to fulfill any obligation under such agreement has been the primary cause of the Confirmation Order not having been entered on or before the Confirmation Deadline or (b) the Confirmation Order not having been entered is caused primarily by a breach by the Sellers of any covenant or obligation in the Plan Sponsor PSA required to be performed by the Sellers or the inaccuracy of any representation or warranty of the Sellers made therein;

- By the Sellers if the Closing has not occurred on or before December 31, 2008 (or such later date, which in no event shall be later than January 28, 2009 if, notwithstanding ASARCO's exercise of good faith best efforts, the failure of Closing to occur on or prior to December 31, 2008 is due to circumstances or events beyond ASARCO's control, including any delays or failures caused by actions or omissions by the Plan Sponsor or its Affiliates or any third party not under ASARCO's control or responsibility (defined in the Plan Sponsor PSA as the Termination Date); *provided*, *however*, that the Sellers shall not be permitted to terminate the Plan Sponsor PSA under section 12.1(c) thereof if (a) the failure by the Sellers to fulfill any obligation under such agreement has been the primary cause of the failure of such consummation to occur on or before the Termination Date or (b) the failure of the Closing to occur is caused primarily by a breach by the

Sellers of any covenant or obligation in the Plan Sponsor PSA required to be performed by the Sellers or the inaccuracy of any representation or warranty of the Sellers made therein;

- By the Sellers, at any time after the Bankruptcy Court approves a Superior Proposal, or by Sterlite, upon filing by ASARCO of a motion, disclosure statement, or any other document in the Bankruptcy Court that announces that the board of directors of ASARCO has decided to pursue, or otherwise seeks approval of, an Acquisition Proposal to be consummated between ASARCO and a Person other than Sterlite or its Affiliates;

- By the Sellers, at any time after the Bankruptcy Court approves a Stand-Alone Plan, or by Sterlite, upon (a) the filing of a Stand-Alone Plan in the Bankruptcy Court by the Sellers or (b) the filing of a Stand-Alone Plan in the Bankruptcy Court by a third-party and such plan has been approved by the board of directors of ASARCO and is supported by ASARCO;

- By Sterlite if the Confirmation Order has not been entered on or before the Confirmation Deadline; *provided, however*, that Sterlite shall not be permitted to terminate the Plan Sponsor PSA under section 12.1(f) thereof if (a) the failure by Sterlite or the Plan Sponsor Parent to fulfill any obligation under such agreement has been the primary cause of the Confirmation Order not having been entered on or before the Confirmation Deadline or (b) the Confirmation Order not having been entered is caused primarily by a breach by Sterlite or the Plan Sponsor Parent of any covenant or obligation in the Plan Sponsor PSA required to be performed by Sterlite or the Plan Sponsor Parent or the inaccuracy of any representation or warranty of Sterlite or the Plan Sponsor Parent made therein;

- By Sterlite if the Closing has not occurred on or before the Termination Date; *provided, however*, that Sterlite shall not be permitted to terminate the Plan Sponsor PSA under section 12.1(g) thereof if (a) the failure by Sterlite or the Plan Sponsor Parent to fulfill any obligation under such agreement has been the primary cause of the failure of such consummation to occur on or before the Termination Date or (b) the failure of the Closing to occur is caused primarily by a breach by Sterlite or the Plan Sponsor Parent of any covenant or obligation in the Plan Sponsor PSA required to be performed by Sterlite or the Plan Sponsor Parent or the inaccuracy of any representation or warranty of Sterlite or the Plan Sponsor Parent made therein;

- By Sterlite (provided that neither Sterlite nor the Plan Sponsor Parent is in material breach of any representation, warranty or covenant or other agreement contained in the Plan Sponsor PSA) if: (a) the Bid Protections Order shall not have been entered on or prior to the 30th day following the date on which the motion seeking entry of the Bid Protections Order was filed with the Bankruptcy Court; (b) ASARCO shall not have filed with the Bankruptcy Court the Plan and Disclosure Statement on or prior to August 1, 2008; or (c) the Bankruptcy Court shall not have entered an order approving the Disclosure Statement on or prior to October 15, 2008 (or such later date, which in no event shall be later than October 30, 2008, if requested by the Sellers and consented to be the Plan Sponsor, which consent may not be unreasonably delayed or denied);

- By Sterlite upon the conversion of ASARCO's bankruptcy case to a case under chapter 7 of the Bankruptcy Code;

- By Sterlite, if there shall be a breach by the Sellers of any representation, warranty or covenant contained in the Plan Sponsor PSA which would result in a failure of a condition to Sterlite's and the Plan Sponsor Parent's obligation to close set forth in section 10.2(a) or 10.2(b) thereof to be satisfied, which breach has not been cured by the earlier of (a) 60 days after the giving of written notice by Sterlite to the Sellers of such breach and (b) the Termination Date; or

- By the Sellers, if there shall be a breach by Sterlite of any representation, warranty or covenant contained in the Plan Sponsor PSA which would result in a failure of a condition to the Sellers' obligation to close set forth in section 10.3(a) or 10.3(b) thereof to be satisfied, which breach has not been cured by the earlier of (a) 60 days after the giving of written notice by the Sellers to Sterlite of such breach and (b) the Termination Date; and

- By either the Sellers or Sterlite, if there shall be any final and non-appealable order entered by a Governmental Authority of competent jurisdiction having valid enforcement authority permanently restraining, prohibiting or enjoining the Sellers or Sterlite from consummating the transactions contemplated by the Plan Sponsor PSA.

Section 12.2 of the Plan Sponsor PSA addresses the effect of a termination of the agreement. Pursuant thereto, if the Plan Sponsor PSA is terminated pursuant to section 12.1 thereof:

- Except as otherwise provided in sections 3.2 and 12.2(b)(v) of the Plan Sponsor PSA, such termination shall be the sole and exclusive remedy of Sterlite and the Plan Sponsor Parent with respect to breaches by any Seller of any covenant, representation, or warranty contained in such agreement[13] and none of the Sellers nor any of their respective trustees, directors, officers, or Affiliates, as the case may be, shall have any liability or further obligation to Sterlite or the Plan Sponsor Parent or any of their respective trustees, officers, or Affiliates, as the case may be, and each Seller (and their respective trustees, directors, officers, or Affiliates, as the case may be) shall be fully released and discharged from any liability or obligation under or resulting from the Plan Sponsor PSA and neither Sterlite nor the Plan Sponsor Parent shall have any other remedy or cause of action under or relating to such agreement or any Applicable Law, including, without limitation, for reimbursement of expenses;

- The Sellers shall have all rights and remedies existing at law or in equity and shall have the right to pursue all legal and equitable remedies that may be available to the Sellers, at law or in equity; and in any successful action for damages, the Sellers shall be entitled to recover their demonstrated legal damages, which shall not be limited to out-of-pocket costs in pursuing the transaction contemplated by the Plan Sponsor PSA;

- All filings, applications, and other submissions made pursuant to the Plan Sponsor PSA, to the extent practicable, shall be withdrawn from the agency or other Person to which they were made;

- All Evaluation Material (as defined in the Confidentiality Agreement) shall be returned to ASARCO;

- In the event that the Plan Sponsor PSA is terminated pursuant to sections 12.1(d) or (e) thereof, the Sellers shall pay to Sterlite, simultaneously with and as a condition to such termination, the Break-Up Fee; and

- In the event that the Plan Sponsor PSA is terminated pursuant to section 12.1(j)(x) thereof following the Sellers' breach of covenant, willful or intentional breach of representations or fraud, the Sellers shall reimburse Sterlite its actual documented expenses (not to exceed the sum of $10 million).

However, notwithstanding section 12.2(b) of the Plan Sponsor PSA, the obligations of Sterlite and the Plan Sponsor Parent under the Confidentiality Agreement and the obligations of the parties under sections 3.2, 7.5, 7.6, 12.2, 14.4, 14.6, 14.7, 14.8, 14.11, 14.13, and 14.14, the last two sentences of section 7.1, and Articles XI and XIII of the Plan Sponsor PSA shall remain in full force and effect.

The Plan Sponsor sought approval from the Committee on Foreign Investment in the United States of its transaction with the Sellers. Section 721 of the Defense Production Act of 1950, as amended by the Foreign Investment and National Security Act of 2007, authorizes the President, acting through the committee, to review certain mergers, acquisitions, and takeovers which could result in foreign control of persons engaged in interstate commerce in the United

[13] It should be noted that section 14.2 of the Plan Sponsor PSA provides that prior to any termination thereof pursuant to section 12.1 of the Plan Sponsor PSA, in addition to any other right or remedy to which each party may be entitled, at law or in equity, it shall be entitled to enforce any provision of the Plan Sponsor PSA by a decree of specific performance and to temporary, preliminary, and permanent injunctive relief to prevent breaches or threatened breaches of any provision of the Plan Sponsor PSA, without posting any bond or other undertaking.

States. On September 2, 2008, the Plan Sponsor received a letter from the Department of the Treasury indicating that the committee had reviewed the submissions provided to it regarding the transaction, and that based on its review and after full consideration of all relevant national security factors, the committee determined that there are no unresolved national security concerns with respect to the transaction.

The Parent asserts that the Parent's plan proposal submitted at the Plan Sponsor selection meeting constituted a full payment plan that yielded the best possible recoveries for all constituents and should have been selected by the board.

The Parent (a) objected to approval of both the bid procedures and bid protections motions on a final basis on the grounds, among others, that such procedures and protections were not warranted under applicable law and constituted an impermissible sub rosa plan and (b) renewed its motion for authority over the settlement of Claims by ASARCO. Upon approval of the bid procedures and bid protections motions over the Parent's objections, the Parent appealed the Bankruptcy Court's final order to the District Court. Oral argument was conducted on August 20, 2008; no ruling has yet been issued.

2.29 Mitsui Consent and Tag Along Rights.

Pursuant to section 2.1(h) of the Plan Sponsor PSA, the Silver Bell Interests owned by any Seller are included among the Sold Assets. Under the terms of the Silver Bell LLC Agreement, ARSB's sale, assignment, and transfer of its Silver Bell Interests is subject to the consent of the other members of Silver Bell. However, the Plan Sponsor and the Sellers agreed pursuant to section 2.7 of the Plan Sponsor PSA that if the consent of the other members of Silver Bell is not obtained prior to Closing, then (a) the Silver Bell Interests and Sellers' right in and to the Silver Bell LLC Agreement shall each be an Excluded Asset and the shares of capital stock of ARSB shall be a Purchased Asset and (b) references in the Plan Sponsor PSA to Silver Bell Interests shall be deemed to refer to the capital stock of ARSB.

In addition to the consent rights described above, as a result of the transactions contemplated by the Plan Sponsor PSA, Mitsui, **affiliates of** which ~~owns~~**own** 25 percent of the outstanding limited liability company interests of Silver Bell, has asserted that certain provisions of the Silver Bell LLC Agreement or, in the event of a sale of the capital stock of ARSB, certain provisions of a letter agreement dated February 5, 1996, supplementing the Silver Bell LLC Agreement, give Mitsui the right to require the Plan Sponsor to acquire from Mitsui all or a portion of Mitsui's membership interest in Silver Bell, as Mitsui may elect in its absolute discretion. Mitsui has further asserted that said letter agreement dated February 5, 1996, supplementing the Silver Bell LLC Agreement is not an executory contract and the Debtors may not reject it. Mitsui is currently reviewing the Plan and Disclosure Statement and its rights and remedies under the Silver Bell LLC Agreement and the supplemental letter agreement. The Debtors have not taken a formal position with respect to the rights asserted by Mitsui and specifically reserve all rights and remedies against Mitsui and its affiliates, including all rights and remedies that any of them may have to object to any request of Mitsui to have all or a portion of its membership interest purchased by the Plan Sponsor. Mitsui and all of its related entities **and affiliates** specifically reserve all rights and remedies that any of them may have to object to the Plan with respect to the Silver Bell LLC Agreement, the letter agreement dated February 5, 1996, supplementing the Silver Bell LLC Agreement, and any other rights and remedies mentioned in this section of the Disclosure Statement.

2.30 Filing of Disclosure Statements and Plans.

On July 31, 2008, the Debtors filed their Disclosure Statement and Plan.

On August 26, 2008, the Parent and AMC filed a Disclosure Statement and Plan for only ASARCO, Southern Peru Holdings, LLC, and AR Sacaton, LLC. *See* Section 9.2 below for a discussion of the Parent Plan.

The Parent asserts that the Debtors' Plan is unconfirmable for a number of reasons, including its characterization that the Debtors' Plan pays more than 100% of the allowable amounts of Derivative Asbestos Claims and Residual Environmental Claims. Moreover, the Parent asserts that, because the Parent has offered to provide more consideration to the ASARCO Estate than will be realized upon the sale to Sterlite, the sale itself is improper.

The Parent asserts that the Parent's Plan is premised upon ASARCO continuing operations as a going concern with the Parent and AMC funding its reorganization with a contribution of $2.7 billion plus, to the extent required by the Bankruptcy Court to demonstrate feasibility, a $440 million guaranty by AMC. The Parent further asserts that this contribution, together with ASARCO's Cash on hand will fund all obligations to creditors,

including payment in full of all Claims, in accordance with the priorities established by the Bankruptcy Code. The Parent submits that the total consideration provided under the Parent's Plan is approximately $6.74 billion. The Debtors dispute these assertions.

2.31 Additional Information.

Additional information and copies of key documents and notices can be obtained at no cost at the Debtors' restructuring information website: *www.asarcoreorg.com*. Please check the restructuring website regularly for updates on the status of the Reorganization Cases.

SECTION 3
SUMMARY OF THE PROPOSED PLAN

3.1 General.

The following is a summary of certain key provisions of the Plan. Before voting, holders of Claims and Interests that are entitled to vote on the Plan are referred to, and encouraged to review, the relevant provisions of the Plan, Plan Documents, and Bankruptcy Code carefully since their rights could be affected. They also are encouraged to review the Plan and this Disclosure Statement with their counsel or other advisors. Note that other provisions of the Plan not summarized in this section 3 may be summarized elsewhere in this Disclosure Statement.

3.2 Classification.

(a) Generally. In accordance with section 1122 of the Bankruptcy Code, Claims and Interests, other than Administrative Claims and Priority Tax Claims, shall be divided in Classes and receive such treatment as described below. Administrative Claims and Priority Tax Claims shall be treated as set forth in Article II of the Plan.

(b) Classes. Claims against, and Interests in, the Debtors are grouped in the following Classes for purposes of the Plan in accordance with section 1122(a) of the Bankruptcy Code:

(1) Class 1 – Priority Claims. Class 1 consists of all Priority Claims against the Debtors. This Class is unimpaired.

(2) Class 2 – Secured Claims. Class 2 consists of all Secured Claims against the Debtors. This Class is unimpaired if Reinstated and impaired if Paid in Full.

(3) Class 3 – Trade and General Unsecured Claims. Class 3 consists of all Trade and General Unsecured Claims against the Debtors. This Class is impaired.

(4) Class 4 – Bondholders' Claims. Class 4 consists of all Bondholders' Claims against the Debtors. This Class is unimpaired if Reinstated and impaired if Paid in Full.

(5) Class 5 – Unsecured Asbestos Personal Injury Claims. Class 5 consists of all Unsecured Asbestos Personal Injury Claims against the Debtors. This Class is impaired.

(6) Class 6 – Toxic Tort Claims. Class 6 consists of all Toxic Tort Claims against the Debtors. This Class is impaired.

(7) Class 7 – Previously Settled Environmental Claims. Class 7 consists of all Previously Settled Environmental Claims against the Debtors. This Class is impaired.

(8) Class 8 – Miscellaneous Federal and State Environmental Claims. Class 8 consists of all Miscellaneous Federal and State Environmental Claims against the Debtors. This Class is impaired.

(9) Class 9 – Residual Environmental Claims. Class 9 consists of all Residual Environmental Claims against the Debtors. This Class is impaired.

(10) Class 10 – Late-Filed Claims. Class 10 consists of all Late-Filed Claims against the Debtors. This Class is impaired.

(11) Class 11 – Subordinated Claims. Class 11 consists of all Subordinated Claims against the Debtors. This Class is impaired.

(12) Class 12 – Interests in ASARCO. Class 12 consists of all Interests in ASARCO. This Class is impaired.

(13) Class 13 – Interests in the Asbestos Subsidiary Debtors. Class 13 consists of all Interests in the Asbestos Subsidiary Debtors. This Class is impaired.

(14) Class 14 – Interests in the Other Subsidiary Debtors. Class 14 consists of all Interests in the Other Subsidiary Debtors. This Class is impaired.

3.3 Treatment of Administrative Claims, Priority Tax Claims and Demands.

(a) Administrative Claims.

Claims that are entitled to administrative priority under section 503 of the Bankruptcy Code are treated under Article 2.1 of the Plan. Under that provision, each holder of an Allowed Administrative Claim (except any holder that agrees to other, lesser treatment) shall receive the Allowed Amount of such holder's Administrative Claim, in Cash, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim, on the Effective Date; *provided*, *however*, that (1) Allowed Administrative Claims representing (A) post-petition liabilities incurred in the ordinary course of business by a Debtor and (B) post-petition contractual liabilities arising under loans or advances to any Debtor, whether or not incurred in the ordinary course of business, shall be paid in accordance with the terms and conditions of the particular transactions relating to such liabilities and any agreements relating thereto, and (2) the Allowed Administrative Claims of Professional Persons shall be paid pursuant to order of the Bankruptcy Court; and *further provided* that all Assumed Liabilities shall be paid by the Plan Sponsor.

Chase shall receive the Allowed Amount of any Administrative Claim under the Credit Facility discussed in Section 2.15(b) above, in Cash, on the Effective Date, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim.

The Administrative Claim of ASARCO against the Asbestos Subsidiary Debtors under the Secured Intercompany DIP Credit Facility shall be credited against ASARCO's $750 million contribution to the Asbestos Trust.

Any Administrative Claims of the United States or any individual state under civil Environmental Laws relating to the Designated Properties shall be addressed through the Environmental Custodial Trust Settlement Agreements, the Environmental Custodial Trust Funding, and the Environmental Custodial Trust Administration Funding to be paid by ASARCO to the Environmental Custodial Trusts pursuant to the Plan.

The Settling Asbestos Insurance Companies shall each have an Allowed Administrative Claim for the Pre-524(g) Indemnity (as such term is defined in the applicable Asbestos Insurance Settlement Agreement), in accordance with the terms and conditions of such Asbestos Insurance Settlement Agreement. The Asbestos Insurance Settlement Agreements typically provide that until a Confirmation Order providing for an Asbestos Insurance Company Injunction has become a Final Order, ASARCO shall indemnify and hold harmless the Settling Asbestos Insurance Company in respect of any and all Claims arising under or relating in any way to the Subject Insurance Policies (as such term is defined in the Asbestos Insurance Settlement Agreement) or other Insurance Rights (as such term is defined in the Asbestos Insurance Settlement Agreement), including, without limitation, all Claims, whether by way of direct action or otherwise, made by third parties to the Asbestos Insurance Settlement Agreement, including, without limitation:

- other insurers of ASARCO (*provided*, *however*, that if Winterthur Swiss ~~Insurance Company ("Winterthur Swiss")~~ makes a claim for contribution against the Settling Asbestos Insurance Companies, then ASARCO shall be obligated to indemnify the Settling Asbestos Insurance Companies only for any amounts in excess of Winterthur Swiss's policy limits);

- any Person claiming to be insured under the Subject Insurance Policies;
- any Person who has made, shall make, or can make a Claim;
- any Person who has acquired or been assigned the right to make a Claim under the Subject Insurance Policies or other Insurance Rights;
- any Person asserting direct action rights under the Subject Insurance Policies or other Insurance Rights, including, without limitation, Persons with asbestos- or silica-related Claims against ASARCO; or
- any federal, state, or local government or any political subdivision, agency, department, board, or instrumentality thereof, including, without limitation, the State of Minnesota pursuant to the Minnesota Landfill Cleanup Act, Minn. Stat. § 115B.39 *et seq*. or the Minnesota Insurance Recovery Act of 1996, Minn. Stat. § 115B.441 *et seq*.

Because the Plan provides for the Asbestos Insurance Company Injunction, the Debtors do not believe that any payments shall be required on the Pre-524(g) Indemnity and are therefore not reserving any funds in connection with this Claim.

(b) Priority Tax Claims.

Article 2.2 of the Plan provides for treatment of Allowed Priority Tax Claims. Under Article 2.2, each holder of an Allowed Priority Tax Claim (except any holder that agrees to other, lesser treatment) shall be Paid in Full, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim, on the Effective Date.

(c) Demands.

Article 2.3 of the Plan provides treatment for Demands. Under Article 2.3, Demands shall be included in the treatment accorded Class 5 Unsecured Asbestos Personal Injury Claims, as set forth in Articles 4.1 and 4.2(e) of the Plan, and shall be determined, processed, liquidated, and paid pursuant to the terms and conditions of the Asbestos TDP and the Asbestos Trust Agreement.

3.4 Treatment of Claims and Interests.

Article IV of the Plan sets forth the treatment to be provided each of the Classes of Claims and Interests under the Plan. The following is a summary of the treatment being provided under the Plan to each Class.

(a) Class 1 – Priority Claims.

(1) Voting Rights.

Class 1 is unimpaired by the Plan. Class 1 is conclusively presumed to have accepted the Plan under section 1126(f) of the Bankruptcy Code and is not being asked to vote to accept or reject the Plan.

(2) Treatment Under the Plan.

Class 1 Priority Claims are treated in Article 4.2(a) of the Plan. On the Effective Date, or, if later, the date or dates that such Priority Claim becomes due in the ordinary course, each holder of an Allowed Priority Claim (except any holder that agrees to other, lesser treatment) shall be Paid in Full, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim.

(b) Class 2 – Secured Claims.

(1) Voting Rights.

The voting rights of each holder of a Class 2 Secured Claim depend upon the Debtors' election. The Debtors shall make their election prior to the Confirmation Hearing. The Debtors shall solicit the votes of each sub-Class of Secured Claims. If the Debtors elect to Reinstate a particular Secured Claim, that sub-Class shall be unimpaired, and the Sub-Class's vote shall not be counted. If the Debtors elect the Cash payment option as to a particular Secured Claim, that sub-Class shall be impaired, and that sub-Class's vote shall be counted.

(2) Treatment Under the Plan.

Class 2 Secured Claims are treated in Article 4.2(b) of the Plan. Each holder of an Allowed Secured Claim shall, at the election of the Debtors, either (A) be Paid in Full, on the later of the Effective Date or the date or dates that such Secured Claim becomes due in the ordinary course in full satisfaction, settlement, release, extinguishment, and discharge of such Claim and any related Lien, or (B) be Reinstated, on the Effective Date; provided, however, that any Allowed Secured Claim that is secured by a Lien on any Sold Asset shall be Paid in Full on the applicable date(s) and shall not be Reinstated.

The Secured Claims of the United States relating to the East Helena, Montana facility and the Globe, Colorado facility, and any Secured Claims relating to the Prepetition ASARCO Environmental Trust shall be satisfied by having the holders of such Claims retain the Liens securing such Claims, unless a holder agrees to different treatment. In addition, upon the Effective Date, the causes of action asserted by the Debtors against the United States of America on behalf of the EPA, the USDA, the Interior and the International Boundary and Water Commission in Adversary Proceeding No. 07-02076 (and only those causes of action) shall be dismissed without prejudice.

Except as other provided herein, any Asbestos Personal Injury Claimant with a Lien against any property of the Debtors other than proceeds of an Asbestos Insurance Policy shall retain the Lien securing such Claim, subject to the Debtors' election in Article 4.2(b) of the Plan. Secured Asbestos Personal Injury Claims, which are secured by Liens against proceeds of an Asbestos Insurance Policy, shall be included in the treatment accorded Class 5 Unsecured Asbestos Personal Injury Claims, as set forth in Article 4.2(e) of the Plan, and shall be determined, processed, liquidated, and paid pursuant to the terms and conditions of the Asbestos TDP and the Asbestos Trust Agreement; *provided, however*, that the Asbestos Trust may assert any rights (including avoidance rights), defenses (including affirmative defenses) and objections that the Debtors have against such Claims, which rights, defenses, and objections are transferred to the Asbestos Trust pursuant to the Plan.

Each Secured Claim shall be deemed to be in a separate sub-Class of Class 2 for all purposes under the Plan. **Exhibit 16** to the Plan lists the Class 2 Secured Claims (as such list may be amended, supplemented or modified up to and including the Confirmation Date).

(c) Class 3 – Trade and General Unsecured Claims.

(1) Voting Rights.

Class 3 is impaired by the Plan. Class 3 is being asked to vote to accept or reject the Plan under section 1126 of the Bankruptcy Code.

(2) Treatment Under the Plan.

Class 3 Trade and General Unsecured Claims are treated in Article 4.2(c) of the Plan. Each holder of an Allowed Trade and General Unsecured Claim (except any holder that agrees to other, lesser treatment) (A) shall, on the Effective Date, be paid the Allowed Amount of such holder's Claim, in Cash ~~(or, in the event that Available Plan Funds are not sufficient to permit the Allowed Amount of all Claims in Classes 3, 4, 6, 7, and 8 to be paid in their entirety on the Effective Date, such holders shall receive~~

~~payments of a pro rata portion of the Class 3, 4, 6, 7, and 8 Principal Payment on and after the Effective Date out of Available Plan Funds and the Class 3, 4, 6, 7, and 8 Litigation Proceeds up to the Allowed Amount of such Claims)~~, and (B) shall, on or after the Effective Date, be paid the Pro Rata Post-Petition Interest Payment out of (i) Available Plan Funds (if any) after the Class 5 and Class 9 Primary Payment is paid in its entirety and (ii) the Class 3, 4, 6, 7, and 8 Litigation Proceeds (if any), until the Pro Rata Post-Petition Interest Payment is fully paid, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim.

(d) Class 4 – Bondholders' Claims.

(1) Voting Rights.

Class 4 is impaired. Class 4 is being asked to vote to accept or reject the Plan under section 1126 of the Bankruptcy Code.

(2) Treatment Under the Plan.

Class 4 Bondholders' Claims are treated in Article 4.2(d) of the Plan. Each holder of an Allowed Bondholders' Claim (except any holder that agrees to other, lesser treatment) (A) shall, on the Effective Date, be paid the Allowed Amount of such holder's Claim, in Cash ~~(or, in the event that Available Plan Funds are not sufficient to permit the Allowed Amount of all Claims in Classes 3, 4, 6, 7, and 8 to be paid in their entirety on the Effective Date, such holders shall receive payments of a pro rata portion of the Class 3, 4, 6, 7, and 8 Principal Payment on and after the Effective Date out of Available Plan Funds and the Class 3, 4, 6, 7, and 8 Litigation Proceeds up to the Allowed Amount of such Claims)~~, and (B) shall, on or after the Effective Date, be paid the Pro Rata Post-Petition Interest Payment out of (i) Available Plan Funds (if any) after the Class 5 and Class 9 Primary Payment is paid in its entirety and (ii) the Class 3, 4, 6, 7 and 8 Litigation Proceeds (if any), until the Pro Rata Post-Petition Interest Payment is fully paid, in full satisfaction, settlement, release, extinguishment and discharge of such Claim**.**

At the request of the Indenture Trustees, the Plan provides for the payment of Indenture Trustee Fee Claims in Article 4.2(d) of the Plan and cancellation of instruments, (*see* Article 14.10 of the Plan), and includes instructions for distributions on account of Bondholders' Claims, (*see* Article 14.2(c) thereof) and mechanics for surrender of Bondholder Certificates and Lost Certificates, (*see* Article 14.9 thereof).

The Debtors have been in communication with certain parties who state that they hold well over two-thirds of the Bonds and understand that they intend to object to the Plan, which they claim will cause the Bonds as a class to reject the Plan.

The Bondholders contend that the Plan's treatment of the bonds – assured payment of only principal and pre-petition interest, plus the possibility of receiving post-petition interest limited to the federal judgment rate – is materially less than full payment of Bondholders' claims. With respect to post-petition interest, the Bondholders assert that the difference between accruing at the federal judgment rate of 3.8 percent, as provided by the Plan, and accruing and compounding at contract rates set forth in the Indentures, exceeds $60 million.

In addition to the principal and pre-petition interest accrued on the Bonds, the Bondholders contend that their claims include charges and damages for prepayment of the bonds in violation of the Indentures. The Bondholders estimate these prepayment charges and damages exceed $100 million in the aggregate across all bond issues. The Bondholders allege that there are provisions of their Indentures that expressly provide that the Bonds are non-callable in advance of their maturity dates, that the Indenture Trustees did not seek to accelerate or demand payment of the Bonds prior to or subsequent to the Bankruptcy filing, and that under New York law, which governs the Corporate Bond Indentures, there is a damage claim for early payments in the face of such provisions.

The Bondholders contend that amounts due for such fees, expenses, charges, and damages need to be included as part of the Bondholders' Allowed Claims payable on the Effective Date, or a

reserve must be established pending final allowance or disallowance in order to ensure that such fees, expenses, charges, and damages would be paid in full under the Plan prior to the distribution of $750 million to the asbestos trust and $750 million to the environmental trust, increasing the risk that the United States Department of Justice (which has insisted on the distribution of $750 million to the environmental trust) will vote against the Plan.

Although no assurance can be provided that the Bondholders will not ultimately prevail in these contentions, the Debtors believe that the "prepayment charges and damages" sought by the Bondholders are neither legally nor factually appropriate under the circumstances of this case.

The Bondholders contend that failure to provide for payment of their claims in full will lead their class to reject the Plan, contest the settlement with asbestos creditors, contest confirmation and, if the plan is nevertheless confirmed, force the Bondholders to appeal. Sterlite USA is not obligated to consummate its agreement with the Debtors in the face of such an appeal unless that appeal would not reasonably be likely to result in a material adverse effect on Sterlite or the ability to close the transaction.

Finally, the Bondholders have asked for the inclusion of the following disclosure:

> **"The Plan provides for no public reporting by the Plan Administrator relating to post-Effective Date expenses of administration, liquidation of assets, allowance of claims, or distributions. The Plan provides for no public reporting by the Asbestos Trust, Environmental Trust or Litigation Trust with respect to the administration of any of these trusts or any receipts and expenses of these trusts or any distributions by these trusts. Accordingly after the Effective Date, creditors will have no way of knowing when they will receive distributions after the Effective Date or how much they are likely to receive. Creditors will also have no way to determine whether the actual expenses of the Plan Administrator or any of the trusts are less than, equal to or in excess of the anticipated estimated expenses set forth in Exhibit F to the Disclosure Statement.**
>
> **The Plan also provides for the dissolution of the Official Committee of Unsecured Creditors on the Effective Date. Accordingly, any creditor seeking to obtain such information or otherwise taking action to ensure performance of the Reorganized Debtors or the Plan Administrator under the Plan must do so at such creditor's own expense."**

The Debtors do not believe that those reporting mechanisms are necessary under the Plan given the substantial distributions that the Debtors believe will be made on the Effective Date.

(e) Class 5 – Unsecured Asbestos Personal Injury Claims.

(1) Voting Rights.

Class 5 is impaired. Class 5 is being asked to vote to accept or reject the Plan under sections 524(g) and 1126 of the Bankruptcy Code.

(2) Treatment Under the Plan.

Class 5 Unsecured Asbestos Personal Injury Claims are treated in Article 4.2(e) of the Plan. On the Effective Date, liability of all of the Debtors for all Unsecured Asbestos Personal Injury Claims and Demands shall be assumed by, and channeled to, the Asbestos Trust without further act or deed and satisfied as set forth in the Plan.

All Unsecured Asbestos Personal Injury Claims and Demands shall be processed, liquidated, and paid pursuant to the terms and provisions of the Asbestos TDP and the Asbestos Trust Agreement. The Asbestos Trust is described in Section 6 below. The sole recourse of the holder of an Unsecured Asbestos

Personal Injury Claim or Demand shall be the Asbestos Trust and the Asbestos TDP, and such holder shall have no rights whatsoever at any time to assert such holder's Claim or Demand against any Debtor, Reorganized Debtor, or ASARCO Protected Party. Without limiting the foregoing, on the Effective Date, all Persons shall be permanently and forever stayed, restrained, and enjoined from taking any enjoined actions against any ASARCO Protected Party (or the property or interest in property of any ASARCO Protected Party) for the purpose of, directly or indirectly, collecting, recovering, or receiving payment of, on, or with respect to, any Unsecured Asbestos Personal Injury Claim or Demand.

The Parent and MRI assert that Class 5 Unsecured Asbestos Personal Injury Claims and Demands will receive more than the full amount of their Claims from the Asbestos Trust pursuant to the Asbestos TDP and the Asbestos Trust Agreement because there is no cap placed on their Claims.

The Debtors believe their Plan complies with the provisions of Bankruptcy Code sections 1129(a) and (b) and should be confirmed.

Under section 1129 of the Bankruptcy Code, the asbestos and Residual Environmental Claimants may not receive more than payment in full under the terms of the settlements reached with those Classes. By the terms of the settlements, those Classes exchange the difficult-to-value asset of the interests in the Litigation Trust (which holds the underlying claims against the Parent and others) for the equally difficult-to-quantify unliquidated Claims asserted by those Classes. Thus, to satisfy section 1129, the Debtors need only prove that this exchange represents a reasonable compromise. Stated another way, the proposed settlements with the settling creditors are reasonable, and the Cash component of the settlements plus the value of the Litigation Trust Interests are equal to or less than the potential Allowed Amounts if the Claims were actually litigated. Therefore, under the Plan, the settling creditors will receive no more than the value the Bankruptcy Court determines is proper in order to satisfy the settled Claims and Demands. The terms and basis for these settlements are set forth in greater detail in Sections 2.19 and 2.20 above.

Persons wanting more information can review the estimation motion of the Parent and AMC [Docket No. 8865] and the Debtors' response to such motion [Docket No. 9201].

(i) *Class 5A – Asbestos Premises Liability Claims.*

The Asbestos Trust shall create an Asbestos Premises Liability Claims Fund for payment of Asbestos Premises Liability Claims and Demands. The Asbestos Premises Liability Claims Fund shall be funded with, directly or indirectly: (a) proceeds from certain Asbestos Insurance Policies that are subject to prepetition settlement agreements regarding Asbestos Premises Liability Claims and Demands, and the rights thereunder shall be transferred to the Asbestos Trust as of the Effective Date in accordance with Article 8.6 of the Plan; (b) additional proceeds, if any, from the Asbestos Insurance Recoveries that are applicable to Asbestos Premises Liability Claims and Demands; and (c) if necessary, an amount determined on an annual basis by the Asbestos Trustees pursuant to the Asbestos Trust Agreement to satisfy all Asbestos Premises Liability Claims and Demands, if any, that are not subject to ~~adequate~~ coverage under the prepetition settlement agreements referenced herein. Any such amount shall be funded from the Asbestos Trust Assets (including any dividends or other distributions from Reorganized Covington) that are set aside by the Asbestos Trustees for the Asbestos Personal Injury Claims Fund, as described in Article 4.2(e)(2) of the Plan. Class 5A Claims and Demands shall be processed, liquidated, and paid pursuant to the terms and provisions of the Asbestos TDP and the Asbestos Trust Agreement.

(ii) *Class 5B – Unsecured Asbestos Personal Injury Claims other than Asbestos Premises Liability Claims.*

The Asbestos Trust shall create an Asbestos Personal Injury Claims Fund for payment of all Unsecured Asbestos Personal Injury Claims and Demands other than Asbestos Premises Liability Claims and Demands. The Asbestos Personal Injury Claims Fund shall be funded with (a) the Asbestos Trust's share of the Class 5 and Class 9 Primary Payment; (b) the Asbestos Trust's share of the Class 5 and Class 9 Supplemental Distribution (if any); (c) directly or indirectly, the Asbestos Insurance Recoveries other than those specified in Article 4.2(e)(1) of the Plan; (d) the Asbestos Trust's share of the Litigation Trust

Interests, and the right to the Asbestos Trust's Priority Litigation Proceeds; and (e) 100 percent of the interests in Reorganized Covington. Class 5B Unsecured Asbestos Personal Injury Claims and Demands shall be processed, liquidated, and paid pursuant to the terms and provisions of the Asbestos TDP and the Asbestos Trust Agreement.

See Section 6 of this Disclosure Statement for more information about the Asbestos Trust, including additional information regarding the Asbestos TDP.

In connection with funding of the Asbestos Trust, Article 12.3 of the Plan provides for issuance of Injunctions that shall permanently enjoin further pursuit of Unsecured Asbestos Personal Injury Claims and Demands from whatever source against an ASARCO Protected Party. These Injunctions are discussed in greater detail in Section 3.10 of this Disclosure Statement.

(f) Class 6 – Toxic Tort Claims.

(1) Voting Rights.

Class 6 is impaired. Class 6 is being asked to vote to accept or reject the Plan under section 1126 of the Bankruptcy Code.

(2) Treatment Under the Plan.

Class 6 Toxic Tort Claims are treated in Article 4.2(f) of the Plan. On the Effective Date, each holder of an Allowed Toxic Tort Claim (except any holder that agrees to other, lesser treatment) (A) shall, on the Effective Date, be paid the Allowed Amount of such holder's Claim, in Cash ~~(or, in the event that Available Plan Funds are not sufficient to permit the Allowed Amount of all Claims in Classes 3, 4, 6, 7, and 8 to be paid in their entirety on the Effective Date, such holders shall receive payments of a pro rata portion of the Class 3, 4, 6, 7, and 8 Principal Payment on and after the Effective Date out of Available Plan Funds and the Class 3, 4, 6, 7, and 8 Litigation Proceeds up to the Allowed Amount of such Claims)~~, and (B) shall, on or after the Effective Date, be paid the Pro Rata Post-Petition Interest Payment out of (i) Available Plan Funds (if any) after the Class 5 and Class 9 Primary Payment is paid in its entirety and (ii) the Class 3, 4, 6, 7, and 8 Litigation Proceeds (if any), until the Pro Rata Post-Petition Interest Payment is fully paid, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim.

(g) Class 7 – Previously Settled Environmental Claims.

(1) Voting Rights.

Class 7 is impaired. Class 7 is being asked to vote to accept or reject the Plan under section 1126 of the Bankruptcy Code.

(2) Treatment Under the Plan.

Class 7 Previously Settled Environmental Claims are treated in Article 4.2(g) of the Plan. Each holder of an Allowed Previously Settled Environmental Claim (except any holder that agrees to other, lesser treatment) (A) shall, on the Effective Date, be paid the Allowed Amount of such holder's Claim, in Cash ~~(or, in the event that Available Plan Funds are not sufficient to permit the Allowed Amount of all Claims in Classes 3, 4, 6, 7, and 8 to be paid in their entirety on the Effective Date, such holders shall receive payments of a pro rata portion of the Class 3, 4, 6, 7, and 8 Principal Payment on and after the Effective Date out of Available Plan Funds and the Class 3, 4, 6, 7, and 8 Litigation Proceeds up to the Allowed Amount of such Claims)~~, and (B) shall, on or after the Effective Date, be paid the Pro Rata Post-Petition Interest Payment out of (i) Available Plan Funds (if any) after the Class 5 and Class 9 Primary Payment is paid in its entirety and (ii) the Class 3, 4, 6, 7, and 8 Litigation Proceeds (if any), until the Pro Rata Post-Petition Interest Payment is fully paid. Such payments shall be in full satisfaction, settlement, release, extinguishment, and discharge of such Claim against the Debtors as provided in the settlement agreement relating to such Claim.

(h) Class 8 – Miscellaneous Federal and State Environmental Claims.

(1) Voting Rights.

Class 8 is impaired. Class 8 is being asked to vote to accept or reject the Plan under section 1126 of the Bankruptcy Code.

(2) Treatment Under the Plan.

Class 8 Miscellaneous Federal and State Environmental Claims are treated in Article 4.2(h) of the Plan. Each holder of an Allowed Miscellaneous Federal and State Environmental Claim (except any holder that agrees to other, lesser treatment) (A) shall, on the Effective Date, be paid the Allowed Amount of such holder's Claim, in Cash ~~(or, in the event that Available Plan Funds are not sufficient to permit the Allowed Amount of all Claims in Classes 3, 4, 6, 7, and 8 to be paid in their entirety on the Effective Date, such holders shall receive payments of a pro rata portion of the Class 3, 4, 6, 7, and 8 Principal Payment on and after the Effective Date out of Available Plan Funds and the Class 3, 4, 6, 7, and 8 Litigation Proceeds up to the Allowed Amount of such Claims)~~, and (B) shall, on or after the Effective Date, be paid the Pro Rata Post-Petition Interest Payment out of (i) Available Plan Funds (if any) after the Class 5 and Class 9 Primary Payment is paid in its entirety and (ii) the Class 3, 4, 6, 7, and 8 Litigation Proceeds (if any), until the Pro Rata Post-Petition Interest Payment is fully paid. Such payments shall be in full satisfaction, settlement, release, extinguishment, and discharge of such Claim against the Debtors as provided in the Miscellaneous Federal and State Environmental Settlement Agreement relating to such Claim, attached to the Plan as **Exhibit 12-B** and incorporated therein.

The TCEQ filed a contingent, unliquidated Claim for future response costs for remediation of the El Paso neighborhood yards. Pursuant to section 502(e)(1)(B) of the Bankruptcy Code, such Claim shall be disallowed as a matter of law upon Confirmation.

(i) Class 9 –Residual Environmental Claims.

(1) Voting Rights.

Class 9 is impaired. Class 9 is being asked to vote to accept or reject the Plan under section 1126 of the Bankruptcy Code.

(2) Treatment Under the Plan.

Class 9 Residual Environmental Claims are treated in Article 4.2(i) of the Plan. Each holder of an Allowed Residual Environmental Claim (or with respect to the Coeur d'Alene Basin site in Idaho, the United States and the Environmental Custodial Trust for that site for which the United States is the legal beneficiary, as provided in the Residual Environmental Settlement Agreement) shall receive (a) such holder's share of the Class 5 and Class 9 Primary Payment; (b) such holder's share of the Class 5 and Class 9 Supplemental Distribution (if any); and (c) such holder's share of the Litigation Trust Interests, subject to the Asbestos Trust's Priority Litigation Proceeds **(if any)**, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim against the Debtors as provided in the Residual Environmental Settlement Agreement relating to such Claims, attached to the Plan as **Exhibit 12-C** and incorporated therein. The respective shares for each Allowed Residual Environmental Claim are set forth in the Residual Environmental Settlement Agreement.

The Parent and MRI assert that holders of Class 9 Residual Environmental Claims will receive more than the full amount of their Claims under the Residual Environmental Settlement Agreement because there is no cap placed on their Claims.

The Debtors believe their Plan complies with the provisions of Bankruptcy Code sections 1129(a) and (b) and should be confirmed.

Under section 1129 of the Bankruptcy Code, the asbestos and Residual Environmental Claimants may not receive more than payment in full under the terms of the settlements reached with those Classes. By the terms of the settlements, those Classes exchange the difficult-to-value asset of the interests in the Litigation Trust (which holds the underlying claims against the Parent and others) for the equally difficult-to-quantify unliquidated Claims asserted by those Classes. Thus, to satisfy section 1129, the Debtors need only prove that this exchange represents a reasonable compromise. Stated another way, the proposed settlements with the settling creditors are reasonable, and the Cash component of the settlements plus the value of the Litigation Trust Interests are equal to or less than the potential Allowed Amounts if the Claims were actually litigated. Therefore, under the Plan, the settling creditors will receive no more than the value the Bankruptcy Court determines is proper in order to satisfy the settled Claims and Demands. The terms and basis for these settlements are set forth in greater detail in Sections 2.19 and 2.20 above.

Persons wanting more information can review the estimation motion of the Parent and AMC [Docket No. 8865] and the Debtors' response to such motion [Docket No. 9201].

(j) Class 10 – Late-Filed Claims.

(1) Voting Rights.

Class 10 is impaired. Class 10 is being asked to vote to accept or reject the Plan under section 1126 of the Bankruptcy Code.

(2) Treatment Under the Plan.

Class 10 Late-Filed Claims are treated in Article 4.2(j) of the Plan. Each holder of an Allowed Late-Filed Claim (except any holder that agrees to other, lesser treatment) shall, to the extent of any Available Plan Funds remaining after the Class 5 and Class 9 Supplemental Distribution has been paid in its entirety, be Paid in Full or receive a pro rata distribution of any such Available Plan Funds, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim against the Debtors. If the remaining Available Plan Funds are not sufficient to permit all such Claims to be Paid in Full, each such holder shall receive a pro rata distribution on the amount of such holder's Claim as provided in a settlement agreement establishing the amount of the Allowed Late-Filed Claim or a Final Order adjudicating the amount of the Allowed Late-Filed Claim. If Available Plan Funds remain after such payment, each holder shall receive a pro rata distribution of Post-Petition Interest. Such distributions shall be made within 60 days after the Plan Administrator determines that funds are available to make a distribution.

(k) Class 11 – Subordinated Claims.

(1) Voting Rights.

Class 11 is impaired. Class 11 is being asked to vote to accept or reject the Plan under section 1126 of the Bankruptcy Code.

(2) Treatment Under the Plan.

Class 11 Subordinated Claims are treated in Article 4.2(k) of the Plan. To the extent of any Available Plan Funds remaining after the Class 10 Late-Filed Claims are Paid in Full, each holder of an Allowed Subordinated Claim (except any holder that agrees to other, lesser treatment) shall be Paid in Full or receive a pro rata distribution of any such Available Plan Funds, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim. If the remaining Available Plan Funds are not sufficient to permit all such Claims to be Paid in Full, each such holder shall receive a pro rata distribution on the Allowed Amount of such holder's Claim. If Available Plan Funds remain after such payment, each holder shall receive a pro rata distribution of Post-Petition Interest. Such distribution shall be made within 60 days after the Plan Administrator determines that funds are available to make a distribution.

(l) Class 12 – Interests in ASARCO.

(1) Voting Rights.

Class 12 is impaired. Class 12 is being asked to vote to accept or reject the Plan under section 1126 of the Bankruptcy Code.

(2) Treatment Under the Plan.

Class 12 Interests in ASARCO are treated in Article 4.2(l) of the Plan. The Interests in ASARCO shall be cancelled~~, and~~**. If** the holder of such Interests **votes to accept the Plan and elects to enter into the Plan Settlement, the holder shall receive the Settlement Benefits under the Plan Settlement in full satisfaction, settlement, release, extinguishment, and discharge of their Interests in ASARCO. If the holder of such Interests either (A) votes to accept the Plan but declines to enter into the Plan Settlement or (B) votes to reject the Plan, the holder** shall receive any Available Plan Funds after the Class 11 Subordinated Claims have been Paid in Full.

(m) Class 13 – Interests in Asbestos Subsidiary Debtors.

(1) Voting Rights.

Class 13 is impaired. Class 13 is conclusively presumed to have rejected the Plan under section 1126(g) of the Bankruptcy Code and is not being asked to vote to accept or reject the Plan.

(2) Treatment Under the Plan.

Class 13 Interests in Asbestos Subsidiary Debtors are treated in Article 4.2(m) of the Plan. The Interests in the Asbestos Subsidiary Debtors shall be cancelled, and holders of such Interests shall not receive or retain any property under the Plan on account of such Interests.

(n) Class 14 – Interests in the Other Subsidiary Debtors.

(1) Voting Rights.

Class 14 is impaired. Class 14 is conclusively presumed to have rejected the Plan under section 1126(g) of the Bankruptcy Code and is not being asked to vote to accept or reject the Plan.

(2) Treatment Under the Plan.

Class 14 Interests in the Other Subsidiary Debtors are treated in Article 4.2(n) of the Plan. The Interests in the Other Subsidiary Debtors shall be cancelled, and holders of such Interests shall not receive or retain any property under the Plan on account of such Interests.

3.5 Post-Petition Interest.

Post-Petition Interest shall be paid at the federal judgment rate of 3.84 percent. The rate is calculated in accordance with 28 U.S.C. § 1961, which provides for "a rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the date of the judgment." The weekly average 1-year constant maturity Treasury yield for the week preceding ASARCO's Petition Date is available at *www.federalreserve.gov/releases/h15/20050808*.

Pursuant to section 1961(b) of title 28, interest shall be compounded annually. Pursuant to the Plan, a Claimant is entitled to Post-Petition Interest on an Allowed Claim or any unpaid portion thereof, from August 10, 2005 to and including five Business Days immediately prior to the date a distribution is made, until such amounts are fully satisfied. After the Effective Date, interest shall accrue on any unpaid portion of an Allowed Claim and on any unpaid Post-Petition Interest at the same rate and to the same extent.

Mitsui asserts that it is entitled to a 7.5% contractual rate of interest on its asserted Secured Claim. The Debtors and Mitsui specifically reserve all rights and remedies that any of them may have concerning the appropriate rate of interest on Mitsui's asserted Claim.

Additionally, various unsecured creditors contend that they are entitled to receive post-petition interest at the rates provided in their contract or Indenture, as opposed to the federal judgment rate, and that they are entitled to compound interest under the explicit terms of their contracts or Indentures. Various unsecured creditors have different interest rates under their contracts or Indentures and applicable non-bankruptcy law, but the Plan makes distributions on account of post-petition interest at the same federal judgment rate. Various unsecured creditors content that the Plan discriminates unfairly by giving all creditors a contingent right to interest at the same rate when the creditors have different rates. If the various unsecured creditors succeed in their contentions, distributions on account of post-petition interest will be different that those described in the Plan. In addition, ASM Capital, L.P. and Contrarian Funds, L.L.C. contend that the state judgment rate should apply and have provided a summary of their argument which is attached hereto as Exhibit P.

Although there are authorities that support the positions of the various unsecured creditors on the appropriate rate of post-petition interest, the Debtors believe that the weight of authorities and the better reasoned decisions support the selection of the federal judgment rate as the appropriate rate of post-petition interest.

3.6 Intercompany Claims.

Pursuant to Article 4.3 of the Plan, Intercompany Claims (other than (a) Derivative Asbestos Claims, which are resolved pursuant to the Asbestos Settlement Agreement, (b) any Claims or causes of action asserted in the Litigation Claims, and (c) the Secured Intercompany DIP Credit Facility) shall be released and extinguished pursuant to the Plan, and no distributions shall be made under the Plan with respect to such Claims. Holders of such Claims shall not be entitled to vote on the Plan.

3.7 Conditions to Effectiveness.

Notwithstanding any other provision of the Plan or any order entered in connection with the Reorganization Cases, the Effective Date of the Plan shall not occur until and unless each of the following conditions to effectiveness have been satisfied or waived pursuant to Article 10.2 of the Plan:

(a) Disclosure Statement.

The Bankruptcy Court has approved the Disclosure Statement.

(b) Confirmation Findings and Conclusions.

The District Court makes or affirms the following findings of fact and conclusions of law:

(1) As of the Petition Date, ASARCO and the Asbestos Subsidiary Debtors have each been named as a defendant in personal injury, wrongful death, or property damage actions seeking recovery for damages allegedly caused by the presence of, or exposure to, asbestos or asbestos-containing products;

(2) The Plan has been approved by creditors in Class 5 under the Plan in the requisite numbers and amounts required by sections 524(g), 1126, and 1129 of the Bankruptcy Code;

(3) On the Effective Date, the Asbestos Trust shall assume the liabilities of the Debtors with respect to the Unsecured Asbestos Personal Injury Claims and Demands, and shall receive all transfers and assignments as set forth in the Plan;

(4) As of the Effective Date, there were no pending or known property damage actions seeking damages as a result of property damage allegedly caused by or arising out of asbestos or asbestos-containing products;

(5) The Asbestos Trust is to be funded in part by securities of Reorganized Covington and by the obligation of such debtor to make future payments;

(6) The Asbestos Trust, upon the Effective Date, is to own 100 percent of the Interests in Reorganized Covington;

(7) The Asbestos Trust shall use its assets and income to pay the Unsecured Asbestos Personal Injury Claims and Demands;

(8) The Debtors are likely to be subject to substantial future Demands for payment arising out of the same or similar conduct or events that gave rise to the Unsecured Asbestos Personal Injury Claims, which are addressed by the Permanent Channeling Injunction and the Asbestos Insurance Company Injunction;

(9) The actual amounts, numbers, and timing of future Demands cannot be determined;

(10) Pursuit of Demands outside the procedures prescribed by the Plan is likely to threaten the Plan's purpose to deal equitably with Claims and future Demands;

(11) The terms of the Permanent Channeling Injunction and the Asbestos Insurance Company Injunction, including any provisions barring actions against third parties, are set out in the Plan and in this Disclosure Statement;

(12) The Asbestos Trust shall operate through mechanisms such as structured, periodic, or supplemental payments, pro rata distributions, matrices, or periodic review of estimates of the numbers and values of Unsecured Asbestos Personal Injury Claims and Demands, or other comparable mechanisms, that provide reasonable assurance that the Asbestos Trust shall value, and be in a financial position to pay, all Unsecured Asbestos Personal Injury Claims and Demands in substantially the same manner;

(13) The FCR was appointed by the Bankruptcy Court as part of the proceedings leading to the issuance of the Permanent Channeling Injunction and the Asbestos Insurance Company Injunction for the purpose of, among other things, protecting the rights of persons that might subsequently assert Demands of the kind that are addressed in the Permanent Channeling Injunction or the Asbestos Insurance Company Injunction and that are to be assumed and paid by the Asbestos Trust in accordance with the Asbestos Trust Documents;

(14) In light of the respective benefits provided, or to be provided, to the Asbestos Trust by, or on behalf of, each ASARCO Protected Party, the Permanent Channeling Injunction is fair and equitable with respect to the persons that might subsequently assert Demands against any ASARCO Protected Party;

(15) In light of the respective benefits provided, or to be provided, to the Asbestos Trust by a Settling Asbestos Insurance Company in order to receive the benefits of the Asbestos Insurance Company Injunction, the Asbestos Insurance Company Injunction is fair and equitable with respect to the persons who might subsequently assert Demands against any Settling Asbestos Insurance Company;

(16) The Settling Asbestos Insurance Companies are alleged to be directly or indirectly liable for the Unsecured Asbestos Personal Injury Claims and Demands for one or more of the reasons set forth in section 524(g)(4)(A)(ii) of the Bankruptcy Code;

(17) The Permanent Channeling Injunction and the Asbestos Insurance Company Injunction are integral parts of the Plan and may not be vacated, amended, or modified after Confirmation except to the extent expressly provided in Articles 12.3(a) and (b) of the Plan;

(18) The Plan complies with all applicable sections of the Bankruptcy Code, including section 524(g) of the Bankruptcy Code, and the Debtors have complied with all applicable sections of the Bankruptcy Code;

(19) The Plan Sponsor PSA and all other documents necessary to consummate the sale of the Sold Assets to the Plan Sponsor are approved in all respects, and all parties thereto are authorized and directed to perform all their obligations thereunder;

(20) The sale of the Sold Assets to the Plan Sponsor pursuant to the Plan is approved pursuant to sections 363, 1123, and 1129 of the Bankruptcy Code, and the Plan Sponsor has acted in good faith for the purposes of section 363(m) of the Bankruptcy Code; and

(21) Approval of the settlements and compromises set forth in Articles 11.3, 11.26, and 11.27 of the Plan as appropriate under Bankruptcy Rule 9019 and applicable law governing approval of such settlements and compromises shall be ordered as part of the Confirmation Order.

(c) Confirmation Order.

The Confirmation Order entered or affirmed by the District Court (1) is acceptable to the Debtors and (2) to the extent the Confirmation Order relates to the Plan Sponsor PSA, the Plan Sponsor (and the Plan Sponsor Parent), or the transactions contemplated by the Plan Sponsor PSA, is reasonably satisfactory to the Plan Sponsor.

(d) No Stay.

The Confirmation Order is not stayed pursuant to an order issued by a court of competent jurisdiction.

(e) Plan Documents.

The Plan Documents necessary or appropriate to implement the Plan have been (1) executed (A) in a form acceptable to the Debtors, and (B) with respect to the Disclosure Statement, to the extent it describes the Plan Sponsor PSA, the Plan Sponsor (and the Plan Sponsor Parent), or the transactions contemplated by the Plan Sponsor PSA, is in a form and substance reasonably satisfactory to the Plan Sponsor; (2) delivered; and (3) where applicable, filed with the appropriate governmental or supervisory authorities.

(f) Funding of the Trusts.

The Trusts have been funded as provided in Articles 11.5 to 11.7 of the Plan.

(g) U.S. Trustee's Fees.

Any fees owed to the U.S. Trustee by the Debtors as of the Effective Date have been paid in full.

(h) Closing of the Sale of Sold Assets to Plan Sponsor.

The Confirmation Order approves the sale of the Sold Assets to the Plan Sponsor on the Closing Date.

(i) Approval of Environmental Settlements.

The settlement agreements for the Previously Settled Environmental Claims, the Miscellaneous Federal and State Environmental Claims, the Residual Environmental Claims, and the Environmental Custodial Trusts have been approved by the Bankruptcy Court and, where so required by the terms of the settlement agreement, by the appropriate federal district court.

(j) Assumption and Assignment of the Mission Mine Settlement Agreement.

The Mission Mine Settlement Agreement, all related agreements (including the Mission Mine Unexpired Agreements), and escrowed funds and financial assurances shall be assumed by, and assigned to, the Plan Sponsor pursuant to the Plan Sponsor PSA.

(k) Approval of Asbestos Settlement Agreement.

The Confirmation Order approves the Asbestos Settlement Agreement.

(l) Assumption and Assignment of Hayden Settlement Agreement.

The Hayden Settlement Agreement, all related agreements, and escrowed funds and financial assurances shall be assumed by, and assigned, to the Plan Sponsor.

(m) HSR Act Approval.

Any waiting period (including any extension thereof) applicable to the sale to and purchase by the Plan Sponsor of the Sold Assets under the HSR Act or under the regulations of any other applicable governmental antitrust or competition authority, where failure to comply with such regulations would prohibit the consummation of the transactions contemplated by the Plan Sponsor PSA, shall have been terminated or expired.

3.8 Waiver of Conditions to Effectiveness.

The Debtors, in their sole discretion, may waive any condition to effectiveness in Article 10.1 of the Plan by filing a notice of such waiver with the clerk of the Bankruptcy Court and by serving a copy of such notice on the Plan Sponsor, the U.S. Trustee, the Committees, the FCR, and the DOJ; *provided, however*, that:

(a) the DOJ and any affected state must consent to any waiver of any of the conditions to effectiveness set forth in Articles 10.1(e)(1), (f), (i), (j), and (l) of the Plan;

(b) the Asbestos Claimants' Committee and the FCR must consent to any waiver of any of the conditions to effectiveness set forth in Articles 10.1(e)(1), (f), and (k) of the Plan; and

(c) the Plan Sponsor must consent to any waiver of any of the conditions to effectiveness set forth in Articles 10.1(c)(2), (e)(1)(B), and (m) of the Plan;

provided, that in each instance, such consent is not unreasonably withheld, delayed, or conditioned.

3.9 How the Plan Shall Be Implemented.

(a) Sale of Sold Assets to Plan Sponsor.

Article 11.1 of the Plan provides that on the Closing Date, the Sold Assets shall be sold to the Plan Sponsor on the terms and subject to the conditions contained in the Plan Sponsor PSA and the Ancillary Agreements entered into in connection therewith.

Pursuant to section 3.3(c) of the Plan Sponsor PSA, the Plan Sales Proceeds are subject to adjustment in the amount of the Adjustment Payment (as defined therein). ASARCO shall place Cash in the amount of $~~_____~~**90 million** in reserve to be used to make any payment that Reorganized ASARCO is required to make to the Plan Sponsor pursuant to section 3.3(c)(ii) of the Plan Sponsor PSA. Such funds shall be held in the Adjustment Payment Reserve by the Plan Administrator until the Closing Accounts Amount (as defined in the Plan Sponsor PSA) has been finally determined and, if applicable, shall be used to satisfy the payment obligations of Reorganized ASARCO under section 3.3(c)(ii) of the Plan Sponsor PSA.

Pursuant to section 2.5(d) of the Plan Sponsor PSA, the Plan Sponsor is entitled to reimbursement from ASARCO of any Unpaid Cure Claims Amount paid by the Plan Sponsor in accordance with such section 2.5(d). ASARCO shall place Cash in the amount of $~~_____~~**10 million** in the Unpaid Cure Claims Reserve to be used to make payment in respect of any Unpaid Cure Claims Amount for which ASARCO may be required to reimburse the Plan Sponsor pursuant to section 2.5(d) thereof. Such funds shall be held in the Unpaid Cure Claims Reserve until notice is provided by the Plan Sponsor pursuant to section 2.5(d) of the Plan Sponsor PSA (or the period in which any such notice is required to be provided has expired), whichever occurs later, and shall be applied in accordance with section 2.5(d) thereof, if and as applicable**. Any funds remaining in the Unpaid Cure Claims Reserve after the application of such reserve pursuant to Article 11.1(c)**

of the Plan shall be applied to satisfy any remaining obligations of ASARCO under section 3.3(c) of the Plan Sponsor PSA after the application of the Adjustment Payment Reserve pursuant to Article 11.1(b) of the Plan.

On the Initial Distribution Date, Reorganized ASARCO (and thereafter the Plan Administrator) shall distribute the Available Plan Funds in accordance with the Plan.

(b) Appointment of Plan Administrator and Plan Administration Committee, and Funding of Miscellaneous Plan Administration Accounts.

Not less than 10 days prior to commencement of the Confirmation Hearing, ASARCO shall designate the Entity that shall initially serve as the Plan Administrator. Upon approval by the Bankruptcy Court in the Confirmation Order, the Plan Administrator shall be appointed. The Plan Administrator shall have and perform all of the duties, responsibilities, rights, and obligations set forth in the Plan Administration Agreement**, which shall include, without limitation, the obligation to enter into agreements with third party contractors to conduct and complete the following ongoing response actions to the extent funded by the Prepetition ASARCO Environmental Trust or the Prepetition ASARCO Environmental Trust Escrow: the uncompleted portion of residential yard cleanups required under the El Paso Stipulation or included in the "Ongoing Obligation" portion of the East Helena Soils Settlement Agreement; *provided, however,* that any agreement entered into by the Plan Administrator and any third party with respect to such response actions shall not include any indemnification obligation by ASARCO, any other Debtor, Reorganized ASARCO, or the Plan Administrator. In the event that the Plan Administrator is unable to enter into an agreement with a third party contractor in respect of such response actions without providing indemnification to the third party, the Plan Administrator shall be excused from any and all obligations with respect to the performance of such response actions**. The Plan Administrator shall serve without bond, may employ or contract with other Persons to assist in the performance of the Plan Administrator's duties, which shall be set forth in the Plan Administration Agreement, and shall procure appropriate directors and officers liability insurance and other insurance coverage appropriate to the business in which the Reorganized Debtors are to be engaged. The Plan Administrator shall receive, without further Bankruptcy Court approval, reasonable compensation for such services and reimbursement of reasonable out-of-pocket expenses incurred in connection of such services.

The initial members of the Plan Administration Committee shall be those Persons designated in the Confirmation Order. They shall consult with and advise the Plan Administrator, as is set forth in greater detail in the Plan Administration Agreement.

On the Effective Date (or as soon thereafter as is reasonably practicable), ASARCO, Reorganized ASARCO, or the Plan Administrator, as the case may be, shall (1) fund the Plan Administration Account with Cash to be used to pay the Plan Administrator's estimated compensation and expenses and all other anticipated costs of administration of the Plan and initial operations of Reorganized ASARCO and (2) fund the Miscellaneous Plan Administration Accounts. The Plan Administrator may also establish such general accounts subaccounts, reserves, or escrows as the Plan Administrator deems necessary and appropriate. In accordance with the Plan Administration Agreement, the Plan Administrator shall invest the Cash held in accounts, reserves, and escrows on behalf of Reorganized ASARCO in direct obligations of the United States of America or obligations of any agency or instrumentality thereof which are guaranteed by the full faith and credit of the United States of America, including funds consisting solely or predominately of such securities.

The Plan Administrator shall sell or otherwise dispose of, and liquidate or convert to Cash the Remaining Assets including by prosecution, settlement, or other resolution of the Vested Causes of Action, and sale of assets of Reorganized ASARCO that the Plan Administrator determines are not necessary for Reorganized ASARCO's continued operations in a manner compatible with the best interests of the holders of Allowed Claims that are entitled to distributions under the Plan. Once liquidated into Cash, the Cash shall be placed into the Plan Administration Account.

The Plan Administrator shall allocate the funds in the Plan Administration Account to subaccounts corresponding to the enumerated functions of the Plan Administrator. If the Plan Sponsor is required to make the Plan Sponsor Adjustment Payment to Reorganized ASARCO, such funds shall be placed in a subaccount of the Plan Administration Account. Until the Plan Administrator has discharged his, her, or its obligations with respect to the purpose for which a particular subaccount or Miscellaneous Plan Administration Account was established, the funds in those subaccounts and the Miscellaneous Plan Administration Accounts may only be used for the purpose designated for that particular account or subaccount. In addition, any taxes attributable to the earnings of a subaccount or a Miscellaneous Plan Administration Account (as well as any taxes directly imposed on a subaccount or a Miscellaneous Plan Administration Account) shall be paid out of the assets of such account.

To the extent there are any excess funds in the Plan Administration Account (or any subaccount thereof) or the Miscellaneous Plan Administration Accounts, the Plan Administrator shall, after consultation with and approval by the Plan Administration Committee, first transfer such excess funds to any underfunded subaccount or Miscellaneous Plan Administration Account (but only to the extent of any underfunding) and then distribute such funds to unpaid Claimants and thereafter to the holder of the Class 12 Interest, in accordance with the terms and conditions of the Plan and the Confirmation Order, in the following order of priority: first, to satisfy the ~~Litigation Trust's subrogation rights under Article 6.8(b) of the Plan; second, to satisfy the~~ Class 5 and Class 9 Primary Payment**; second, to satisfy the Pro Rata Post-Petition Interest Payment**; third, to satisfy the Litigation Trust's subrogation rights under Article 6.8~~(c)~~ of the Plan **to the extent any Class 3, 4, 6, 7, and 8 Litigation Proceeds are paid to Claimants in Classes 3, 4, 6, 7, and 8**; fourth, to satisfy the ~~Pro Rata Post-Petition Interest Payment; fifth, to satisfy the~~ Class 5 and Class 9 Supplemental Distribution; ~~sixth~~**fifth**, to holders of Allowed Class 10 Late-Filed Claims; ~~seventh~~**sixth**, to holders of Allowed Class 11 Subordinated Claims; and finally, to holders of Class 12 Interests.

The Plan Administrator shall have the power to seek injunctive or other necessary or appropriate relief from the Bankruptcy Court to ensure that the funds in the Plan Administration Reserve are used only for the purposes specifically directed in the Plan and the Plan Administration Agreement.

(c) Approval of Asbestos Settlement Agreement, Environmental Custodial Trust Settlement Agreements, Miscellaneous Federal and State Environmental Settlement Agreement, and Residual Environmental Settlement Agreement.

The Plan implements an agreement in principle with holders of asbestos-related and environmental Claims, which is memorialized in the Asbestos Settlement Agreement attached to the Plan as **Exhibit 9** (as amended, supplemented, or modified at any time prior to the Confirmation Date) and the Environmental Custodial Trust Settlement Agreements, the Miscellaneous Federal and State Environmental Settlement Agreement, and the Residual Environmental Settlement Agreement, which are attached to the Plan as **Exhibits 12-A** through **12-C** (as amended, supplemented, or modified at any time prior to the Confirmation Date). Pursuant to Bankruptcy Rule 9019, Confirmation of the Plan shall approve of each of these agreements.

(d) Creation and Funding of Litigation Trust.

On the Effective Date, the Litigation Trust shall be created and the Litigation Expense Fund shall be established. Also on the Effective Date, the Debtors' respective rights, title, and interests in the Litigation Trust Claims and the Debtors' Privileges associated therewith shall be transferred to the Litigation Trust.

See Section 4 of this Disclosure Statement for further information regarding the Litigation Trust.

(e) Creation and Funding of Environmental Custodial Trusts.

On the Effective Date, the Environmental Custodial Trusts shall be created, and the Debtors' respective rights, title, and interests in the Designated Properties, together with the appropriate Environmental Custodial Trust Funding and Environmental Custodial Trust Administration Funding for such properties, shall be transferred to the applicable Environmental Custodial Trusts, which shall take title pursuant to the applicable Environmental Custodial Trust Agreements.

See Section 5 of this Disclosure Statement for further information regarding the Environmental Custodial Trusts.

(f) Creation and Funding of the Asbestos Trust.

On or before the Effective Date, the Asbestos Trust shall be created. On or after the Effective Date, the Debtors' respective rights, title, and interests in the Asbestos Trust Assets shall be transferred to the Asbestos Trust.

See Section 6 of this Disclosure Statement for further information regarding the Asbestos Trust.

(g) Prepetition ASARCO Environmental Trust.

The Prepetition ASARCO Environmental Trust was created pursuant to a Consent Decree entered in *United States v. ASARCO Inc., et al.*, Civil Action No. 02-2079, in the United States District Court for the District of Arizona.

This trust is primarily funded by a promissory note due May 31, 2010 in the original principal sum of $100,000,000 from AMC and guaranteed by Grupo Mexico. The current balance of the note is $25 million.

The Prepetition ASARCO Environmental Trust shall remain in existence, and shall be unaffected by the Reorganization Cases or any related settlements. The Plan Administrator shall succeed to ASARCO's administrative role, and shall, in its 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. However, the various environmental settlement agreements were based on the assumption that certain environmental response actions contemplated by the settlements would be performed by the Debtors, the Plan Administrator, or the United States, and the performing party would be reimbursed from the Prepetition ASARCO Environmental Trust.

The funds remaining in the Prepetition ASARCO Environmental Trust are separate from and without prejudice to the distributions to be made to holders of Class 7 Previously Settled Environmental Claims, Class 8 Miscellaneous Federal and State Environmental Claims, and Class 9 Residual Environmental Claims, as described in Article IV of the Plan.

The Debtors anticipate that some of the Environmental Claims shall be paid by the Prepetition ASARCO Environmental Trust. To allow for the possibility that AMC may fail to make a required payment due under the note that funds the Prepetition ASARCO Environmental Trust, Reorganized ASARCO, and the Plan Administrator shall hold back from distributions under the Plan $25 million plus accrued interest under the note and place such amount in the Prepetition ASARCO Environmental Trust Escrow. **The Prepetition ASARCO Environmental Trust Escrow shall be governed by a written escrow agreement under which the Plan Administrator shall serve as the escrow agent and the Prepetition ASARCO Environmental Trust shall be the primary beneficiary.** In the event that AMC fails to make any of the payments remaining due under the note, the Plan Administrator **shall pay a corresponding amount to the Prepetition ASARCO Environmental Trust from the Prepetition ASARCO Environmental Trust Escrow, and the Plan Administrator, the trustee of the Prepetition ASARCO Environmental Trust,** 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 priorities established by the Plan and the Confirmation Order.

The ASARCO Committee has informed the Debtors that it has material questions regarding the Debtors' obligations to fund, or guaranty funding of, the Prepetition ASARCO Environmental Trust. The Debtors believe that the $25 million holdback is necessary to ensure the governmental creditors' support of the Plan and is part of their global settlement with the federal and various state governments. This matter has not yet been resolved to the ASARCO Committee's satisfaction, and if it remains unresolved, may result in one or more objections by the ASARCO Committee to Confirmation of the Plan.

(h) Plan Sponsor's Assumption of Certain Environmental Liabilities.

Pursuant to Article 11.18 of the Plan and section 2.3(e) of the Plan Sponsor PSA, and, except as provided in sections 2.4(f), (g), and (h) of the Plan Sponsor PSA, from and after the Closing, the Plan Sponsor shall assume, pay, perform, and discharge when due the Assumed Environmental Liabilities (as such term is defined in the Plan Sponsor PSA).

(i) Plan Distributions.

(1) Distributions to Claimants Other than Holders of Unsecured Asbestos Personal Injury Claims and Demands.

- Reorganized ASARCO, on the Initial Distribution Date, and thereafter the Plan Administrator shall be responsible for making all distributions to Claimants other than to the holders of Unsecured Asbestos Personal Injury Claims and Demands.

- Distributions to Professional Persons shall be made by Reorganized ASARCO on the Initial Distribution Date and thereafter by the Plan Administrator pursuant to order of the Bankruptcy Court.

- Except as otherwise expressly provided in the Plan, distributions to the holders of Allowed Claims shall be made at the address of the holder of such Claim as indicated in the claims register maintained by the Claims Agent. ~~Nonetheless, if such holder holds such Claim through a Nominee, distributions with respect to such Claim shall be made to such Nominee, and such Nominee shall, in turn, make appropriate distributions and book entries to reflect such distributions to such holder; *provided, however*, that where an Indenture Trustee is acting on behalf of certain Bondholders, distributions on account of those Bondholder Claims shall be made to such Indenture Trustee for its subsequent distribution, subject to the terms and conditions of the applicable indenture or other governing document, to the holders of such Claims.~~

- Payments may be made at election of Reorganized ASARCO or the Plan Administrator by check, wire transfer, or the customary method used for payment by any of the Debtors prior to the Petition Date**; *provided, however*, that the United States shall be paid by wire transfer in accordance with wiring instructions provided by the DOJ**.

(2) Distributions to Holders of Unsecured Asbestos Personal Injury Claims and Demands.

Distributions to holders of Unsecured Asbestos Personal Injury Claims and Demands shall be made by the Asbestos Trust in accordance with the Asbestos Trust Documents. The Asbestos TDP establishes a priority for distributions to be made by the Asbestos Trust on account of such Claims and Demands.

(j) Distribution Record Date.

Reorganized ASARCO and the Plan Administrator shall have no obligation to recognize the transfer of, or the sale of any participation in, any Allowed Claim that occurs after the Distribution Record Date and shall be entitled for all purposes in the Plan to recognize and make distributions only to those holders of Allowed Claims that are holders of such Claims or participants therein, as of the Distribution Record Date**; *provided, however*, that with respect to Bondholders' Claims, further distributions on account of such Claims by the Indenture Trustees to the record holders of the Bondholders' Claims shall not be made as of the Distribution Record Date but rather shall be accomplished in accordance with the respective Indentures and the policies and procedures of DTC**.

(k) Procedures for the Treatment of Disputed Claims, Other than Unsecured Asbestos Personal Injury Claims.

(1) Prosecution of Objections to Claims.

Article 15.1 of the Plan provides that the Plan Administrator (on behalf of Reorganized ASARCO) shall have the right, after the Effective Date, to file objections to Claims, other than objections to Unsecured Asbestos Personal Injury Claims and Demands and objections to Claims that have been Allowed by Final Order, and litigate to judgment, settle, or withdraw such objections to Disputed Claims. Without limiting the preceding, the Plan Administrator (on behalf of Reorganized ASARCO) shall have the right to litigate any Disputed Claims either in the Bankruptcy Court or in any court of competent jurisdiction.

Article 15.1 of the Plan provides that, after the Effective Date, only the Asbestos Trust shall have authority to file objections to Unsecured Asbestos Personal Injury Claims and Demands and litigate to judgment, settle, or withdraw such objections. All such objections shall be resolved through the Asbestos TDP. Unsecured Asbestos Personal Injury Claims and Demands, whether or not a Proof of Claim is filed, shall be satisfied exclusively in accordance with the Plan, the Asbestos Trust Agreement, and the Asbestos TDP. For the avoidance of doubt, no objection to Unsecured Asbestos Personal Injury Claims or Demands shall be filed in the Bankruptcy Court.

Except as otherwise provided as to objections to Unsecured Asbestos Personal Injury Claims filed after the Effective Date, nothing in Article 15.1 of the Plan shall prejudice any party in interest's right or standing to file objections to Claims.

(2) Objection Deadline.

Within the later of (a) 90 days after the Confirmation Date or (b) 90 days after a Proof of Claim is filed, objections to Claims (other than Unsecured Asbestos Personal Injury Claims and Demands, which shall be Allowed or disallowed as provided in the Asbestos TDP) shall be filed with the Bankruptcy Court; *provided*, *however*, that Reorganized ASARCO or the Plan Administrator may seek to extend such period (or any extended period) for cause.

(3) Disallowance of Improperly Filed Claims.

Any Administrative Claim or other Claim (except for an Unsecured Asbestos Personal Injury Claim or a Demand) for which the filing of a motion for allowance is required shall be disallowed if such filing is not timely and properly made, subject to the right of the Claimant to seek permission under applicable law to file a late claim.

(4) No Distributions Pending Allowance.

If a Claim or any portion of a Claim is disputed, no payment or distribution shall be made on account of the disputed portion of such Claim (or the entire Claim, if the entire Claim is disputed), unless and until such Disputed Claim becomes an Allowed Claim.

(5) Disputed Claims Reserve.

(A) The Plan Administrator shall maintain, in accordance with his, her, or its powers and responsibilities under the Plan, a Disputed Claims Reserve.

(B) On the Effective Date (or as soon thereafter as is reasonably practicable), Reorganized ASARCO or the Plan Administrator, as the case may be, shall deposit Cash in the Disputed Claim Reserve that would have been distributed to the holders of Disputed Claims if such Disputed Claims had been Allowed Claims on the Effective Date. This amount shall be determined based on the lesser of (i) the asserted amount of the Disputed Claims in the applicable Proofs of Claim; (ii) the amount, if any, estimated by the Bankruptcy Court pursuant to section 502(c) of the Bankruptcy Code; or (iii) the amount otherwise agreed to by the Debtors and the holders of such Disputed Claims and ~~may, if appropriate,~~**shall (if the Plan Administrator believes that he, she, or it will have sufficient funds to pay Post-Petition Interest to the Class of Claimants to which the Disputed Claims belong)** include an estimate of Post-Petition Interest. **No payment shall be made on account of the Class 5 and Class 9 Supplemental Distribution or on account of Claims and Interests in Classes 10, 11, and 12 until all Post-Petition Interest payable to Classes 3, 4, 6, 7, and 8 has been fully paid or reserved.**

(C) In the case of objections to allegedly Secured Claims, any Lien asserted by the holder of such a Claim against Remaining Assets that vest in Reorganized ASARCO or any assets (including the Madera Property) that vest in Reorganized Covington shall remain in place, pending resolution of the objection to the allegedly Secured Claim. Any Lien asserted by the holder of an allegedly Secured Claim against an asset that is sold to the Plan Sponsor shall attach to Cash held by the Plan Administrator in an amount equal to the lesser of (i) the amount of the allegedly Secured Claim; (ii) the amount, if any, estimated by the Bankruptcy Court pursuant to section 502(c) of the Bankruptcy Code; or (iii) the amount otherwise agreed to by the Debtors and the holders of such allegedly Secured Claims, which Cash shall be held by the Plan Administrator in a Disputed Secured Claims Reserve, pending resolution of the objection to the allegedly Secured Claim.

(D) The Plan Administrator shall (at such time as determined to be practicable by the Plan Administrator) distribute from the Disputed Claims Reserve or a Disputed Secured Claims Reserve to the holder of any Disputed Claim that has become an Allowed Claim~~,~~ an amount equal to the Allowed Claim as if such Claim had been an Allowed Claim on the Effective Date, including, if appropriate, Post-Petition Interest.

(E) If a Disputed Claim is disallowed, in whole or in part, the Plan Administrator shall (at such time as determined to be practicable by the Plan Administrator) distribute the Cash reserved in respect of such disallowed Disputed Claim in accordance with the terms and conditions of the Plan and the Confirmation Order.

(F) The law is unclear as to whether the Disputed Claims Reserve or a Disputed Secured Claims Reserve shall be treated, for U.S. federal income tax purposes, as a disputed ownership fund within the meaning of Treasury Regulations section 1.468B-9(b)(1). If the Disputed Claims Reserve or a Disputed Secured Claims Reserve

qualifies as a disputed ownership fund within the meaning of Treasury Regulations section 1.468B-9(b)(1), it would be subject to entity level U.S. federal income taxation on its income as if it were a corporation and such entity level taxes imposed on the Disputed Claims Reserve or the Disputed Secured Claims Reserve would be paid out of the Disputed Claims Reserve or the Disputed Secured Claims Reserve, respectively. If the Disputed Claims Reserve or a Disputed Secured Claims Reserve does not qualify as a disputed ownership fund within the meaning of Treasury Regulations section 1.468B-9(b)(1), then it shall not be treated as a separate taxable entity subject to entity level taxation, and the person that is deemed to "own" the Disputed Claims Reserve or the Disputed Secured Claims Reserve for U.S. federal income would be required to pay federal income taxes on its earnings. The Plan contemplates that the Plan Administrator take the position that the Disputed Claims Reserve and the Disputed Secured Claims Reserve do not qualify as disputed ownership funds within the meaning of Treasury Regulations section 1.468B-9(b)(1). The Plan Administrator shall cause taxes attributable to the earnings of the Disputed Claims Reserve or a Disputed Secured Claims Reserve (as well as any taxes directly imposed on the Disputed Claims Reserve or a Disputed Secured Claims Reserve) to be paid out of the assets of the Disputed Claims Reserve or the Disputed Secured Claims Reserve, respectively.

(6) Compliance with Tax Requirements.

Reorganized ASARCO, the Plan Administrator, and the Asbestos Trust shall comply with all applicable withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authorities, and all distributions made pursuant to the Plan or under any Plan Document shall be subject to such withholding and reporting requirements, if any. Any amount so withheld from a distribution or payment to a Claimant or other payee shall be treated as having been paid to, and received by, such payee for purposes of the Plan and the Plan Documents. Notwithstanding any other provision of the Plan, each Person receiving a distribution pursuant to the Plan, or any other Plan Document, shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any Governmental Unit, including income and other tax obligations, on account of that distribution.

(l) Unclaimed Property.

(1) Distributions by the Asbestos Trust.

Any Cash, assets, or other property to be distributed under the Plan by the Asbestos Trust that remains unclaimed (including by a Claimant's failure to draw upon a check issued to such Claimant) or otherwise is not deliverable to the Claimant entitled thereto one year after the initial distribution is made or attempted shall become vested in, and shall be transferred and delivered to, the Asbestos Trust, for use in accordance with the terms of the Asbestos Trust Agreement.

(2) Distributions by the Plan Administrator.

(A) If the distribution to any holder of an Allowed Claim (other than the holder of an Unsecured Asbestos Personal Injury Claim or a Demand) is returned to Reorganized ASARCO or the Plan Administrator as undeliverable or is otherwise unclaimed (including by a Claimant's failure to draw upon a check issued to such Claimant), no further distributions shall be made to such holder unless the Plan Administrator is timely notified in writing of such holder's then current address, at which time, all missed distributions shall be made to such holder without interest. Amounts in respect of any undeliverable or unclaimed distributions shall be returned to the Plan Administrator until such distributions are claimed. The Plan Administrator shall segregate and deposit into the Undeliverable and Unclaimed Distribution Reserve all undeliverable or unclaimed distributions for the benefit of all such similarly situated Persons until such time as a distribution becomes deliverable or is claimed or such Claimant's right to the distribution is waived pursuant to Article 14.4(b)(2) of the Plan. Nothing contained in the Plan shall require Reorganized ASARCO or the Plan Administrator to attempt to locate any holder of an Allowed Claim.

(B) Any funds in the Undeliverable and Unclaimed Distribution Reserve that remain unclaimed (including by a Claimant's failure to draw upon a check issued to such Claimant) or otherwise are not deliverable to the Claimant entitled thereto for one year after the initial distribution is made or attempted shall be Forfeited Distributions, and shall become vested in, and shall be transferred and delivered to, the Plan Administrator. In such event, such Claimant shall be deemed to have waived its rights to such payments or distributions under the Plan pursuant to section 1143 of the Bankruptcy Code, shall have no further Claim in respect of such distribution, and shall not participate in any further distributions under the Plan with respect to such Claim. The Plan Administrator shall (at such time as determined to be practicable by the Plan Administrator) ~~then~~ distribute the Forfeited Distributions to unpaid Claimants, in accordance with the terms and conditions of the Plan and the Confirmation Order.

(m) Bar Date for Compensation and Reimbursement Claim.

Pursuant to Article 16.12 of the Plan, all applications for final allowances of compensation or reimbursement of expenses under section 330 of the Bankruptcy Code or applications for allowance of Administrative Claims arising under subsections (b)(2) through (b)(6) of section 503(b) of the Bankruptcy Code must be filed on or before 90 days after the Effective Date, unless otherwise ordered by the Bankruptcy Court; *save and except that* any application under section 503(b)(3)(D) of the Bankruptcy Code or any application for a fee enhancement or success fee under the Bankruptcy Code must be filed on or before 60 days after the Effective Date, unless otherwise ordered by the Bankruptcy Court. Objections to applications of such Professionals Persons or other Entities for compensation or reimbursement of costs and expenses or for substantial contribution Claims must be filed within 20 days after the applicable application for compensation or reimbursement was served.

(n) Subsequent Administrative Claims Bar Date.

Pursuant to Article 16.13 of the Plan, Claimants, other than Professional Persons, holding Administrative Claims against a Debtor that arise after the Initial Administrative Claims Bar Date and remain unpaid on the Effective Date must file a request for payment of Subsequent Administrative Claim on or before 45 days after the Effective Date, unless otherwise ordered by the Bankruptcy Court. Any holder of a Subsequent Administrative Claim that is required to file a request for payment of such Claim and that does not file such request prior to the Subsequent Administrative Claims Bar Date shall be forever barred from asserting such Subsequent Administrative Claim against the Debtors, the Reorganized Debtors or their respective properties, and such Subsequent Administrative Claim shall be deemed discharged as of the Effective Date. Objections to Subsequent Administrative Claims must be filed with the Bankruptcy Court within 20 days after the applicable Subsequent Administrative Claim was served, unless such objection deadline is extended by the Bankruptcy Court. Any Subsequent Administrative Claims of the United States or any individual state under civil Environmental Laws relating to the Designated Properties shall be addressed through the Environmental Custodial Trust Settlement Agreements, the Environmental Custodial Trust Funding, and the Environmental Custodial Trust Administration Funding to be paid by ASARCO to the Environmental Custodial Trusts pursuant to the Plan.

3.10 Injunctions, Releases, and Discharge.

The Plan provides for entry of various releases and permanent injunctions in favor of the ASARCO Protected Parties. These releases and injunctions are an essential part of the Plan and, if entered, shall limit the rights of holders of Unsecured Asbestos Personal Injury Claims and Demands and others against the ASARCO Protected Parties. If these releases and injunctions are not entered, the Debtors shall have the right not to proceed with the Plan.

(a) Discharge and Release.

Article 12.1 of the Plan provides that, except as otherwise expressly provided in the Plan, the rights afforded therein and the treatment of all Claims, Demands, and Interests is in exchange for and in complete satisfaction, discharge, and release of all Claims, Demands, and Interests of any nature whatsoever, against the Debtors or their respective Estates, assets, properties, or interests in property. Except as otherwise provided in the Plan, on the Effective Date, all Claims and Demands against and Interests in the Debtors shall be satisfied, discharged, and released in full. **The PBGC asserts that the Plan cannot discharge or release any claims against any person other than the Debtors with respect to the Hourly and Salaried Plans, including any claim for breach of fiduciary duty or any claim asserted by the PBGC. The Debtors have not taken a formal position with respect to the discharge of PBGC-related claims against non-Debtor parties and they reserve all rights that any of them may have to assert this position. The PBGC also reserves all rights that it may have to object to Articles 9.8 and 12.1 of the Plan on this and any other grounds as may be appropriate.**

(b) Discharge Injunction.

Article 12.2 of the Plan contains an injunction to give force and effect to the discharge granted under the Plan. Except as otherwise expressly provided in the Plan, the discharge and release set forth in Article 12.1 of the Plan shall operate as an injunction permanently prohibiting and enjoining the commencement or continuation of any action or the employment of process with respect to, or any act to collect, recover from, or offset (1) any Claim and Demand discharged and released in Article 12.1 of the Plan and (2) any cause of action, whether known or unknown, based on the same subject matter as any Claim or Demand discharged and released in Article 12.1. Except as otherwise expressly provided in the Plan, all Entities shall be precluded and forever barred from asserting against the ASARCO Protected Parties, their successors, or assigns, or their assets, properties, or interests in property any other or further Claims or Demands, or any other right to

legal or equitable relief regardless of whether such right can be reduced to a right to payment, based upon any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date, whether or not the facts of or legal bases therefore were known or existed prior to the Effective Date. The injunctive relief sought is intended to be as broad as allowed under applicable law.

(c) The Permanent Channeling Injunction and the Asbestos Insurance Company Injunction.

To supplement the injunctive effect of the Discharge Injunction, Article 12.3 of the Plan provides for the Confirmation Order to contain two additional injunctions to take effect on the Effective Date. These injunctions, which are described and set forth in full below, are:

- the Permanent Channeling Injunction; and
- the Asbestos Insurance Company Injunction.

(1) Permanent Channeling Injunction.

The Permanent Channeling Injunction shall protect ASARCO Protected Parties from direct or indirect liability on account of any Unsecured Asbestos Personal Injury Claim or Demand assertable against an ASARCO Protected Party.

The term "ASARCO Protected Parties" refers to:

- the Debtors and their predecessors;
- the Reorganized Debtors;
- the ASARCO Protected Non-Debtor Affiliates and their predecessors;
- the Plan Sponsor and the Plan Sponsor Parent (and any of their respective Affiliates);
- Settling Asbestos Insurance Companies;
- the Trusts (except to the extent that the Asbestos Trust Agreement, the Asbestos TDP, or both expressly permit litigation against the Asbestos Trust);
- the Trustees;
- the Asbestos TAC;
- the FCR;
- the Committees, including their members in their member capacities;
- the Plan Administrator;
- the Examiner;
- **employee benefit plan "fiduciaries" (within the meaning of section 3(21) of ERISA) who are directors or employees of a Debtor;**
- **the Indenture Trustees;** and
- the present and former directors, officers, agents, attorneys, accountants, consultants, financial advisors, investment bankers, professionals, experts, and employees of any of the foregoing, in their respective capacities as such, including, without limitation, the Protected Officers and Directors.

provided, *however*, that the term "ASARCO Protected Parties" does not include the non-Debtor named defendants in the Derivative D&O Litigation, the Burns Litigation, or the SCC Litigation, or Grupo Mexico and its Affiliates other than ASARCO and its direct or indirect subsidiaries.

The USW has requested that it become an ASARCO Protected Party. The Debtors are considering the request of the USW and, if warranted and to the extent authorized by law, and after consultation with other creditor constituents, may amend the Plan and Glossary in accordance with such request.

The full text of the Permanent Channeling Injunction is set forth below:

(A) *Terms. In order to induce, preserve, and promote the settlements contemplated by and provided for in the Plan, and pursuant to section 524(g) or 105(a) of the Bankruptcy Code (or both), all Unsecured Asbestos Personal Injury Claims and Demands shall be channeled to the Asbestos Trust for a remedy under the Asbestos TDP, and all holders of Unsecured Asbestos Personal Injury Claims and Demands and all Entities which have held or asserted, which hold or assert, or which may in the future hold or assert, any Unsecured Asbestos Personal Injury Claim or Demand shall be permanently and forever stayed, restrained, and enjoined from taking any action against any ASARCO Protected Party (or any property or interest in property of an ASARCO Protected Party) with respect to such Unsecured Asbestos Personal Injury Claim or Demand, including, without limitation, for the purpose of directly or indirectly obtaining a judgment, collecting, recovering, or receiving payments, satisfaction, or recovery with respect to such Unsecured Asbestos Personal Injury Claim or Demand, including, without limitation:*

(i) *commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including a judicial, arbitration, administrative, or other proceeding) in any forum with respect to any Unsecured Asbestos Personal Injury Claim or Demand against any of the ASARCO Protected Parties, or against the property or interests in property of any ASARCO Protected Parties;*

(ii) *enforcing, levying, attaching (including by prejudgment attachment), collecting, or otherwise recovering, by any manner or means, whether directly or indirectly, any judgment, award, decree, or other order against any of the ASARCO Protected Parties, or against the property or interests in property of any ASARCO Protected Parties, with respect to any Unsecured Asbestos Personal Injury Claim or Demand;*

(iii) *creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any Lien of any kind against any ASARCO Protected Parties, or the property or interests in property of any ASARCO Protected Parties, with respect to any Unsecured Asbestos Personal Injury Claim or Demand;*

(iv) *except as otherwise specifically provided in the Plan, asserting or accomplishing any setoff, right of subrogation, indemnity, contribution, reimbursement, or recoupment of any kind and in any manner, directly or indirectly, against any obligation due any ASARCO Protected Parties, or against the property or interests in property of any ASARCO Protected Parties, with respect to any Unsecured Asbestos Personal Injury Claim or Demand; and*

(v) *proceeding or taking any action, in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of the Plan, the Plan Documents, or the Asbestos Trust Documents relating to any Unsecured Asbestos Personal Injury Claim or Demand.*

(B) *Reservations. Notwithstanding anything to the contrary above, the Permanent Channeling Injunction shall not enjoin, alter, diminish, or impair*:

(i) *the rights of Entities to the treatment accorded them under Articles II and IV of the Plan, as applicable, including the rights of Entities with Unsecured Asbestos Personal Injury Claims or Demands to assert such Unsecured Asbestos Personal Injury Claims or Demands in accordance with the Asbestos TDP;*

(ii) *the rights of Entities to assert any Claim, Demand, debt, obligation, or liability for payment of Asbestos Trust Expenses against the Asbestos Trust;*

(iii) *the enforceability of any of the Asbestos Insurance Policies or any Asbestos Insurance Settlement Agreement;*

(iv) *the rights of the Asbestos Trustees, if any, with regard to any Asbestos Insurance Company that is not a Settling Asbestos Insurance Company (with the Asbestos Trust being, and deemed to be, for all purposes of insurance and indemnity, the successor to the Debtors in respect of the Asbestos Personal Injury Claims and Demands and other recoveries from an Asbestos Insurance Company, in its capacity as such); or*

(v) *the rights of Entities to assert any Claim, Demand, debt, obligation, or liability for payment against an Asbestos Insurance Company that is not an ASARCO Protected Party unless otherwise enjoined by order of the Bankruptcy Court or the District Court or estopped by a provision of the Plan.*

(2) Asbestos Insurance Company Injunction.

The Asbestos Insurance Company Injunction shall bar the assertion or prosecution of Claims, Demands, or causes of action against Settling Asbestos Insurance Companies by any Entity, to the extent such claim is connected in any way to:

- any Unsecured Asbestos Personal Injury Claim or Demand against or relating to the Debtors;
- any Unsecured Asbestos Personal Injury Claim or Demand relating to Asbestos In-Place Insurance Coverage; or
- an Asbestos Insurance Policy.

The full text of the Asbestos Insurance Company Injunction is set forth below:

(A) *Terms. In order to preserve and promote the property of the Estate, as well as the settlements contemplated by and provided for in the Plan, and to supplement where necessary the injunctive effect of the discharge and releases provided for in the Plan, pursuant to section 105(a) of the Bankruptcy Code, all Entities which have held or asserted, which hold or assert, or which may in the future hold or assert any Claim, Demand, or cause of action (including, without limitation, any Unsecured Asbestos Personal Injury Claim or Demand or any Claim for or respecting any Asbestos Trust Expense) against a Settling Asbestos Insurance Company based upon, relating to, arising out of, attributable to, or in any way connected with any Unsecured Asbestos Personal Injury Claim or Demand, Asbestos In-Place Insurance Coverage or an Asbestos Insurance Policy, shall be permanently and forever stayed, restrained, and enjoined from taking any action against such Settling Asbestos Insurance Company for the purpose of directly or indirectly collecting, recovering, or receiving payments, satisfaction, or recovery with respect to any such Claim, Demand, or cause of action, including, without limitation:*

(i) *commencing, conducting, or continuing, in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including a judicial, arbitration, administrative, or other proceeding) in any forum with respect to any such Claim, Demand, or cause of action against any Settling Asbestos Insurance Company, or against the property or interests in property of any Settling Asbestos Insurance Company;*

(ii) *enforcing, levying, attaching, collecting, or otherwise recovering, by any manner or means, whether directly or indirectly, any judgment, award, decree, or order against any Settling Asbestos Insurance Company or against the property or interests in property of any Settling Asbestos Insurance Company with respect to any such Claim, Demand, or cause of action;*

(iii) *creating, perfecting, or otherwise enforcing, in any manner, directly or indirectly, any Lien of any kind against any Settling Asbestos Insurance Company, or the property or interests in property of any Settling Asbestos Insurance Company with respect to any such Claim, Demand, or cause of action;*

(iv) *except as otherwise specifically provided in the Plan, asserting or accomplishing any setoff, right of subrogation, indemnity, contribution, reimbursement, or recoupment of any kind and in any*

manner, directly or indirectly, against any obligation due any Settling Asbestos Insurance Company or against the property or interests in property of any Settling Asbestos Insurance Company with respect to any such Claim, Demand, or cause of action; and

(v) *taking any act, in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of the Plan Documents relating to such Claim, Demand, or cause of action.*

(B) *Reservations. Notwithstanding anything to the contrary above, the Asbestos Insurance Company Injunction shall not enjoin, alter, diminish, or impair:*

(i) *the rights of Entities to the treatment accorded them under Articles II and IV of the Plan, as applicable, including the rights of Entities with Unsecured Asbestos Personal Injury Claims or Demands to assert Unsecured Asbestos Personal Injury Claims or Demands against the Asbestos Trust in accordance with the Asbestos TDP;*

(ii) *the rights of Entities to assert any Claim, Demand, debt, obligation, or liability for payment of Asbestos Trust Expenses against the Asbestos Trust;*

(iii) *the enforceability of any of the Asbestos Insurance Policies or any Asbestos Insurance Settlement Agreement;*

(iv) *the rights of the Asbestos Trustees, if any, with regard to any Asbestos Insurance Company that is not a Settling Asbestos Insurance Company (with the Asbestos Trust being, and deemed to be, for all purposes of insurance and indemnity, the successor to the Debtors in respect of the Asbestos Personal Injury Claims, Demands, and other recoveries from an Asbestos Insurance Company, in its capacity as such);*

(v) *the rights of Entities to assert any Claim, Demand, debt, obligation, or liability for payment against an Asbestos Insurance Company that is not an ASARCO Protected Party unless otherwise enjoined by order of the Bankruptcy Court or the District Court or estopped by a provision of the Plan; or*

(vi) *the rights of the Asbestos Trust or the Asbestos Trustees to seek relief from the Asbestos Insurance Company Injunction should a Settling Asbestos Insurance Company fail to fulfill all obligations under an Asbestos Insurance Settlement Agreement.*

(d) Limitation of Injunctions.

Notwithstanding any other provisions of the Plan to the contrary, the releases set forth in Article 12.1 and the Injunctions set forth in Articles 12.2 and 12.3 of the Plan, respectively, shall not serve to satisfy, discharge, release, or enjoin Claims by any Entity against the Asbestos Trust for payment of (1) Unsecured Asbestos Personal Injury Claims and Demands in accordance with the Asbestos TDP or (2) Asbestos Trust Expenses, and such releases and Injunctions shall not enjoin Reorganized ASARCO or the Asbestos Trust from enforcing any Asbestos Insurance Policy or any Asbestos Insurance Settlement Agreement.

(e) Term of Certain Injunctions and Automatic Stay.

Article 13.1 of the Plan provides that all of the injunctions and stays provided for, in or in connection with the Reorganization Cases, whether pursuant to section 105, section 362, section 524, or any other provision of the Bankruptcy Code, other applicable law, or court order, in effect immediately prior to Confirmation shall remain in full force and effect until the Injunctions become effective and thereafter if so provided in the Plan, the Confirmation Order or by their own terms. In addition, on and after Confirmation Date, the Debtors may seek further orders as they deem necessary to preserve the status quo during the time between the Confirmation Date and the Effective Date.

Each of the Injunctions shall become effective on the Effective Date and shall continue in effect at all times thereafter, and may not be vacated, amended, or modified after the Effective Date, except as otherwise provided in the Plan.

Notwithstanding anything to the contrary contained in the Plan, all actions in the nature of those to be enjoined by the Injunctions shall be enjoined during the period between the Confirmation Date and the Effective Date.

(f) Setoffs and Recoupments.

Subject to the limitations provided in section 553 of the Bankruptcy Code, Article 14.6 of the Plan provides that Reorganized ASARCO or the Plan Administrator, as the case may be, may, but shall not be required to, offset against or recoup from the holder of any Allowed Claim on which payments or other distributions are to be made pursuant to the Plan any Claims of any nature whatsoever the Estates may have against the holder of such Claim but neither the failure to do so, nor the allowance of any Claim under the Plan, shall constitute a waiver or release by Reorganized ASARCO or the Plan Administrator, as the case may be, of any such Claim against such holder or right of setoff or recoupment that the Estates may have against the holder of such Allowed Claim.

(g) Exoneration and Reliance.

Article 12.5 of the Plan sets forth protections for certain participants in the plan process. It provides that none of the ASARCO Protected Parties shall be liable (other than for criminal liability, willful misconduct or bad faith, or *ultra vires* acts) to any holder of a Claim, Demand, or Interest or any other Entity with respect to any action, omission, forbearance from action, decision, or exercise of discretion taken at any time through the Effective Date in connection with:

- the management or operation of any of the Debtors or the discharge of their duties under the Bankruptcy Code;
- the solicitation, negotiation, or implementation of any of the transactions provided for, or contemplated in, the Plan or the other Plan Documents including, without limitation, the marketing of the Plan Assets, the Plan Sponsor selection process, the selection of the Plan Sponsor, and the sale of the Plan Assets to the Plan Sponsor;
- any action taken in connection with either the enforcement of the rights of any Debtor against any Entities or the defense of Claims or Demands asserted against any such Debtor with regard to the Reorganization Cases;
- any action taken in the negotiation, formulation, preparation, development, proposal, solicitation, disclosure, Confirmation, or implementation of the Plan, other Plan Documents, or related agreements, instruments, or other documents;
- the administration of the Plan or the assets and property to be distributed pursuant to the Plan; or
- the administration of any of the Estates

The ASARCO Protected Parties shall be deemed to have participated in each of the Reorganization Cases in good faith and in compliance with all applicable provisions of the Bankruptcy Code.

Nothing in Article 12.5 of the Plan shall prevent the enforcement of the terms of the Plan.

If the holder of a Claim, Demand, or Interest or any Entity other than a Governmental Unit brings an action, suit, or proceeding covered by Article 12.5 of the Plan or in any other way arising from or related to any of the Reorganization Cases and does not prevail, such holder or other Entity must pay the reasonable attorneys' fees and costs of the ASARCO Protected Party. Moreover, as a condition to going forward with such action, suit, or proceeding, the holder of a Claim, Demand, or Interest or other Entity must, at the outset, provide appropriate proof and assurances of his, her, or its capacity to pay the ASARCO Protected Party's reasonable attorneys' fees and costs in the event the holder or other Entity fails to prevail. In order for a holder of a Claim, Demand, or Interest or other Entity to be considered a prevailing party, such party must be awarded an enforceable judgment on the merits that constitutes a material alteration of the legal relationship between such party and an ASARCO Protected Party, and does not include a judgment that awards nominal damages. Article 12.6 of the Plan does not impose any obligation on any ASARCO Protected Party to pay, or provide appropriate proof and financial assurance of his, her, or its capacity to pay, reasonable attorneys' fees and costs in the event that the holder of a

Claim, Demand, or Interest or other Entity prevails in an action, suit, or proceeding that is filed against such ASARCO Protected Party.

3.11 Additional Releases.

Article 12.7 of the Plan provides that on, and as of, the Effective Date, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged, each ASARCO Protected Party **that is not a Debtor** (acting in any capacity whatsoever) shall be forever released and discharged from any and all Claims, Demands, obligations, actions, suits, rights, debts, accounts, causes of action, remedies, avoidance actions, agreements, promises, damages, judgments, demands, defenses, or claims in respect of equitable subordination, and liabilities through the Effective Date (including all Claims and Demands based on or arising out of facts or circumstances that existed as of or prior to the Plan in any of the Reorganization Cases, including Claims and Demands based on negligence or strict liability, and further including any derivative claims asserted on behalf of any of the Debtors, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, that any of the Debtors, their respective Estates, or any of the Reorganized Debtors would have been legally entitled to assert in their own right, whether individually or collectively) which any of the Debtors, their Estates, any of the Reorganized Debtors, Claimants, holders of Demands, or other Persons receiving or who are entitled to receive distributions under the Plan may have against them in any way related to the Reorganization Cases or any of the Debtors (or their predecessors or Affiliates). None of the ASARCO Protected Parties shall be responsible for any obligations of the Debtors except those expressly assumed by those parties in the Plan (and only to the extent so assumed). The releases provided for in Article 12.7 of the Plan shall not extend to any claims by any governmental agency with respect to criminal liability, willful misconduct or bad faith, or *ultra vires* acts.

3.12 Exculpation.

Article 12.8(a) of the Plan provides that, except in the case of a judicial finding by a Final Order of willful misconduct or bad faith, or any criminal liability or liability for *ultra vires* acts asserted by any Governmental Unit, no ASARCO Protected Party (acting in any capacity whatsoever) shall be liable to any Person or Entity for any action, failure or omission to act or other matter related to the Debtors or any of the Reorganization Cases, including those activities described in Article 12.5 of the Plan, through and including the Effective Date. All parties are permanently enjoined from initiating a suit against any ASARCO Protected Party, except in the case of a judicial finding by a Final Order of actions for willful misconduct or bad faith, or any criminal liability or liability for *ultra vires* acts asserted by any Governmental Unit. Any such action by a non-Governmental Unit shall be brought in the Bankruptcy Court within 90 days after the Effective Date. Nothing in Article 12.8 of the Plan shall prevent the enforcement of the terms of the Plan.

3.13 Indemnities.

Article 12.8(b) of the Plan provides that Reorganized ASARCO shall defend, hold harmless, and indemnify to the fullest extent permitted by applicable law each of the Protected Officers and Directors ~~[~~and other appropriate parties~~]~~ as designated by ASARCO in its sole discretion **not less than 10 days prior to the commencement of the Confirmation Hearing** with respect to any Claim, Demand, or liability arising from any action, failure or omission to act, or other matter related to any of the Debtors or any of the Reorganization Cases through and including the Effective Date. If and whenever any indemnified party is, or is threatened to be made, a party to any action, suit, arbitration, investigation, or other proceeding that might give rise to a right of indemnification under Article 12.8 of the Plan, Reorganized ASARCO shall, to the fullest extent permitted by applicable law, reimburse that indemnified party all expenses (including attorneys' fees) reasonably incurred by or on behalf of that indemnified party in connection therewith within 60 days after Reorganized ASARCO receives a statement or statements from that indemnified party requesting reimbursement from time to time, whether prior to or after final disposition of such action, suit, arbitration, or investigation or other proceeding. In furtherance of these obligations, Reorganized ASARCO shall maintain the Indemnification Escrow in the amount of $20 million to address ~~its anticipated~~**any** indemnification obligations under Article 12.8 of the Plan. Prior to the Effective Date, ASARCO shall purchase an errors and omissions insurance policy for the benefit of each of the indemnified parties in an amount equal to the errors and omissions coverage currently maintained by the Debtors. The term of the policy shall be six years following the Effective Date. In addition, prior to the Effective Date, ASARCO shall exercise the six-year run-off option available under its existing directors and officers liability insurance. Each of the Protected Officers and Directors shall be entitled to retain independent counsel in connection with any Claim or liability asserted against him in connection with his service in the Reorganization Cases and to assist him with any issues arising in connection with the termination of his service as officer or director of any Debtor. The fees and expenses of such counsel shall be paid out of the Indemnification Escrow.

As soon as practicable after the sixth year anniversary of the Effective Date or upon such later date as Reorganized ASARCO deems it appropriate, Reorganized ASARCO shall distribute any funds remaining in the Indemnification Escrow as a Subsequent Distribution, in accordance with the terms and conditions of the Plan and the Confirmation Order.

3.14 Releases by Holders of Claims, Demands and Interests.

On the Effective Date, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, holders of Claims and Interests voting to accept the Plan and holders of Demands shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged each of the ASARCO Protected Parties **that are not Debtors** from any and all Claims, Demands, Interests, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, including Claims and Demands based on negligence or strict liability, and including any derivative claims asserted on behalf of a Debtor, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, that such holder of a Claim, Demand, or Interest would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, (a) any of the Debtors, (b) any of the Reorganization Cases, (c) the subject matter of, or the transactions or events giving rise to, any Claim, Demand, or Interest, (d) the business or contractual arrangements between any Debtor and any ASARCO Protected Party, (e) the restructuring of Claims, Demands, and Interests prior to or in any of the Reorganization Cases, (f) the negotiation, formulation, or preparation of the Plan, the Plan Documents, or related agreements, instruments, or other documents, or (g) any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, other than Claims, Demands, or liabilities arising out of or relating to any action or omission of an ASARCO Protected Party that constitutes a failure to perform the duty to act in good faith, with the care of an ordinarily prudent person and in a manner the ASARCO Protected Party reasonably believed to be in the best interests of the Debtors (to the extent such duty is imposed by applicable non-bankruptcy law) where such failure to perform constitutes willful misconduct or gross negligence.

3.15 Release of Fraudulent Transfer Claims Against Settling Asbestos Insurance Companies.

Pursuant to Article 12.10 of the Plan, all fraudulent transfer claims against any Settling Asbestos Insurance Company arising under sections 544(b), 548, or 550 of the Bankruptcy Code or otherwise with respect to the Claims, rights, or interests released under the Asbestos Insurance Settlement Agreement shall be released, and the Asbestos Trust shall have no authority to bring any fraudulent transfer actions arising under any applicable state or other non-bankruptcy law against any Settling Asbestos Insurance Company with respect to the Claims, rights, and interests released under the Asbestos Insurance Settlement Agreement. Article 12.10 of the Plan does not apply to any of the existing Avoidance Actions against certain Asbestos Insurance Companies that entered into prepetition settlement agreements, as listed in **Exhibit 14-C** to the Plan.

3.16 Limitation Regarding Governmental Units.

The releases, discharges, satisfactions, exonerations, exculpations, and injunctions provided under the Plan (including, without limitation, those in Articles 12.1, 12.2, 12.5, 12.7, 12.8, and 12.9 thereof) or the Confirmation Order shall not apply to any liability to a Governmental Unit arising after the Effective Date; *provided, however*, that, except as otherwise expressly provided in the Plan, no Governmental Unit shall assert any Claim or other cause of action under Environmental Laws against any of the Reorganized Debtors, the Plan Administrator, or the Plan Administration Reserve *except provided, further, however*, that nothing in the Plan or the Confirmation Order releases, discharges, precludes, or enjoins the enforcement of any liability to a Governmental Unit under Environmental Law that any Entity would be subject to as the owner or operator of property after the Effective Date or any criminal liability (other than criminal liabilities that are dischargeable). Nothing in Article 12 of the Plan shall be construed to preclude enforcement by the United States or any individual state of any requirement under an Environmental Custodial Trust Agreement against an Environmental Custodial Trustee.

3.17 Limitation Regarding Flow Through Bonds.

In accordance with the SPT Settlement Agreement, and except as otherwise provided in Article ~~9.10~~**9.9** of the Plan in regards to SPT Bond Nos. 394729 and 403998, ASARCO's obligations under and relating to the Flow Through Bonds and the SPT Indemnity Agreement as it relates to the Flow Through Bonds shall not be discharged by Confirmation of the Plan.

3.18 No Liability for Tax Claims.

Pursuant to Article 13.2 of the Plan, unless a taxing authority has asserted a Claim against a Debtor prior to the applicable Bar Date, no Claim of such taxing authority shall be Allowed against any of the Debtors or the Reorganized Debtors for taxes, penalties, interest, additions to tax, or other charges arising out of the failure, if any, of a Debtor, Reorganized Debtor, or any other Entity to have paid taxes or to have filed any tax return (including, without limitation, any income tax return or franchise tax return) in or for any prior year or arising our of an audit of any return for a period before the Petition Date.

3.19 Certain Matters Incident to Plan Confirmation.

(a) No Successor Liability.

Article 13.3(a) of the Plan provides that, except as otherwise expressly provided in the Plan, none of the ASARCO Protected Parties shall be deemed a successor or successor in interest to the Debtors or to any Entity for which the Debtors may be held legally responsible, by reason of any theory of law or equity, and none can be responsible for any successor or transferee liability of any kind or character. Article 13.3(b) of the Plan also provides that, except as otherwise expressly provided in the Plan, none of the ASARCO Protected Parties shall have any obligations to perform, pay, indemnify creditors for, or otherwise have any responsibilities for any liabilities or obligations of any of the Debtors or the Reorganized Debtors whether arising before, on, or after the Confirmation Date.

(b) Revesting of Assets.

Revesting of assets in Reorganized ASARCO is addressed in Article 11.19 of the Plan, which provides that, except as otherwise expressly provided in the Plan, on the Effective Date, all of the Debtors' rights, title, and interests in and to the Sold Assets shall vest in the Plan Sponsor, free and clear of any Liens, claims, interests, and encumbrances, other than Permitted Liens and the Assumed Liabilities pursuant to section 363(f) of the Bankruptcy Code (including, without limitation, any right of setoff, recoupment, netting, or deduction). Except as otherwise provided in the Plan or the Plan Documents, on the Effective Date, the Available Plan Sales Proceeds, the Distributable Cash, and the Remaining Assets shall vest in Reorganized ASARCO, which may operate free of any restrictions imposed by the Bankruptcy Code or by the Bankruptcy Court.

The Madera Property shall vest in Reorganized Covington, which may operate free of any restrictions imposed by the Bankruptcy Code or by the Bankruptcy Court.

(c) Vesting and Enforcement of Causes of Action.

Vested Causes of Action (as listed in **Exhibit 14-A** to the Plan) shall vest in Reorganized ASARCO. The Plan Administrator (after consultation with and approval by the Plan Administration Committee) shall be authorized to prosecute, compromise and settle, abandon, release, or dismiss the Vested Causes of Action, without need for approval by the Bankruptcy Court. After the Effective Date, the Plan Administrator may, in his, her, or its discretion, file a notice of discharge with a copy of the Confirmation Order in any lawsuits in which ASARCO or any other Debtor was named as a defendant prior to the Effective Date.

The Debtors' respective rights, title, and interests in and to the Litigation Trust Claims (as listed in **Exhibit 14-B** to the Plan) shall vest in the Litigation Trustees. The Litigation Trust may prosecute, compromise and settle, abandon, release, or dismiss the Litigation Trust Claims, without need for approval by the Bankruptcy Court.

The Debtors' respective rights, title, and interests in and to the Asbestos Insurance Actions (as listed in **Exhibit 14-C** to the Plan) shall vest in the Asbestos Trustees. The Asbestos Trust may prosecute, compromise and settle, abandon, release, or dismiss the Asbestos Insurance Actions, without need for approval of the Bankruptcy Court.

(d) Dismissal of Certain Litigation.

Pursuant to Article 11.21 of the Plan, Adversary Proceeding No. 05-02030 filed by the Asbestos Subsidiary Debtors against Anne M. Aaberg, *et al*., and Adversary Proceeding No. 06-02056, filed by ASARCO, *et al*,, against Anne M. Aaberg, *et al*., both pending in the Bankruptcy Court, shall be dismissed on the Effective Date. Each lawsuit

sought injunctive relief against Asbestos Personal Injury Claims. The injunctions granted in these adversary proceedings shall be replaced by the Plan's Permanent Channeling Injunction and the Asbestos Insurance Company Injunction on the Effective Date.

(e) Settlement of Certain Causes of Action.

Sections 11.3, 11.26, and 11.27 of the Plan provide that Confirmation of the Plan shall constitute approval pursuant to Bankruptcy Rule 9019 of all Asbestos Insurance Settlement Agreements (if any), all Environmental Custodial Trust Settlements, the Miscellaneous Federal and State Environmental Settlement, the Residual Environmental Settlement, and the Asbestos Settlement Agreement~~,~~ and shall cause the Mission Mine Settlement Agreement (which has already been approved by the Bankruptcy Court pursuant to a motion under Bankruptcy Rule 9019) to be binding upon all landowners and allottees who own interests in the land affected by the Mission Mine Settlement Agreement.

(f) Asbestos Insurance Actions and Asbestos Insurance Recoveries.

Article 8.8 of the Plan provides that the right to control the Asbestos Insurance Actions and all Asbestos Insurance Recoveries, including negotiations relating thereto and settlements thereof, shall be vested in the Asbestos Trust on and after the Effective Date. Notwithstanding the foregoing, Reorganized ASARCO, the Plan Administrator, and the Plan Sponsor shall cooperate with the Asbestos Trustees in pursuing the Asbestos Insurance Actions through such means, and shall provide reasonable access to personnel and books and records of Reorganized ASARCO and the Plan Sponsor relating to the Asbestos Insurance Actions to representatives of the Asbestos Trust to enable the Asbestos Trustees to perform the Asbestos Trustees' tasks under the Asbestos Trust Agreement and the Plan, as is discussed in Article 8.13 of the Plan in regards to Reorganized ASARCO; provided that the Plan Sponsor's cooperation in that regard shall be subject to the terms and conditions of the Transition Services Agreement or the Plan Sponsor PSA, as applicable, and any requests made to the Plan Sponsor to obtain access to the Plan Sponsor's personnel or books and records shall be made through Reorganized ASARCO or its representatives.

(g) Assumption and Rejection of Unexpired Leases and Executory Contracts.

Under Article 9.1 of the Plan, on the Effective Date, except as otherwise provided in the Plan, any unexpired lease or executory contract that has not been previously assumed or rejected by a Debtor pursuant to an order of the Bankruptcy Court shall be deemed rejected by such Debtor under sections 365(a) and 1123 of the Bankruptcy Code, other than those executory contracts and unexpired leases that are (1) listed in **Exhibit 2** to the Plan (as such list may be amended, supplemented, or modified by the Debtors on or before the Confirmation Date) or (2) subject to a motion to assume that is pending on the Effective Date. Entry of the Confirmation Order shall constitute approval of (A) such rejections, and (B)(i) the assumption by ASARCO and assignment to the Plan Sponsor of the executory contracts or unexpired leases listed in **Exhibit 2-A** to the Plan; (ii) the assumption by ASARCO and assignment to an Environmental Custodial Trust of the executory contracts or unexpired leases listed in **Exhibit 2-B** to the Plan; and (iii) the assumption by the applicable Debtor and vesting in Reorganized ASARCO or Reorganized Covington of the executory contracts or unexpired leases listed in **Exhibit 2-C** to the Plan (as each such list may be amended, supplemented, or modified by the Debtors on or before the Confirmation Date), pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Any motions to assume executory contracts and unexpired leases pending on the Effective Date shall be subject to approval by the Bankruptcy Court on or after the Effective Date by a Final Order. The executory contracts and unexpired leases assumed pursuant to Article 9.1 of the Plan or by any order of the Bankruptcy Court shall be assigned to, and the Debtors' obligations thereunder shall be assumed by, the Plan Sponsor or an Environmental Custodial Trust, or shall vest in Reorganized ASARCO or Reorganized Covington (as specified in **Exhibit 2** or the applicable order) as of the Effective Date. The Plan Sponsor has reached a collective bargaining agreement with the USW and other Unions that modifies the Debtors' CBA. The CBA, which shall be assumed as modified and extended through 2013, is expected to provide long-term labor peace and stability. Pursuant to this agreement, the CBA as modified will be effective as of the Effective Date and will have no applicability to, nor will it become effective in the event of, confirmation of the Parent Plan.

Pursuant to Article 9.6 of the Plan, to the extent that Cure Amount Claims constitute monetary defaults, such Claims shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by the Debtors: (1) by payment of the Cure Amount Claim on the Effective Date or (2) on such other terms as are agreed to by the Debtors and the non-debtor parties to the executory contract or unexpired lease. In the event of a dispute regarding (A) the amount of any Cure Amount Claim; (B) the ability of the Plan Sponsor or an Environmental Custodial Trust to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the contract or lease to be assumed and assigned; or (C) any other matter pertaining to assumption or assumption and assignment of such contract or lease, the

payment of any Cure Amount Claim required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order resolving the dispute and approving the assumption or assumption and assignment (except as otherwise provided in Article 9.6(b) of the Plan).

Pursuant to section 2.5(d) of the Plan Sponsor PSA, at the Closing, ASARCO shall deliver to the Plan Sponsor a statement of any Unpaid Cure Claims Amount (as such term is defined in the Plan Sponsor PSA) and the executory contract or unexpired lease corresponding thereto, including a calculation thereof. The Plan Sponsor shall be permitted (but not required), within 30 days after receipt of such statement, to pay any Unpaid Cure Claims Amount, and within 10 days after any such payment, the Plan Sponsor shall provide a written notice to ASARCO of such payment. To the extent the Plan Sponsor pays any Unpaid Cure Claims Amount pursuant to section 2.5(d) of the Plan Sponsor PSA, Reorganized ASARCO shall, within 10 days of receipt of notice from the Plan Sponsor delivered in accordance with section 2.5(d) thereof, reimburse the Plan Sponsor in the amount of such payment; provided that the Confirmation Order shall provide that, as between the Sellers and the counterparty of the underlying contract or lease, (1) neither the payment nor the reimbursement of a disputed Unpaid Cure Claims Amount shall constitute a waiver, admission, or estoppel in respect of any claims or defenses that ASARCO or Reorganized ASARCO may have related to such Unpaid Cure Claims Amount or the underlying contract or lease and (2) the right of ASARCO or Reorganized ASARCO to object, assert any counterclaim, or exercise any setoff or other rights in connection with such Unpaid Cure Claims Amount or the underlying contract or lease shall be preserved regardless of any such payment or reimbursement; *provided, however*, that failure of the Confirmation Order to so provide shall not relieve the Sellers of their payment obligations as set forth in section 2.5(d) of the Plan Sponsor PSA.

Article 9.5 of the Plan provides that ~~Claims arising out of~~**if** the rejection ~~of executory contracts and unexpired leases must be~~**by a Debtor, pursuant to Article 9.1 of the Plan, of an executory contract or unexpired lease results in a Claim, then such Claim shall be forever barred and discharged and shall not be enforceable against any Debtor, Reorganized Debtor, or their respective properties, unless a Proof of Claim is** filed and served upon Reorganized ASARCO and the Plan Administrator within 30 ~~days~~ after the later of the Effective Date or the date of entry of an order approving such rejection~~, or such Claims shall be forever barred and discharged, and shall not be enforceable against any Debtor, Reorganized Debtor, or their respective properties~~. To the extent any such Claim is Allowed by the Bankruptcy Court by Final Order, such Claims shall be treated as Class 3 Trade and General Unsecured Claims, and the holder thereof shall receive distributions as a holder of an Allowed Trade and General Unsecured Claims, pursuant to the Plan.

Pursuant to Article 9.4 of the Plan, the Bankruptcy Court shall determine the amount, if any, of the Claim of any Entity seeking damages by reason of the rejection of any executory contract or unexpired lease to which it is a counterparty.

(h) Certain Other Agreements Pertaining to Silver Bell.

Mitsui (and related entities) and the company formerly known as ASARCO Incorporated (now ASARCO LLC) entered into certain agreements pertaining to Silver Bell that are not listed as assumed contracts in the Plan Sponsor PSA or otherwise assigned to the Plan Sponsor. Such agreements include, without limitation, (1) an agreement, dated February 5, 1996, entitled "Asarco Incorporated Guaranty" in favor of Mitsui; (2) as more fully discussed in Section 2.29 of this Disclosure Statement, a letter agreement, dated February 5, 1996, supplementing the Silver Bell LLC Agreement, the provisions of which Mitsui asserts give certain Mitsui-related entities certain tag-along rights in the event of a sale by ASARCO of the capital stock of ARSB; (3) an agreement, dated December 12, 1997, entitled "Reimbursement Agreement," which is ancillary to the Equipment Lease Agreement with The Copper Equipment Trust and certain related agreements (not all of which are reflected as assumed contracts in the Plan Sponsor PSA); and (4) a "Commercial Agreement," dated November 9, 2007, concerning the purchase of copper cathodes from Silver Bell. Whether or not Mitsui grants consent to the transfer by ARSB of its membership interests in Silver Bell, Mitsui has requested that these agreements be assumed by and assigned to the Plan Sponsor or the Plan Sponsor Parent. Also, on February 5, 1996, ARSB and Silver Bell entered into a "Management Services Agreement" concerning Silver Bell. Whether or not Mitsui grants consent to the transfer by ARSB of its membership interests in Silver Bell, Mitsui has requested that this agreement be assumed by and assigned to the Plan Sponsor. The Debtors have not taken a formal position with respect to the treatment of the agreements discussed in this Section 3.19(h) and specifically reserve all rights and remedies that any of them may have concerning such agreements, including all rights and remedies that any of them may have to object to any request by Mitsui or any of its affiliates (i) to have all or a portion of its membership interest purchased by the Plan Sponsor; (ii) to have any agreement with any of the Debtors assumed by and assigned to the Plan Sponsor or the Plan Sponsor Parent; or (iii) to have any agreement with any Debtor treated as a non-executory contract. Mitsui and all of its related entities and affiliates specifically reserve all rights and remedies that any of them may have concerning any such agreement discussed in this Section 3.19(h).

(i) ~~(h)~~ Contracts and Leases **Previously Assumed or** Entered into After the Petition Date

(1) ~~Each contract or lease~~**Unless otherwise provided in Article 9.7(b) and (c) of the Plan, each contract or lease that is an "Assumed Pre-Petition Contract" (as such term is defined in section 2.1(e)(A)(i) of the Plan Sponsor PSA) or is** entered into by any Seller after the Petition Date ~~that is~~**as** described in section 2.1(e)(B) of the Plan Sponsor PSA shall be assigned to, and such Debtor's obligations thereunder assumed by, the Plan Sponsor in accordance with the Plan Sponsor PSA; *provided, however*, that any such contract or lease entered into other than in the Ordinary Course of Business with the Plan Sponsor's written consent shall also be assigned to, and such Debtor's obligations thereunder assumed by, the Plan Sponsor.

(3) Each contract or lease entered into by any Debtor after the Petition Date that is identified in **Exhibit 2-D** to the Plan shall be assigned to, and such Debtor's obligations thereunder assumed by, one or more Environmental Custodial Trusts, as specified in **Exhibit 2-D** to the Plan.

(4) Each contract or lease entered into by any Debtor after the Petition Date that is identified in **Exhibit 2-E** to the Plan shall vest in, and such Debtor's obligations thereunder be assumed by, Reorganized ASARCO or Reorganized Covington, as specified in **Exhibit 2-E** to the Plan.

(j) ~~(i)~~ Employee Benefits Plans, Retiree Benefits, and Other Benefits.

Article 9.8(a) of the Plan provides that ASARCO ~~will~~**shall** satisfy its contribution obligations **under ERISA** to the ~~Pension~~**Hourly and Salaried** Plans~~, which it sponsors under ERISA,~~ during the pendency of the Reorganization Cases and through the Closing Date. ~~It~~**ASARCO is the sponsor of the Hourly and Salaried Plans, each of which is covered under Title IV of ERISA. Article 9.8(a) of the Plan** also provides that in the event that ~~any of the Pension Plans~~**either the Hourly Plan or the Salaried Plan, or both** terminate during the pendency of the Reorganization Cases, or prior to the Closing Date, certain Claims will arise, including joint and several liabilities of the Debtors to the PBGC that may be entitled to priority under various sections of the Bankruptcy Code to the extent provided under applicable law.

Article 9.8(b) of the Plan provides that effective as of the Closing Date, the Plan Sponsor will adopt and become the "contributing sponsor" of the ~~Pension~~**Hourly and Salaried** Plans for purposes of ERISA, and the Plan Sponsor, and each and every member of its "controlled group," as defined in section 4001(a)(14) of ERISA, ~~will~~**shall** be responsible for satisfying the legal obligations to the ~~Pension~~**Hourly and Salaried** Plans subsequent to the Closing Date, including the obligation to fund the ~~Pension~~**Hourly and Salaried** Plans pursuant to applicable law. It also provides that in the event that ~~any of the Pension Plans~~**either the Hourly Plan or the Salaried Plan or both** terminate subsequent to the assumption of the ~~Pension~~**Hourly and Salaried** Plans by the Plan Sponsor, the joint and several liability of the Plan Sponsor and of each and every member of its "controlled group" (as defined above) to the PBGC, if any, will not be affected by any provision of the Plan or by confirmation of the Plan.

Article 9.8(c) of the Plan provides that as of the Closing Date, the Plan Sponsor shall adopt and become the sponsor and employer for purposes of each and every Employee Benefit Plan set forth in section 8.3 of the Disclosure Schedule, including the ~~Pension~~**Hourly and Salaried** Plans, and shall be substituted for ASARCO or any of its Subsidiaries that had theretofore been the sponsor of such Employee Benefit Plan. Effective as of the Closing, the Plan Sponsor shall be responsible for all benefits and liabilities with respect to such Employee Benefit Plans, as such Employee Benefit Plans may be amended or modified from time to time by written agreement between the Plan Sponsor and the Unions after the Closing Date.

Pursuant to Article 9.8(d) of the Plan, with respect to each Transferred Employee (as such term is defined in the Plan Sponsor PSA) (including any beneficiary or the dependent thereof), all of ASARCO's liabilities and obligations arising under any Employee Benefit Plans and workers' compensation benefits, even if such liability or obligation relates to Claims incurred (whether or not reported or paid) prior to the Closing Date, shall be deemed to be, and shall be treated as though they are, executory contracts that are deemed assumed and assigned to the Plan Sponsor under the Plan pursuant to sections 365(a), 365(f), and 1123 of the Bankruptcy Code.

Article 9.8(e) of the Plan provides that, effective as of the Closing Date, the Plan Sponsor shall be responsible for providing coverage under ~~the Consolidated Omnibus Budget Reconciliation Act ("COBRA")~~**COBRA** to any Employee (as such term is defined in section 8.1 of the Plan Sponsor PSA), his or her spouse or dependent person as to whom a "qualifying event" as defined in section 4890B of the Internal Revenue Code has occurred (1) prior to the Closing Date in

the case of a "qualifying event" other than a termination of employment and (2) in the case of a termination of employment "qualifying event" on or prior to the Closing Date. ~~Purchaser~~**The Plan Sponsor** shall also be responsible for providing COBRA coverage to any Employee, his or her spouse or dependent person as to whom a "qualifying event" occurs on or after the Closing Date including for a "qualifying event" that is a termination of employment on the Closing Date.

Article 9.8(f) of the Plan provides that the Plan Sponsor shall assume and be responsible for all of ASARCO's obligations under the Coal Act, including the obligations (1) to provide retiree health benefits to eligible beneficiaries and their dependents pursuant to section 9711 of the Coal Act, 26 U.S.C. § 9711; (2) to pay the annual prefunding premium and the monthly per beneficiary premium required pursuant to section 9712(d)(1)(A) and (B) of the Coal Act, 26 U.S.C. § 9712(d)(1)(A) and (B); and (3) to provide security to the UMWA 1992 Benefit Plan pursuant to section 9712(d)(1)(C) of the Coal Act, 26 U.S.C. § 9712(d)(1)(C); *provided, however*, that the Plan Sponsor shall not be responsible for the Debtors' prepetition premium obligations arising under the Coal Act and a Claim for withdrawal liability arising under the United Mineworkers 1974 Pension Plan, which obligations shall be classified and treated as a Class 3 Trade and General Unsecured Claim.

Article 9.8(g) of the Plan provides that the Plan Sponsor shall assume and be responsible for all of ASARCO's obligations to pay retiree benefits, as defined in section 1114 of the Bankruptcy Court, pursuant to the CBA as amended by letter agreement entered into between the USW and the Plan Sponsor and dated June 23, 2008, which shall become effective on the Closing Date, and the retiree class action settlement agreement approved by the Bankruptcy Court by order dated March 15, 2007 (Docket No 4178), which settled the cause of action captioned *Asarco Incorporated et al. v. United Steelworkers of America, AFL-CIO/CLC, et al.*, No. CV-03-1297.

As a result of these provisions, virtually all pension and benefit liabilities of the Debtors will be assumed by the Plan Sponsor, except as it relates to the following pension and benefits-related Claims and obligations, which are not being assumed by the Plan Sponsor and shall be classified and treated as Class 3 Trade and General Unsecured Claims: (1) the prepetition obligations under the Coal Act and the United Mineworkers 1974 Pension Plan mentioned earlier; (2) the Claim for withdrawal liability arising under the United Mineworkers 1974 Pension Plan mentioned earlier; (3) deferred compensation obligations under ASARCO's deferred income benefit system plan, which covers several retired or separated former executives of the Debtors; (4) the individual pension supplement of certain separated former executives that transferred employment to ASARCO Incorporated (as predecessor to ASARCO) from Servicios de Apoyo Administrativo, S.A. de C.V. and dated July 1, 2002; and (5) the Canadian Pension Plan obligations discussed in section 2.16(i) of this Disclosure Statement.

(k) ~~(j)~~ Bonds and Assurances.

Article ~~9.10~~**9.9** of the Plan provides that, pursuant to section 7.9 of the Plan Sponsor PSA, prior to Closing, the Plan Sponsor shall (1) cause ASARCO to be fully, unconditionally, and irrevocably released and discharged from the Bonds and Assurances (as such term is defined in the Plan Sponsor PSA) including, without limitation, SPT Bond Nos. 394729 and 403998 and (2) replace the Bonds and Assurances or act as a substituted obligor, guarantor, or other counterparty to the Bonds and Assurances as required for the continued operation of the Business. The surety, performance, payment, and other bonds listed in section 2.2(j) of the Disclosure Schedule shall be retained by ASARCO and shall revest in Reorganized ASARCO on the Effective Date.

(l) ~~(k)~~ Post-Effective Date Status of the Committees and the FCR.

~~The~~**Article 16.5 of the Plan provides that the** Committees and the position of FCR shall continue in existence until the Effective Date, with the Debtors to pay the reasonable fees and expenses of the Committees and the FCR and their counsel and advisors through that date in accordance with the fee and expense procedures promulgated during the Reorganization Cases.

~~Article 16.5 of the Plan provides that on and after the Effective Date, the position of FCR shall continue pursuant to orders issued by the Bankruptcy Court during the Reorganization Cases, provided that the FCR thereafter shall have the functions and rights provided in the Asbestos Trust Documents.~~

~~On the Effective Date, the Committees shall be dissolved and the members, attorneys, accountants, and other professionals thereof shall be released and discharged of and from all further authority, duties, responsibilities, liabilities, and obligations related to, or arising from, the Reorganization Cases, except that~~**Notwithstanding the foregoing,** the Committees and the FCR shall continue in existence after the Effective Date for the duration of any appeal of the

Confirmation Order or any other order in which the Committees and the FCR have an interest~~. The~~**, *provided further,* that the** Committees and the FCR shall ~~also~~ have standing to participate in proceedings brought by their respective professionals or, if applicable, members for allowance of fees and reimbursement of expenses for services rendered during the pendency of the Reorganization Cases and for services rendered to the Committees ~~and~~**or** the FCR during the pendency of any appeal of the Confirmation Order or any other order in which the Committees and the FCR have an interest**.**

On and after the Effective Date, the position of FCR shall continue pursuant to orders issued by the Bankruptcy Court during the Reorganization Cases, provided that the FCR thereafter shall have and exercise the rights, duties, and responsibilities set forth in the Asbestos Trust Documents.

Except as provided above, the Committees shall be dissolved on the Effective Date, and the members, attorneys, accountants, and other professionals thereof shall be released and discharged of and from all further authority, duties, responsibilities, liabilities, and obligations related to, or arising from, the Reorganization Cases.

(m) ~~(l)~~ Effectuating Documents and Further Transactions.

Under Article 11.23 of the Plan, the chief executive officer, president, chief financial officer, general counsel, secretary, treasurer, any vice president, or managing member (if applicable) of each Debtor or Reorganized Debtor shall be authorized, to the extent consistent with the respective Debtor's constituent documents, to execute, deliver, file, or record such contracts, instruments, settlement agreements, releases, indentures, and other agreements or documents and to take or direct such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan. The secretary or any assistant secretary of each Debtor or Reorganized Debtor shall be authorized to certify or attest to any of the foregoing actions.

(n) ~~(m)~~ Debtors' Right to Modify the Plan.

As provided in Article 16.6 of the Plan, the Debtors may alter, amend, or modify the Plan under section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Date and expressly reserve their rights to amend this Plan and any Plan Documents as necessary in order to comply with the requirements of the Bankruptcy Code, including, without limitation, section 1129(a) and (b) of the Bankruptcy Code; *provided, however*, that ASARCO shall not, without the prior written consent of the Plan Sponsor, seek to amend or modify any provision of the Bid Protections Order, the Disclosure Statement, the Plan, or the Confirmation Order to effect a change in the terms and conditions of the transactions contemplated by the Plan Sponsor PSA which would reasonably be expected to have a material adverse effect on the Plan Sponsor (or the Plan Sponsor Parent) or on the ability of the Sellers and Plan Sponsor (and Plan Sponsor Parent) to consummate the transactions contemplated by the Plan Sponsor PSA within the time periods set forth in sections 7.7(a) and 12.1 thereof. After the Confirmation Date, the Debtors may, under section 1127(b) of the Bankruptcy Code, seek Bankruptcy Court approval to remedy any defects or omissions or reconcile any inconsistencies in the Plan or the Confirmation Order in such manner as may be necessary to carry out the purposes and intent of the Plan, so long as the proposed alteration, amendment, or modification does not adversely affect the treatment of Claims or Interests under the Plan and would not reasonably be expected to have a material adverse effect on the Plan Sponsor, the Plan Sponsor Parent, or ~~on~~ the ability to consummate the transactions contemplated by the Plan Sponsor PSA.

(o) ~~(n)~~ Debtors' Right to Revoke or Withdraw the Plan.

As provided in Article 16.7 of the Plan, the Debtors reserve the right to revoke or withdraw the Plan prior to the Confirmation Hearing and to file subsequent plans of reorganization. If the Debtors revoke or withdraw the Plan, or if Confirmation or Consummation does not occur, then (1) the Plan shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan, assumption or rejection of executory contracts or unexpired leases under the Plan, and any document or agreement executed pursuant to the Plan, shall be deemed null and void; and (3) nothing contained in the Plan shall (A) constitute a waiver or release of any Claims by or against, or Interests in, such Debtors or any other Person, (B) prejudice in any manner the rights of such Debtors or any other Person, or (C) constitute an admission of any sort by the Debtors or any other Person.

(p) ~~(o)~~ Rules Governing Conflicts Between Documents.

In the event of a conflict between the terms or provisions of the Plan and the Plan Documents, the terms of the Plan shall control over the Plan Documents. In the event of a conflict between the terms of the Plan or the Plan

Documents, on the one hand, and the terms of the Confirmation Order, on the other hand, the terms of the Confirmation Order shall control. In the event of a conflict between the information contained in this Disclosure Statement and the Plan or any other Plan Document, the Plan or other Plan Document (as the case may be) shall control.

(q) ~~(p)~~ Governing Law.

Article 16.14 of the Plan provides that, except to the extent that federal law (including, without limitation, the Bankruptcy Code and the Bankruptcy Rules) is applicable or the Plan provides otherwise, the rights and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Texas without giving effect to its conflicts of law principles.

(r) ~~(q)~~ Retention and Disposal of Retained Books and Records (Other than Asbestos Books).

Article 16.21 of the Plan provides that the Reorganized Debtors shall make all reasonable efforts to preserve the Retained Books and Records in the same order, format, and condition in which they exist on the Effective Date for 180 days after the Effective Date. After this 180-day period, the Plan Administrator, in consultation with the Litigation Trustees, may (in his, her, or its discretion, and without liability or recourse) dispose of any Retained Books and Records which he, she, or it determines are appropriate for disposal. The Plan Administrator shall provide the Litigation Trustees with a reasonable opportunity to segregate and remove, at the expense of the Litigation Trust, such Retained Books and Records as the Litigation Trustees may select. Any requests by parties in interest for copies or originals of any of the Retained Books and Records must be made in writing to the Reorganized Debtors on or before 60 days after the Effective Date. All such parties in interest shall reasonably cooperate with the Reorganized Debtors in regards to such requests for copying or permanent retention of any Retained Books and Records. Procedures for retention and disposal of Asbestos Books are set forth in Article 8.13 of the Plan.

3.20 Retention of Jurisdiction.

(a) Jurisdiction.

Article 16.1 of the Plan provides that until the Reorganization Cases are closed, the Bankruptcy Court (and with respect to the Permanent Channeling Injunction and the Asbestos Insurance Company Injunction, the District Court) shall retain the fullest and most extensive jurisdiction permissible, including, without limitation, the jurisdiction necessary:

- to ensure that the purposes and intent of the Plan are carried out;
- to enforce and interpret the terms and conditions of Plan Documents; and
- to enter such orders or judgments, including, without limitation, injunctions necessary to enforce the rights, title, and powers of a Debtor, a Reorganized Debtor, a Settling Asbestos Insurance Company, the Plan Sponsor, and other ASARCO Protected Party.

Except as otherwise provided in the Plan, the Bankruptcy Court shall retain jurisdiction to hear and determine all Claims against and Interests in any of the Debtors and to adjudicate and enforce all other causes of action that may exist on behalf of the Debtors. Nothing contained in the Plan shall prevent Reorganized ASARCO, the Plan Administrator, the Asbestos Trustees, or the Litigation Trustees (as appropriate) from taking such action as may be necessary in the enforcement of any cause of action that such Entity has or may have and that may not have been enforced or prosecuted by any of the Debtors, which cause of action shall survive entry of the Confirmation Order and occurrence of the Effective Date and shall not be affected thereby except as specifically provided in the Plan.

Article 16.2 of the Plan provides that the Asbestos Trust and the Environmental Custodial Trusts shall be subject to the continuing jurisdiction of the Bankruptcy Court in accordance with the requirements of section 468B of the Internal Revenue Code and the regulations issued pursuant thereto.

In addition to the general retention provided for in Articles 16.1 and 16.2 of the Plan, Article 16.3 of the Plan provides for the Bankruptcy Court to retain jurisdiction after Confirmation to:

(1) modify the Plan after entry of the Confirmation Order, pursuant to the provisions of the Plan, the Bankruptcy Code, and the Bankruptcy Rules;

(2) correct any defect, cure any omission, reconcile any inconsistency, or make any other necessary changes or modifications in or to the Plan, the Plan Documents, or the Confirmation Order as may be necessary to carry out the purposes and intent of the Plan;

(3) hear and determine any cause of action, and enter and implement such orders as may be necessary or appropriate, to execute, interpret, implement, consummate, or enforce the Plan, the Plan Documents, and the transactions contemplated thereunder;

(4) hear and determine disputes arising in connection with the execution, interpretation, implementation, consummation, or enforcement of the Plan, including, without limitation, the Plan Documents, and to enforce, including by specific performance, the provisions of the Plan and the Plan Documents;

(5) hear and determine disputes arising in connection with the execution, interpretation, implementation, consummation, or enforcement of the Plan Sponsor PSA, settlement agreements, asset purchase agreements, or other agreements entered into by the Debtors during the Reorganization Cases or to enforce, including by specific performance, the provisions of such agreements;

(6) enter and implement orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with the consummation or implementation of the Plan, including, without limitation, to issue, administer, and enforce injunctions, releases, assignments, transfers of property or property rights, or other obligations contained in the Plan and the Confirmation Order;

(7) assure the performance by Reorganized ASARCO, the Plan Administrator, and the Trustees of their respective obligations to make distributions under the Plan and other Plan Documents;

(8) enter such orders or judgments, including injunctions as necessary to enforce the title, rights, and powers of any of the Debtors, the Reorganized Debtors, the Plan Sponsor, the Plan Administrator, or the Trusts;

(9) hear and determine any and all motions, applications, or adversary proceedings brought by or against the Trusts related to (A) enforcement or interpretation of the Trust Documents and (B) amendment, modification, alteration, or repeal of any provision of the Trust Documents, if such hearing and determination by the Bankruptcy Court is required pursuant to the Plan;

(10) hear and determine any and all adversary proceedings, applications, and contested matters, including any remands after appeal;

(11) ensure that distributions to holders of Allowed Claims and Demands are accomplished as provided in the Plan;

(12) hear and determine any timely objections to or motions or applications concerning Claims or the allowance, classification, priority, compromise, setoff, estimation, or payment of any Claim, to the fullest extent permitted by the provisions of section 157 of title 28 of the United States Code;

(13) enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified, reversed, or vacated;

(14) hear and determine any motions, contested matters, or adversary proceedings involving taxes, tax refunds, tax attributes, tax benefits, and similar or related matters with respect to any of the Debtors, the Reorganized Debtors, the Plan Administrator, or the Trusts arising on or prior to the Effective Date,

arising on account of transactions contemplated by the Plan Documents, or relating to the period of administration of the Reorganization Cases;

(15) hear and determine all applications for compensation of Professional Persons and reimbursement of expenses under sections 330, 331, or 503(b) of the Bankruptcy Code;

(16) hear and determine any causes of action relating to any of the Debtors, the Reorganized Debtors, or the Trusts to the fullest extent permitted by section 157 of title 28 of the United States Code;

(17) hear and determine any cause of action in any way related to the Plan Documents or the transactions contemplated thereby, against any of the ASARCO Protected Parties;

(18) recover all assets of each of the Debtors and property of their respective Estates, wherever located, including actions under chapter 5 of the Bankruptcy Code;

(19) hear and determine any and all motions pending as of the Confirmation Date for the rejection, assumption, or assignment of executory contracts or unexpired leases and the allowance of any Claim resulting therefrom;

(20) hear and determine such other matters and for such other purposes as may be provided in the Confirmation Order;

(21) consider and act on the compromise and settlement of any Claim against, or Interest in, any of the Debtors or their respective Estates including, without limitation, any disputes relating to any Administrative Claims, any Bar Date, or Bar Date Order;

(22) hear and determine all questions and disputes regarding title to the assets of any of the Debtors, their respective Estates, or the Trusts;

(23) hear and determine any other matters related to the Plan, including the implementation and enforcement of all orders entered by the Bankruptcy Court in these Reorganization Cases;

(24) retain continuing jurisdiction with regard to the Asbestos Trust and each of the Environmental Custodial Trusts (including each of the Environmental Custodial Trust Accounts) sufficient to satisfy the requirements of Treas. Reg. section 1.468B-1;

(25) hear and determine any and all applications brought by the Asbestos Trustees to amend, modify, alter, or repeal any provision of the Asbestos Trust Agreement or the Asbestos TDP pursuant to the Asbestos Trust Agreement and to declare or resolve all issues or disputes contemplated by the Asbestos Trust Agreement;

(26) enter such orders as are necessary to implement and enforce the Injunctions; and

(27) hear and determine any other matter not inconsistent with the Bankruptcy Code and title 28 of the United States Code that may arise in connection with or related to the Plan.

(b) Exclusive Jurisdiction of District Court Over Certain Matters.

Under Article 16.4(a) of the Plan, the District Court shall, without regard to the amount in controversy, retain exclusive jurisdiction after Confirmation over matters relating to section 524(g) of the Bankruptcy Code and the Permanent Channeling Injunction and the Asbestos Insurance Company Injunction, including, without limitation, the validity, application, or construction of the Permanent Channeling Injunction and the Asbestos Insurance Company Injunction, or of section 524(g) of the Bankruptcy Code with respect to the Permanent Channeling Injunction and the Asbestos Insurance Company Injunction; *provided, however*, that, from and after the Effective Date, the jurisdiction of the District Court shall be non-exclusive with respect to any Asbestos Insurance Action or Asbestos Insurance Recovery. Nothing contained in the Plan shall be deemed a finding or conclusion that: (1) the Bankruptcy Court or District Court in fact have jurisdiction with respect to any Asbestos Insurance Action or Asbestos Insurance Recovery; (2) any such jurisdiction is exclusive with respect to any

Asbestos Insurance Action or Asbestos Insurance Recovery; or (3) abstention or dismissal or reference of actions effecting the transfer of jurisdiction of any Asbestos Insurance Action or Asbestos Insurance Recovery pending in the Bankruptcy Court or District Court to another court is precluded, inadvisable, or unwarranted. Any court other than the Bankruptcy Court or the District Court that has or is capable of having jurisdiction over any Asbestos Insurance Action or Asbestos Insurance Recovery shall have the right to exercise such jurisdiction.

Notwithstanding entry of the Confirmation Order or the occurrence of the Effective Date, the reference to the Bankruptcy Court pursuant to the Reference Order shall continue, but subject to Article 16.4 of the Plan and any other modifications or withdrawals of the reference specified in the Confirmation Order, the Reference Order, any case management order, or other order of the District Court.

3.21 The Parent's Contentions.

The Parent contends that this Disclosure Statement describes an unconfirmable Plan because (a) the Plan's treatment of Demands and Claims in Classes 5 and 9 violates the absolute priority rule; (b) the Plan's proposed release and exculpation provisions are improper; and (c) the proposed settlement of the Residual Environmental Claims and the Miscellaneous Federal and State Environmental Claims is prohibited by law. Specifically, the Parent asserts that uncapped recoveries from Litigation Proceeds to the holders of Residual Environmental Claims render the Debtors' Plan unconfirmable. If the Parent's legal and factual theories are correct, then there is a risk the Plan cannot be confirmed.

The Debtors believe their Plan complies with the provisions of Bankruptcy Code sections 1129(a) and (b) and should be confirmed.

Under section 1129 of the Bankruptcy Code, the asbestos and Residual Environmental Claimants may not receive more than payment in full under the terms of the settlements reached with those Classes. By the terms of the settlements, those Classes exchange the difficult-to-value asset of the interests in the Litigation Trust (which holds the underlying claims against the Parent and others) for the equally difficult-to-quantify unliquidated Claims asserted by those Classes. Thus, to satisfy section 1129, the Debtors need only prove that this exchange represents a reasonable compromise. Stated another way, the proposed settlements with the settling creditors are reasonable, and the Cash component of the settlements plus the value of the Litigation Trust Interests are equal to or less than the potential Allowed Amounts if the Claims were actually litigated. Therefore, under the Plan, the settling creditors will receive no more than the value the Bankruptcy Court determines is proper in order to satisfy the settled Claims and Demands. The terms and basis for these settlements are set forth in greater detail in Sections 2.19 and 2.20 above.

Persons wanting more information can review the estimation motion of the Parent and AMC [Docket No. 8865] and the Debtors' response to such motion [Docket No. 9201].

SECTION 4

THE LITIGATION TRUST

4.1 Creation of the Litigation Trust.

On the Effective Date, the Litigation Trust shall be created, as provided in the Litigation Trust Agreement, Prior to the Effective Date, the Litigation Trust Agreement may be amended to include new or different terms in order to comply with the requirements of the Bankruptcy Code, including, without limitation, section 1129(a) and (b) of the Bankruptcy Code.

4.2 Appointment of Litigation Trustee.

Not less than 10 days prior to the commencement of the Confirmation Hearing, ASARCO shall designate and provide biographical information regarding the Persons who shall initially serve as Litigation Trustees of the Litigation Trust. Upon approval by the Bankruptcy Court in the Confirmation Order, the Litigation Trustees shall be appointed.

ASARCO (if prior to the Effective Date) or the Asbestos Trustees (if after the Effective Date) shall designate the Person who shall initially serve as Delaware Trustee of the Litigation Trust.

The Litigation Trustees and the Delaware Trustee shall each have and perform all of the rights, powers, and duties set forth in the Litigation Trust Agreement.

If the holders of Allowed Claims in Classes 3, ~~4 (if the Debtors elect the Cash payment option),~~**4,** 6, 7, and 8 are not Paid in Full on the Effective Date, the ASARCO Committee may, at its option and expense, appoint a Consulting Representative to consult with the Litigation Trustees at such times and on such matters as the Consulting Representative shall reasonably request. The Consulting Representative's position shall terminate when Classes 3, ~~4 (if the Debtors elect the Cash payment option),~~**4,** 6, 7, and 8 are Paid in Full. For the avoidance of doubt, the Consulting Representative shall not be a Litigation Trustee and shall have none of the authority, rights, duties, or obligations of the Litigation Trustees.

4.3 Purpose of the Litigation Trust.

The Litigation Trust shall be established as a statutory trust for the purpose of pursuing the Litigation Trust Claims, liquidating all assets of the Litigation Trust for the benefit of the Litigation Trust Beneficiaries, receiving all Litigation Trust Claim recoveries, and distributing the resulting Litigation Proceeds and other Cash of the Litigation Trust to the Litigation Trust Beneficiaries after payment of all expenses of the Litigation Trust. The primary purpose of the Litigation Trust is to liquidate its assets, and the Litigation Trust shall have no objective or authority to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Litigation Trust. Accordingly, the Litigation Trustees shall, in an expeditious but orderly manner, prosecute, settle, or otherwise dispose of Litigation Trust Claims, make timely distributions in accordance with the terms of the Litigation Trust Agreement, and not unduly prolong the Litigation Trust's duration.

4.4 Transfer of Litigation Trust Claims to the Litigation Trustees.

On the Effective Date, the Debtors shall transfer to the Litigation Trustees for the benefit of the Litigation Trust Beneficiaries (a) all of the Debtors' respective rights, title, and interests in the Litigation Trust Claims free and clear of any and all Liens, Claims, encumbrances, or interests of any kind in such property of any other Person or Entity**, other than Liens or encumbrances arising under the Bankruptcy Code or other applicable law**; (b) all of the Debtors' rights, title, and interest in the Debtors' Privileges associated with the Litigation Trust Claims; (c) the Litigation Expense Fund in an amount sufficient to fund the operations of the Litigation Trust; and (d) all documents in the Debtors' possession, custody, or control in connection with the Litigation Trust Claims.

4.5 The Litigation Trust.

The Litigation Trust Agreement, substantially in the form of **Exhibit 4** to the Plan, contains provisions customary to trust agreements utilized in comparable circumstances, including, without limitation, provisions to ensure the continued existence of the Litigation Trust as a grantor trust and the Litigation Trust Beneficiaries (and any other Claimants that may be entitled to receive distributions from the Litigation Trust) as the grantors and owners thereof for federal income tax purposes. The Debtors, the Litigation Trustee, the Litigation Trust Beneficiaries (and any other Claimants that may be entitled to receive distributions from the Litigation Trust), and the Delaware Trustee shall execute any document or other instruments as necessary to cause all of the Debtors' respective rights, title, and interests in and to the Litigation Trust Claims to be transferred to the Litigation Trust.

The Litigation Trustees shall have full authority to take any steps necessary to administer the Litigation Trust Claims, including, without limitation, the duty and obligation to liquidate the Litigation Trust Claims. Without limitation~~,~~, the Litigation Trustees may object pursuant to section 502(d) of the Bankruptcy Code to any Proof of Claim filed by a defendant in any of the Litigation Trust Claims. Both the Reorganized Debtors and the Litigation Trustees shall have the right to prosecute objections to any Proof of Claim filed a defendant in any of the Litigation Trust Claims.

All costs and expenses associated with the administration of the Litigation Trust shall be the responsibility of and paid by the Litigation Trust. Notwithstanding the foregoing, Reorganized ASARCO, the Plan Administrator, and the Plan Sponsor shall cooperate with the Litigation Trustees in pursuing the Litigation Trust Claims and shall provide reasonable access to personnel and books and records of Reorganized ASARCO, the Plan Administrator, and the Plan Sponsor relating to the Litigation Trust Claims to representatives of the Litigation Trust to enable the Litigation Trustees to perform the Litigation Trustees' tasks under the Litigation Trust Agreement and the Plan; provided that the Plan Sponsor's cooperation in

that regard shall be subject to the terms and conditions of the Transition Services Agreement or the Plan Sponsor PSA, as applicable, and any requests to obtain access to the Plan Sponsor's personnel or books and records shall be made through Reorganized ASARCO or its representatives.

The Litigation Trustees may retain such law firms, accounting firms, experts, advisors, consultants, investigators, appraisers, agents, employees, or other professionals and third parties as they may deem necessary **or appropriate** and at the sole expense of the Litigation Trust, to aid in the performance of the Litigation Trustees' responsibilities pursuant to the terms of the Plan including, without limitation, the liquidation and distribution of Litigation Trust Claims.

For federal income tax purposes, the Litigation Trust Beneficiaries (and any other Claimants that may be entitled to receive distributions from the Litigation Trust) shall be treated as grantors and owners of the Litigation Trust, and it is intended that the Litigation Trust be classified as a liquidating trust under section 301.7701-4(d) of the Treasury Regulations and that such trust is owned by the Litigation Trust Beneficiaries (and any other Claimants that may be entitled to receive distributions from the Litigation Trust). Accordingly, for federal income tax purposes, **the Debtors intend that** all parties (including ~~the Debtors, Reorganized ASARCO~~**, without limitation**, the Litigation Trustees, ~~AMC and its Affiliates,~~ the Litigation Trust Beneficiaries, and ~~any other Claimants that may be entitled to receive distributions from~~**the transferors, for tax purposes, of any assets transferred to** the Litigation Trust) shall take the position, subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary, that the transfer of assets to the Litigation Trust is a deemed transfer to the Litigation Trust Beneficiaries (and any other Claimants that may be entitled to receive distributions from the Litigation Trust), followed by a deemed transfer by the Litigation Trust Beneficiaries (and any other Claimants that may be entitled to receive distributions from the Litigation Trust) to the Litigation Trust, and all income and gain of the Litigation Trust which is earned after such deemed transfer shall be taxed to the Litigation Trust Beneficiaries (and any other Claimants that may be entitled to receive distributions from the Litigation Trust) on a current basis. In addition, the investment powers of the Litigation Trustees shall be limited to those powers that are consistent with the treatment of the Litigation Trust as a liquidating trust.

The fair market value of the portion of the Litigation Trust assets that is treated for federal income tax purposes as having been transferred to each Litigation Trust Beneficiary (and any other Claimants that may be entitled to receive distributions from the Litigation Trust) as described in the preceding paragraph shall be determined by the Litigation Trustees, and all parties (including ~~the Debtors, Reorganized ASARCO~~**, without limitation**, the Litigation Trustees, ~~AMC and its Affiliates,~~ the Litigation Trust Beneficiaries, ~~and~~ any other Claimants that may be entitled to receive distributions from **the Litigation Trust, and the transferors, for tax purposes, of any assets transferred to** the Litigation Trust) shall utilize such fair market value determined by the Litigation Trustees for all federal income tax purposes.

The Litigation Trustees shall be responsible for filing all federal, state, and local tax returns for the Litigation Trust. The Litigation Trustees shall comply with all withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority, and all distributions made by the Litigation Trustees shall be subject to any such withholding and reporting requirements. Any amount so withheld from a distribution to a Claimant or other distributee of the Litigation Trust shall be treated as having been paid to, and received by, such distributee for purposes of the Plan and the Plan Documents.

Any items of income, deduction, credit, or loss of the Litigation Trust shall be allocated by the Litigation Trustees for federal income tax purposes among the Litigation Trust Beneficiaries (and any other Claimants that may be entitled to receive distributions from the Litigation Trust), such allocation shall be binding on all parties for all federal, state, and local income tax purposes and the Litigation Trust Beneficiaries (and any other Claimants that may be entitled to receive distributions from the Litigation Trust) shall be responsible for the payment of any federal, state, and local income tax due on the income and gain so allocated to them.

In the event that one or more of the Debtors obtains approval, pursuant to Bankruptcy Rule 9019, of a settlement prior to the Effective Date of a cause of action that would have been transferred to the Litigation Trust on the Effective Date, the proceeds of the settlement shall be distributed to the Litigation Trust Beneficiaries in the same manner as the Litigation Trust Interests (*i.e.*, 50 percent to the Asbestos Trust and 50 percent to holders of Allowed Class 9 Residual Environmental Claims, subject to payment of the Class 3, 4, 6, 7, and 8 Litigation Proceeds and the Asbestos Trust's Priority Litigation Proceeds in accordance with Article 6.7 of the Plan). In the event of such a settlement, the Debtors that are parties to the settlement shall hold the proceeds in escrow for distribution on the Effective Date.

4.6 Litigation Trust Interests.

(a) Distributions of Litigation Trust Interests.

On the Initial Distribution Date, the Litigation Trustees shall distribute 50 Litigation Trust Interests to the Asbestos Trust~~,~~ **and shall distribute the remaining 50** Litigation Trust Interests **pro rata** to the United States, ~~Litigation Trust Interests to~~ the State of Washington, and ~~Litigation Trust Interests to~~ the Environmental Custodial Trust established pursuant to this Plan for the Coeur d'Alene Basin, Idaho site.

(b) Interests Beneficial Only.

The ownership of a Litigation Trust Interest shall not entitle any Litigation Trust Beneficiary to (1) any title in or to the assets of the Litigation Trust as such (which title shall be vested in the Litigation Trustees) or to any right to call for a partition or division of the assets of the Litigation Trust or to require an accounting; or (2) any voting rights with respect to the administration of the Litigation Trust and the actions of the Litigation Trustees in connection therewith.

(c) Maintenance of Register.

The Litigation Trustees shall at all times maintain the Trust Register of the names, addresses, and number of Litigation Trust Interests of the Litigation Trust Beneficiaries.

(d) Evidence of Litigation Trust Interests.

Ownership of a Litigation Trust Interest shall not be evidenced by any certificate, security, or receipt or in any form or manner, other than by a book entry in the Trust Register.

4.7 Distributions of Litigation Proceeds and Other Property.

The Litigation Trustees shall apply all Litigation Proceeds, any proceeds therefrom, and any other Cash of the Litigation Trust in the following order: first, to pay all costs and expenses of the Litigation Trust to the extent not paid by or from the Litigation Expense Fund, including, without limitation, compensation payable to the Litigation Trustees; second, to make payments ~~(if any)~~**to Classes 5 and 9 until the Class 5 and Class 9 Primary Payment has been fully paid; third, to make payments** to holders of Class 3, ~~4 (if the Debtors make the Cash payment election),~~**4,** 6, 7, and 8 Claims until ~~such Claimants are Paid in Full~~**the Pro Rata Post-Petition Interest Payment has been fully paid** (from either Available Plan Funds or Litigation Proceeds); ~~third~~**fourth**, to pay $100 million to the Asbestos Trust; and finally, to pay any remaining amounts ratably to the holders of Litigation Trust Interests**; *provided, however*, that if the Litigation Expense Fund has funds remaining after the payment of all of the Litigation Trust's expenses, such remaining funds shall be paid to holders of Claims and Interests in the same manner provided in Article 11.2(f) of the Plan**.

4.8 Subrogation Rights of the Litigation Trust.

The Litigation Trust shall be subrogated to the rights of any Class 3, 4, 6, 7, and 8 Claimants to the extent of any Class 3, 4, 6, 7, and 8 Litigation Proceeds paid to such Claimants.

~~If Litigation Proceeds are used to pay a portion of the Class 3, 4, 6, 7, and 8 Principal Payment, the Litigation Trust shall be entitled to Available Plan Funds, to the extent of any such payment of the Class 3, 4, 6, 7, and 8 Litigation Proceeds, after the Class 3, 4, 6, 7, and 8 Principal Payment is paid in its entirety, but prior to any distribution to Classes 5 and 9 of the Class 5 and Class 9 Primary Payment.~~ If Litigation Proceeds are used to pay a portion of the Pro Rata Post-Petition Interest Payment, the Litigation Trust shall be entitled to Available Plan Funds, to the extent of any such payment of the Class 3, 4, 6, 7, and 8 Litigation Proceeds, after the Pro Rata Post-Petition Interest Payment is paid in its entirety, but prior to any distribution to Classes 5 and 9 on the Class 5 and Class 9 Supplemental Distribution.

4.9 Termination of the Litigation Trust.

The Litigation Trust shall terminate on the earlier of: (a) 30 days after the distribution of all of the assets of the Litigation Trust in accordance with the terms of the Litigation Trust Agreement and the Plan; and (b) the fifth anniversary of the Effective Date; *provided, however,* that, on or prior to a date not less than three months (or more than six

months) prior to such termination, the Bankruptcy Court, upon motion by a party in interest, may extend the term of the Litigation Trust for a finite period if, based on the facts and circumstances, such extension is necessary to facilitate or complete the liquidation of the assets of the Litigation Trust. The Bankruptcy Court may approve multiple extensions of the term of the Litigation Trust; provided that (x) any such extension is so approved on or prior to a date not less than three months (or more than six months) prior to termination of the immediately preceding extended term and (y) the Litigation Trustees receive an opinion of counsel or a favorable ruling from the IRS that any further extension would not adversely affect the status of the Litigation Trust as a grantor trust for federal income tax purposes.

The Litigation Trustees shall not unduly prolong the duration of the Litigation Trust and shall at all times endeavor to resolve, settle, or otherwise dispose of all of the Litigation Trust Claims and to effect the distribution of the assets of the Litigation Trust to the holders of the Litigation Trust Interests in accordance with the terms of the Plan and terminate the Litigation Trust as soon as practicable.

4.10 Termination of the Litigation Trustees and the Delaware Trustee.

The duties, responsibilities, rights, and obligations of the Litigation Trustees and the Delaware Trustee for the Litigation Trust shall terminate in accordance with the terms of the Litigation Trust Agreement.

SECTION 5

THE ENVIRONMENTAL CUSTODIAL TRUSTS

5.1 Creation of Environmental Custodial Trusts. On the Effective Date, separate Environmental Custodial Trusts shall be created, as provided in the Environmental Custodial Trust Agreements.

The El Paso smelter property and Amarillo zinc refinery property shall be transferred to a separate Environmental Custodial Trust to be funded in the total amount of $52,080,000 (including costs of administration). The Debtors agree that within 40 days prior to the Confirmation Hearing, they will file with the Bankruptcy Court the Texas Environmental Custodial Trust Agreement and any related settlement agreement, and that those agreements will address and disclose: (a) whether the transfer of the air permit to the Environmental Custodial Trust will be pursued and what will be done with the air permit; (b) whether or not the Environmental Custodial Trustee will have the right to try and operate the El Paso smelter or sell the smelter as an operating facility; (c) the acreage and legal description of the real property to be transferred into the Environmental Custodial Trust; (d) the personal property and any contracts to be transferred into the Environmental Custodial Trust; (e) the duties, rights, and responsibilities of the Environmental Custodial Trustee with respect to cleanup of and ultimate disposition of the smelter. The related settlement agreement will address any remaining obligations with respect to the El Paso metals site. Within 10 days prior to the Confirmation Hearing, the Debtors agree to file with the Bankruptcy Court the identity and qualifications of the proposed trustee for the Environmental Custodial Trust.

The Montana properties listed on Exhibit 10 to the Plan shall be transferred to a separate Environmental Custodial Trust to be funded with $138.3 million (including costs of administration).

5.2 Appointment of Environmental Custodial Trustees.

Not less than 10 days prior to the commencement of the Confirmation Hearing, ASARCO shall designate and provide biographical information regarding the Persons who shall initially serve as Environmental Custodial Trustees. Upon approval by the Bankruptcy Court in the Confirmation Order, the Environmental Custodial Trustees shall be appointed.

Each Environmental Custodial Trustee shall have and perform all of the duties, responsibilities, rights, and obligations set forth in the relevant Environmental Custodial Trust Settlement Agreement and Environmental Custodial Trust Agreement.

5.3 Purpose of the Environmental Custodial Trusts.

The purpose of each of the Environmental Custodial Trusts shall be as set forth in the applicable Environmental Custodial Trust Settlement Agreement and Environmental Custodial Trust Agreement, but shall include: (a) owning the applicable Designated Properties in the trust's particular state or states and carrying out administrative and

property management functions relating to such properties; (b) conducting or funding future environmental actions related to those Designated Properties; (c) implementing the terms of any applicable Environmental Custodial Trust Settlement Agreements; and (d) selling, transferring, or otherwise disposing of the applicable Designated Properties.

5.4 Transfer of Environmental Custodial ~~Trusts~~**Trust** Assets.

On the Effective Date, all of the Debtors' respective rights, title, and interests in and to the Environmental Custodial Trust Assets shall be transferred to the respective Environmental Custodial Trusts, free and clear of all Claims against the Estate other than any liability to Governmental Units as provided in the Environmental Custodial Trust Agreements, but subject to any *in rem* Claims other than Liens for the payment of monetary Claims such as property taxes or other monetary Claims asserted or that could have been asserted in the Reorganization Cases. The Environmental Custodial Trusts shall each succeed to the Debtors' respective rights, title, and interests in and to the Environmental Custodial Trust Assets being transferred to such trust pursuant to the applicable Environmental Custodial Trust Settlement Agreement. The Reorganized Debtors shall have no responsibility or involvement with respect to the Environmental Custodial Trusts once they are established and funded in accordance with the Plan.

All or any part of the Environmental Custodial Trust Assets placed into an Environmental Custodial Trust may be sold, transferred, or otherwise disposed of by such trust with the approval of the United States and the state in which the property is located, if such state is a beneficiary under the applicable Environmental Custodial Trust, and the proceeds shall be used as provided in the applicable Environmental Custodial Trust Settlement Agreement; *provided*, *however*, that no such approval shall be required for the sale of the Globe, Colorado property under the sales contract transferred to the applicable Environmental Custodial Trust, pursuant to the terms of such contract, other than as required under such contract.

Mitsui asserts that any silver located at the El Paso smelter or the East Helena, Montana facility shall remain subject to Mitsui's asserted lien on silver inventory and the proceeds thereof until its asserted Secured Claim is paid in full or disallowed. The Debtors acknowledge that residual process materials in process units at these sites may contain trace amounts of silver, but dispute that such silver is subject to a lien in favor of Mitsui. The Debtors and Mitsui specifically reserve all rights and remedies that each may have concerning any silver located at the El Paso smelter or the East Helena, Montana facility.

The Reorganized Debtors shall have no responsibility or involvement with respect to the Environmental Custodial Trusts once they are established and funded in accordance with the Plan.

5.5 The Environmental Custodial Trusts.

On the Effective Date, the Environmental Custodial Trusts shall be established and become effective. All Entities (including the Debtors and the Environmental Custodial Trustees) shall execute any document or other instruments as necessary to cause all of the Debtors' respective rights, title, and interests in and to the Designated Properties to be transferred to the appropriate Environmental Custodial Trusts.

~~The~~**Each of the** Environmental Custodial Trustees shall have full authority to take any steps necessary to administer the applicable Designated Properties in such trustee's particular state or states.

5.6 Environmental Custodial Trust Funding.

On the Effective Date, the Environmental Custodial Trusts shall be funded by the Debtors' deposit of the Environmental Custodial Trust Funding in the Custodial Trust Environmental Cost Accounts and the Environmental Custodial Administration Funding in the Custodial Trust Administrative Accounts established by the Environmental Custodial Trusts pursuant to the terms of the Environmental Custodial Trust Agreements.

5.7 Environmental Custodial Trust Settlement Agreements.

The Environmental Custodial Trust Settlement Agreements relating to the Designated Properties are ~~attached to the Plan as **Exhibit 12-A-1** to **Exhibit 12-A-3** and are~~ subject to a public comment period under applicable Environmental Laws. If the Debtors reach additional settlement agreement(s) with the EPA and other applicable Environmental Agencies with respect to treatment under the Plan of additional Designated Properties or any part thereof, the

Debtors shall file such settlement agreement(s) with the Bankruptcy Court and seek approval thereof at the Confirmation Hearing.

~~[The Environmental Custodial Trust Settlement Agreements shall have covenants not to sue, similar to other settlements in the Reorganization Cases. The covenants not to sue shall include, but not be limited to, the liabilities and other obligations asserted in any Proofs of Claim and other pleadings filed in the Bankruptcy Court by the United States or the states relating to the applicable Designated Properties.~~ The Environmental Custodial Trust Settlement Agreements shall be submitted for public comments under federal Environmental Law and, where applicable, state Environmental Law of the ~~particular~~ state in which the applicable Designated Property is located. ~~The Environmental Custodial Trust Settlement Agreements shall determine how the Environmental Custodial Trusts shall be operated by the Environmental Custodial Trustees, and the role of the United States and the relevant state in approving funding of remediation and restoration for the duration of the trusts.]~~

5.8 Not an Owner or Operator.

Neither Reorganized ASARCO, the United States, any individual state, nor the Plan Sponsor shall be or be deemed to be an owner, operator, trustee, partner, agent, shareholder, officer, or director of any of the Environmental Custodial Trusts, or an owner or operator of the Designated Properties.

5.9 Tax Treatment of the Environmental Custodial Trusts.

The Environmental Custodial Trusts shall each seek to be treated as a "qualified settlement fund" as that term is defined in Treasury Regulation section 1.468B-1, and the Environmental Custodial Trustees shall be the "administrators" of their respective Environmental Custodial Trusts pursuant to Treasury Regulation section 1.468B-2(k)(3). No election shall be made to treat the Environmental Custodial Trusts as grantor trusts. The Environmental Custodial Trustees shall not elect to have such funds treated as grantor trusts. The Environmental Custodial Trusts shall be treated as separate taxable entities. The Environmental Custodial Trustees shall cause all taxes imposed on the earnings of their respective Environmental Custodial Trusts to be paid out of such earnings and shall comply with all tax reporting and withholding requirements imposed on the Environmental Custodial Trusts under applicable tax laws. Any amounts so withheld from payments made by the Environmental Custodial Trusts to a payee shall be treated as having been paid to, and received by, such payee for purposes of the Plan and the Plan Documents.

5.10 Termination of the Environmental Custodial Trusts; Reallocation of Funding.

Upon an Environmental Custodial Trust's completion of all final actions and disbursement of all final costs with respect to a Designated Property, any funds held by that trust in a custodial trust account for that Designated Property shall be transferred as provided in the applicable Environmental Custodial Trust Agreement: (a) first, in accordance with instructions provided by the DOJ and the state in which such Designated Property was located, to the custodial trust account established under such Environmental Custodial Trust for other Designated Properties in that state with remaining actions to be performed and a need for additional trust funding; (b) second, in accordance with instructions provided by the DOJ after consultation with the applicable states, to one or more custodial trust accounts established under such Environmental Custodial Trust or another Environmental Custodial Trust for Designated Properties in other states with remaining actions to be performed and a need for additional trust funding; and (c) third, to the Superfund. In addition, the DOJ and the state in which a Designated Property is located may agree in writing at any time after one year from the Effective Date that based on new information about the estimated cost of cleanup or administration or the assumption of liability by a buyer or other party for a Designated Property, the funding in a Custodial Trust Environmental Cost Account or a Custodial Trust Administrative Account is more than is conservatively projected to be needed. Upon such agreement, the DOJ after consultation with the states may direct the transfer of any such excess funding to one or more of the other Environmental Custodial Trust Accounts established under the Environmental Custodial Trusts with a need for additional trust funding.

5.11 Termination of the Environmental Custodial Trustees.

The duties, responsibilities, rights, and obligations of each Environmental Custodial Trustee shall terminate in accordance with the terms of the applicable Environmental Custodial Trust Agreement.

SECTION 6
THE ASBESTOS TRUST

6.1 Creation of the Asbestos Trust.

On the Effective Date or such earlier date as the Debtors deem appropriate, the Asbestos Trust shall be created, as provided in the Asbestos Trust Agreement.

6.2 Appointment of Asbestos Trustees.

Not less than 10 days prior to the commencement of the Confirmation Hearing, ASARCO shall designate and provide biographical information regarding the Persons who shall initially serve as the Asbestos Trustees. Upon approval by the Bankruptcy Court in the Confirmation Order, the Asbestos Trustees shall be appointed.

ASARCO (if prior to the Effective Date) or the Asbestos Trustees (if after the Effective Date) shall designate the Person who shall initially serve as the Delaware Trustee for the Asbestos Trust.

The Asbestos Trustees and the Delaware Trustee shall each have and perform all of the rights, powers, and duties set forth in the Asbestos Trust Agreement.

6.3 Purpose of the Asbestos Trust.

The purposes of the Asbestos Trust shall be, among other things, to (a) liquidate, resolve, pay, and satisfy all Unsecured Asbestos Personal Injury Claims and Demands in accordance with this Plan, the Asbestos Trust Agreement, Asbestos TDP, and the Confirmation Order, (b) receive, preserve, hold, manage, and maximize the Asbestos Trust Assets for use in paying and satisfying Allowed Unsecured Asbestos Personal Injury Claims and Demands in accordance with the terms of the Asbestos Trust Agreement, and (c) take other actions deemed by the Asbestos Trustees to be in the best interest of the holders of the Unsecured Asbestos Personal Injury Claims and Demands, who are the sole beneficiaries of the Asbestos Trust.

Among other things, the Asbestos Trust shall assume the liabilities and responsibility for Unsecured Asbestos Personal Injury Claims and Demands. To do this, the Asbestos Trust shall use the Asbestos Trust Assets and income to pay all Unsecured Asbestos Personal Injury Claims and Demands in accordance with the Asbestos Trust Agreement and the Asbestos TDP in such a way that all holders of Unsecured Asbestos Personal Injury Claims and Demands are treated fairly, equitably, and reasonably in light of the finite assets available to satisfy such Claims, and to otherwise comply in all respects with the requirements of a trust set forth in section 524(g)(2)(B) of the Bankruptcy Code.

A copy of the Asbestos Trust Agreement, in substantially the form that shall be executed, is attached as ***Exhibit 6*** *to the Plan.*

6.4 The FCR.

On and after the Effective Date, Judge Robert C. Pate shall serve as the FCR, as such term is defined in the Asbestos Trust Agreement, and shall have and exercise the functions, rights, duties, powers, and privileges provided in the Asbestos Trust Documents.

6.5 Asbestos TAC.

The initial members of the Asbestos TAC shall be those Persons named in the Confirmation Order. They shall serve in a fiduciary capacity representing all holders of Unsecured Asbestos Personal Injury Claims, in accordance with the provisions of the Asbestos Trust Documents. **They shall consult with and advise the Asbestos Trustees regarding the administration of the Asbestos Trust and the liquidation and resolution of Unsecured Asbestos Personal Injury Claims in accordance with the provisions of this Plan and the Asbestos Trust Documents.**

The initial members of the Asbestos TAC shall be selected from among the lawyers representing the members of the Asbestos Claimants' Committee and other law firms representing holders of Unsecured Asbestos Personal Injury Claims and Demands. The Debtors shall file with the Bankruptcy Court no later than 10 days prior to the

commencement of the Confirmation Hearing the names and biographical information of the nominated candidates, and such nominations shall be subject to the approval of the Bankruptcy Court at the Confirmation Hearing. In the event that any of the initial members resigns, all successor members shall be appointed in accordance with the Asbestos Trust Agreement.

6.6 Transfers and Assignments to the Asbestos Trustees.

~~On~~**As described in Article 8.6 of the Plan, on** the Effective Date, the Debtors shall transfer and assign**, without limitation,** to the Asbestos Trust for the benefit of the Asbestos Trust Beneficiaries all of the Debtors' respective rights, title, and interests in the Asbestos Trust Assets.

6.7 Asbestos Books.

(a) Transfer or Inspection and Copying of Asbestos Books.

Subject to the conditions set forth in the Plan, the Asbestos Trust, through its duly authorized representatives, shall have the right, upon reasonable prior written notice to Reorganized ASARCO: (1) to have Reorganized ASARCO transfer into the Asbestos Trust's possession all or part of the Asbestos Books in their current condition upon request of the Asbestos Trust and on the condition that the Asbestos Trust shall pay all costs and expenses of the transfer or (2) to inspect and, at the sole expense of the Asbestos Trust, make copies of the Asbestos Books during business hours on any Business Day and as often as may reasonably be desired; provided that, if so requested, the Asbestos Trust shall have entered into a confidentiality agreement satisfactory in form and substance to Reorganized ASARCO.

(b) Costs and Expenses.

All costs and expenses associated with the storage of and access to the Asbestos Books shall be the responsibility of, and paid by, (1) the Plan Administrator for any Asbestos Books that remain in Reorganized ASARCO's possession; and (2) the Asbestos Trust for any Asbestos Books that are transferred into the Asbestos Trust's possession. All costs and expenses of access to any Asbestos Books that are transferred to the Plan Sponsor shall be paid by the Plan Administrator.

(c) Access to Asbestos Books and Personnel.

Reorganized ASARCO, the Plan Administrator, and the Plan Sponsor shall cooperate with the Asbestos Trust in transferring or providing access to the Asbestos Books in their current condition, and shall also provide reasonable access to necessary or appropriate personnel and the Asbestos Books as contemplated in the Plan; provided that the Plan Sponsor's cooperation in that regard shall be subject to the terms and conditions of the Transition Services Agreement or the Plan Sponsor PSA, as applicable, and any requests made to the Plan Sponsor regarding the transfer or access to the Asbestos Books or access to the Plan Sponsor's personnel shall be made through Reorganized ASARCO or its representatives. Subject to the conditions set forth in the Plan, the Asbestos Trust, through its duly authorized representatives, shall also have the right, upon reasonable prior written notice, to conduct reasonable interviews of employees and other representatives of Reorganized ASARCO concerning matters reasonably related to the Asbestos Books.

(d) Disposition of Asbestos Books.

Reorganized ASARCO shall provide the Asbestos Trust with advance notice of any proposed disposition of any of the Asbestos Books and a reasonable opportunity for the Asbestos Trust to segregate and remove at the expense of the Asbestos Trust, such Asbestos Books as the Asbestos Trust may select.

(e) Privileged Documents or Communications.

If the Asbestos Trust obtains from Reorganized ASARCO or its representatives any documents or communications (whether electronic, written, or oral) to which any attorney-client, work-product privilege, or other privilege or immunity attaches, the Asbestos Trust shall be deemed ~~an agent of~~ the privilege holder for purposes of **fulfilling the Asbestos Trust obligations and** preserving the privilege, shall be required to take all reasonable steps to maintain any such privilege, and may not waive any such privilege without the consent of Reorganized ASARCO**, which consent shall not be unreasonably withheld**. Production of materials to the Asbestos Trust does not constitute a waiver or an impairment of any privilege held by Reorganized ASARCO, Reorganized Covington, or any of the Debtors. In the event that any third party

challenges any such privilege, Reorganized ASARCO or the Asbestos Trustees may seek protection from a court of competent jurisdiction. References in this Section 6.7 to Reorganized ASARCO shall also include its successors in interest.

6.8 Control of the Asbestos Insurance Actions and Asbestos Insurance Recoveries.

The right to control the Asbestos Insurance Actions and all Asbestos Insurance Recoveries, including negotiations relating thereto and settlements thereof, shall be vested in the Asbestos Trust on and after the Effective Date. Notwithstanding the foregoing, Reorganized ASARCO, the Plan Administrator, and the Plan Sponsor shall cooperate with the Asbestos Trustees in pursuing the Asbestos Insurance Actions, and shall provide reasonable access to personnel and books and records of Reorganized ASARCO and the Plan Sponsor relating to the Asbestos Insurance Actions to representatives of the Asbestos Trust to enable the Asbestos Trustees to perform the Asbestos Trustees' tasks under the Asbestos Trust Agreement and the Plan, as is discussed in Article 8.13 of the Plan in regards to Reorganized ASARCO; provided that the Plan Sponsor's cooperation in that regard shall be subject to the terms and conditions of the Transition Services Agreement or the Plan Sponsor PSA, as applicable, and any requests to obtain access to the Plan Sponsor's personnel, books, and records shall be made through Reorganized ASARCO or its representatives.

6.9 Assumption of Liabilities.

Pursuant to Article 8.9 of the Plan, upon the occurrence of the Effective Date, in exchange for the funding in accordance with Article 11.6 of the Plan, the Asbestos Trust shall be deemed, without need for further action, to have assumed responsibility and liability for all Unsecured Asbestos Personal Injury Claims and Demands.

6.10 Cooperation with Respect to Insurance Matters.

Reorganized ASARCO and the Plan Sponsor shall cooperate with the Asbestos Trust and use commercially reasonable efforts to take or cause to be taken all appropriate actions and to do or cause to be done all things necessary or appropriate to effectuate all transfers and assignments identified in the Plan to the Asbestos Trust; provided that the Plan Sponsor's cooperation in that regard shall be subject to the terms and conditions of the Transition Services Agreement or the Plan Sponsor PSA, as applicable, and any requests made to the Plan Sponsor under Article 8.14 of the Plan shall be made through Reorganized ASARCO or its representatives. Reorganized ASARCO shall, without limitation, (a) provide the Asbestos Trust with copies of insurance policies and settlement agreements included within or relating to the Unsecured Asbestos Personal Injury Claims and Demands; (b) provide the Asbestos Trust with information necessary or helpful to the Asbestos Trust in connection with its efforts to obtain insurance coverage for the Asbestos Personal Injury Claims and Demands as well as other recoveries from an Asbestos Insurance Company, in its capacity as such, including, without limitation, recoveries of extracontractual damages; (c) execute assignments or allow the Asbestos Trust to pursue claims in its own name (subject to appropriate disclosure of the fact that the Asbestos Trust is doing so and the reasons why it is doing so), including by means of arbitration, alternative dispute resolution proceedings, or litigation, to the extent necessary or helpful to the efforts of the Asbestos Trust to obtain insurance coverage for the Asbestos Personal Injury Claims and Demands as well as other recoveries from an Asbestos Insurance Company, in its capacity as such, including, without limitation, recoveries of extracontractual damages; and (d) pursue and recover insurance coverage for the Asbestos Personal Injury Claims and Demands as well as other recoveries from an Asbestos Insurance Company, in its capacity as such, including, without limitation, recoveries of extracontractual damages, in its own name or right to the extent that any or all of the transfers and assignments identified in the Plan are not able to be fully effectuated, with any and all recoveries therefrom to be turned over to the Asbestos Trust. The Asbestos Trust shall be obligated to compensate the Reorganized ASARCO for all costs and expenses reasonably incurred in connection with providing assistance to the Asbestos Trust under Article 8.14 of the Plan, including, without limitation, out-of-pocket costs and expenses, consultant fees, and attorneys' fees.

6.11 How Unsecured Asbestos Personal Injury Claims and Demands Shall Be Liquidated and Paid Under the Asbestos TDP.

The Asbestos TDP shall control liquidation and payment of all Unsecured Asbestos Personal Injury Claims treated in Class 5 and Demands. The initial Asbestos TDP to be put into effect by the Asbestos Trust on the Effective Date of the Plan is Exhibit 1 to the Asbestos Trust Agreement.

(a) Liquidation of Unsecured Asbestos Personal Injury Claims and Demands by the Asbestos Trust.

~~All~~ Unsecured Asbestos Personal Injury Claims and Demands must be liquidated in accordance with the Asbestos TDP before any payment can be made on such Claims and Demands.

(b) Payment of Liquidated Claims by the Asbestos Trust.

The Asbestos TDP provides procedures for payment of Unsecured Asbestos Personal Injury Claims and Demands.

6.12 Excess Asbestos Trust Assets.

If there are any Asbestos Trust Assets remaining after the wind-up of the Asbestos Trust's affairs by the Asbestos Trustees and payment of all of the Asbestos Trust's liabilities has been provided for as required by applicable law including section 3808 of the chapter 38 of title 12 of the Delaware Code, all monies remaining in the Asbestos Trust estate shall be given to organization(s) exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, which tax-exempt organization(s) shall be selected by the Asbestos Trustees using their reasonable discretion; *provided, however*, that (a) if practicable, the activities of the selected tax-exempt organization(s) shall be related to the treatment of, research on, or the relief of suffering of individuals suffering from asbestos-related lung disease or disorders and (b) the tax-exempt organization(s) shall not bear any relationship to the Reorganized Debtors within the meaning of section 468B(d)(3) of the Internal Revenue Code.

The purpose of the foregoing provisions is to prevent the Reorganized Debtors from having a retained interest in the Asbestos Trust Assets so as to ensure that the Asbestos Trust qualifies as a settlement fund under section 468B of the Internal Revenue Code and the treasury regulations thereunder. The likelihood that there will be any material amount of remaining Asbestos Trust Assets that are disposed of under these provisions is expected to be remote.

6.13 Asbestos Trust Expenses.

The Asbestos Trust shall pay all Asbestos Trust Expenses (including applicable taxes) from the assets of the Asbestos Trust. Neither the Debtors nor the Reorganized Debtors shall have any obligation to pay or reimburse any Asbestos Trust Expense. However, nothing shall preclude the Asbestos Trustees from seeking reimbursement of such expenses from any Asbestos Insurance Company.

6.14 Indemnification by the Asbestos Trust.

Pursuant to Article 8.10(a) of the Plan, the Asbestos Trust shall indemnify, defend (and, where applicable, pay the defense costs for), and hold harmless each of the ASARCO Protected Parties from any and all liabilities associated with an Asbestos Personal Injury Claim or Demand that a third party seeks to impose upon any of the ASARCO Protected Parties, or that are imposed upon any of the ASARCO Protected Parties.

In the event that the Asbestos Trust makes a payment to any of the ASARCO Protected Parties under Article 8.10(a) of the Plan, and such ASARCO Protected Party subsequently diminishes the liability on account of which such payment was made, either directly or through a third-party recovery, the applicable ASARCO Protected Party shall promptly repay the Asbestos Trust the amount by which the payment made by the Asbestos Trust exceeds the actual cost of the associated indemnified liability.

6.15 Tax Treatment of the Asbestos Trust.

The Asbestos Trust shall be a "qualified settlement fund" within the meaning of the Treasury Regulations section 1.468B-1, and the Asbestos Trustees shall be "administrator" of the Asbestos Trust pursuant to Treasury Regulation section 1.468B-2(k)(3). No election shall be made to treat the Asbestos Trust as a grantor trust for U.S. federal income tax purposes. Accordingly, the Asbestos Trust shall be treated as a taxable entity for federal income tax purposes. The Asbestos Trustees shall cause all taxes imposed on the Asbestos Trust to be paid using assets of the Asbestos Trust and shall comply with all tax reporting and withholding requirements imposed on the Asbestos Trust under applicable tax laws. Any amount so withheld from a distribution or payment by the Asbestos Trust to a Claimant or other payee shall be treated as having been paid to, and received by, such payee for purposes of the Plan and the Plan Documents.

6.16 Termination of the Asbestos Trust.

The Asbestos Trust shall automatically dissolve on the date 90 days after the first to occur of the following events:

(a) the date on which the Asbestos Trustees decide to dissolve the Asbestos Trust because (1) they deem it unlikely that new asbestos claims will be filed against the Asbestos Trust; (2) all Unsecured Asbestos Personal Injury Claims duly filed with the Asbestos Trust have been liquidated and paid to the extent provided in the Asbestos Trust Agreement and the Asbestos TDP or have been disallowed by a Final Order, to the extent possible based upon the funds available through the Plan; and (3) 12 consecutive months have elapsed during which no new asbestos claim has been filed with the Asbestos Trust; or

(b) if the Asbestos Trustees have procured and have in place irrevocable insurance policies and have established claims handling agreements and other necessary arrangements with suitable third parties adequate to discharge all expected remaining obligations and expenses of the Asbestos Trust in a manner consistent with the Asbestos Trust Agreement and the Asbestos TDP, the date on which the Bankruptcy Court enters an order approving the insurance and other arrangements and the order of the Bankruptcy Court becomes a Final Order; or

(c) to the extent that any rule against perpetuities shall be deemed applicable to the Asbestos Trust, the date on which 21 years less 91 days pass after the death of the last survivor of all of the descendants of the late Joseph P. Kennedy, Sr., father of the late President John F. Kennedy, living on the date hereof.

6.17 Termination of the Asbestos Trustee and the Delaware Trustee.

The duties, responsibilities, rights, and obligations of the Asbestos Trustees and the Delaware Trustee for the Asbestos Trust shall terminate in accordance with the terms of the Asbestos Trust Agreement.

SECTION 7
ESTIMATION OF CLAIMS AND VALUATION OF DISTRIBUTABLE ASSETS

7.1 Estimated Claims and Estimated Recoveries by Class.

The Debtors and their professionals have expended considerable time and effort to ensure the accuracy of the estimates set forth in the charts beginning on page 5 above; however, no representation can be made that such information is without inaccuracy. Moreover, the charts' estimated percentage recovery for each Class is subject to changes in copper prices, the uncertainties of litigation with respect to many of the Claims, and other factors that may not be resolved in the Debtors' favor. Therefore, no assurance can be given that the estimated Claims are exact or that the estimated recoveries shall be achieved.

Sources of payments to be made to Claimants pursuant to the Plan include the Debtors' ~~Distributable Cash~~**cash**, which ~~as of December 31, 2008, is expected to total $1,372,000,000;~~**could total as much as $1,400,000,000 to $1,500,000,000** and the Available Plan Sales Proceeds, which are expected to total ~~$2,525,000,000~~**2,500,000,000** (assuming a ~~$75~~**90** million Adjustment Payment Reserve~~).~~ **and a $10 million Unpaid Cure Claims Reserve). This cash estimate may change materially if actual results are less than projected results.**

A comparison of cash available for distribution with existing claim estimates yields the following waterfall information. No assurances can be given that any of the distribution percentages set forth below will be realized.

Table 1 (all amounts are in $ Billions)

	Low Estimate	**High Estimate**

Cash	**$1.400**	**$1.500**
Available Plan Sale Proceeds	**plus 2.500**	**plus 2.500**
Total	**3.900**	**4.000**
Other Claims	**minus 2.667**	**minus 2.667**
Left for Classes 5 & 9	**1.233**	**1.333**
	83%	**89%**

Table 2 (all amounts are in $ Millions)

Description and Estimate of Claims	Low Estimate	High Estimate
Administrative Claims	**$937**	**$950**
Priority Tax Claims	**5**	**6**
Class 1 - Priority Claims	**0**	**0**
Class 2 - Secured Claims	**28**	**33**
Class 3 - Trade and General Unsecured Claims	**281**	**440**
Class 4 - Bondholders' Claims	**$ 448**	**$ 553**
Class 6 - Toxic Tort Claims	**56**	**69**
Class 7 - Previously Settled Environmental Claims	**512.5**	**512.5**
Class 8 - Miscellaneous Federal and State Environmental Claims	**103**	**103**
TOTAL	**$2,370.5**	**$2,666.5**

At the federal judgment rate interest on Class 4 Claims totals approximately $60 million. Interest on the Bonds, at the contract rate, compounded, totals approximately another $60 million. Interest on Priority Tax Claims and Class 2, 3, 6, 7, and 8 Claims at the federal judgment rate totals $133 million, at the low estimate, and $159 million, using the high estimate.

7.2 The Trusts' Estimated Administrative Costs.

Estimates of the cost of administering each of the Trusts after the Effective Date are set forth in **Exhibit F** to this Disclosure Statement. These costs shall be borne by the respective Trust.

Upon the Debtors' funding of the Trusts on the Effective Date, neither the Debtors, their Estates, the Plan Administrator, the Plan Sponsor, nor the other ASARCO Protected Parties (with the exception of the Trusts) shall have any further liability for such Trust's administrative costs.

The estimated fees, expenses, and other costs of the Plan Administrator to administer, resolve and make distributions to Claimants is also set forth in **Exhibit F**. These costs shall be paid out of the Plan Administration Reserve.

SECTION 8
RISKS OF THE PLAN

8.1 General.

The following provides a summary of various risks associated with the Plan. However, it is not exhaustive and should be supplemented by careful analysis and evaluation of the Plan and this Disclosure Statement as a whole by each holder of a Claim or an Interest with that holder's own advisors.

8.2 Confirmation Risks.

In order for a plan of reorganization to be confirmed, the Bankruptcy Code generally requires that impaired Classes vote to accept the Plan. This requires that voting creditors in each Class approve the Plan by:

- over one-half in number of creditors (50 percent + 1); and
- at least two-thirds in dollar amount.

In addition, to obtain a section 524(g) injunction relating to Unsecured Asbestos Personal Injury Claims and Demands, at least 75 percent of those Claimants in Class 5 who vote must vote to accept the Plan.

There is no guarantee that these thresholds will be reached or that the Bankruptcy Court will concur with the vote tally.

Any objection to the Plan also could prevent Confirmation of the Plan or delay such Confirmation for a significant period of time.

Although the Debtors believe that the Plan satisfies all requirements necessary for Confirmation, there is no assurance that the Bankruptcy Court and the District Court will reach the same conclusion, or that the Confirmation, if challenged on appeal, will be affirmed.

Moreover, Article 10.1 of the Plan sets forth a number of conditions precedent to the effectiveness of the Plan. There can be no assurance that these conditions will be satisfied.

8.3 Risk Factors Related to Estimates and Assumptions.

As with any plan of reorganization or other financial transaction, there are certain risk factors that must be considered. All risk factors cannot be anticipated, some events will develop in ways that were not foreseen, and many or all of the assumptions that have been used in connection with this Disclosure Statement and the Plan may not be realized exactly as assumed. Some or all of such variations may be material. While efforts have been made to be reasonable in this regard, there can be no assurance that subsequent events will bear out the analyses set forth in this Disclosure Statement. Holders of Claims and Interests should be aware of some of the principal risks associated with the contemplated reorganization:

- There is a risk that one or more of the required conditions or obligations under the Plan will not occur, be satisfied, or waived, as the case may be, resulting in the inability to confirm the Plan.
- The total amount of Allowed Claims may ultimately be materially in excess of the estimated amounts of such Claims assumed in the development of the Plan and in the valuation estimates provided above. The actual amount of all Allowed Claims in any Class may differ significantly from the estimates provided in this Disclosure Statement. Accordingly, the amount and timing of the distributions ultimately received by any particular holder of an Allowed Claim in a particular Class may be materially and adversely affected should the estimates be exceeded as to any Class.

8.4 Risks Relating to the Sale Process.

The Debtors currently expect that the sale of the Sold Assets will culminate in a sale to the Plan Sponsor or an alternative purchaser with a higher or better offer. The Debtors will incur considerable costs and expenses in connection with the sale process and may ultimately be obligated to pay the Break-Up Fee. There are many factors outside of the Debtors' control that may affect the Debtors' ability to consummate a sales transaction, including the ability of the Plan Sponsor or alternative purchaser to finance the transaction. Moreover, it is possible that the Debtors may not be able to meet various closing conditions and, as a result, the Plan Sponsor or an alternative purchaser may elect to cancel the asset purchase agreement as a result of these failures. Furthermore, the Plan Sponsor may terminate the Plan Sponsor PSA if the following deadlines are not met:

- The Bankruptcy Court must enter an order approving the Disclosure Statement by October 15, 2008 (which date may be extended until October 30, 2008 if the Plan Sponsor consents);
- The Confirmation Order must be entered by December 15, 2008 (which date may be extended until January 17, 2009 if the Plan Sponsor consents); and
- The Closing must occur by December 31, 2008 (which date may be extended until January 28, 2009 in certain circumstances).

The Debtors can provide no assurance that they will be successful in consummating a sale of the Sold Assets. If the Debtors are unable to successfully complete such a sale, it could have a material adverse effect on the business, financial condition, and results of operations of the Debtors and the value of the Debtors' Estates. Additionally, the Debtors may be obligated to pay a Break-Up Fee regardless of whether a sale transaction is consummated and such expenses could be significant.

8.5 Risk that the Asbestos Settlement Agreement, the Environmental Custodial Trust Settlement Agreements, the Miscellaneous Federal and State Settlement Agreement, and the Residual Settlement Agreement May Not Be Approved.

The Bankruptcy Court may decline to approve any or all of the Asbestos Settlement Agreement, the Environmental Custodial Trust Settlement Agreements, the Miscellaneous Federal and State Settlement Agreement, and the Residual Settlement Agreement. For the reasons set forth above in Sections 2.20 and 2.21, the Debtors believe that these settlement agreements are in the best interests of their Estates and should be approved, but there can be no assurance that the Bankruptcy Court will in fact approve all or any of the settlements.

To the extent that the Asbestos Settlement Agreement and the Environmental Custodial Trust Settlement Agreements have not been signed, the Debtors believe that they will be signed in substantially the form attached to the Plan as Exhibits 9 and 12-A, respectively.

8.6 Risk that the Parent Plan May Be Confirmed Instead of the Debtors' Proposed Plan.

The Bankruptcy Court modified exclusivity to permit the Parent and AMC to file their own plan of reorganization, and the Parent Plan, which provides an alternative means for the reorganization of ASARCO, Southern Peru Holdings, LLC, and AR Sacaton, LLC, was filed on August 26, 2008. If the Parent Plan complies with all of the requirements of the Bankruptcy Code, the Bankruptcy Court may confirm the Parent Plan instead of the Debtors' Plan. While it is difficult to assess the likelihood of this outcome with any certainty, the Debtors believe that the Asbestos Claimants' Committee, the United States and various state regulatory authorities, and the Unions will support and vote in favor of the Debtors' Plan and object to and vote against the Parent Plan. Moreover, the Debtors are aware that the Parent and AMC have not reached a collective bargaining agreement with the USW and other unions, thereby creating a risk that a Parent Plan will not meet the applicable requirements of the special successorship clause of the Debtors' CBA as currently in place. *See* Section 2.16(b) above for a discussion of the CBA's special successorship clause and Section 9.2 below for a discussion of the Parent Plan.

8.7 The Litigation Trust May Not Realize Any Recovery or May Realize a Capped Recovery.

Although certain assets will be transferred to the Litigation Trust, including the Litigation Trust Claims, there is no guarantee that the Litigation Trust will realize any recovery on the Litigation Trust Claims. The Litigation Trust Claims are contingent and unliquidated, and the prosecution of the Litigation Trust Claims may be vigorously defended. The Litigation Trust Agreement provides that, to the extent necessary, it shall be amended to conform to final decisions in the SCC Litigation or any decisions by the Bankruptcy Court.

While the District Court has issued a decision on liability in the SCC Litigation, it has not yet ruled on damages. *See* Section 2.24(c) above. When the District Court rules on damages, the court may determine that no damages should be awarded, or could severely limit the recovery, such as by capping the amount of distributions to the Litigation Trust. Alternatively, the District Court could refer a ruling on damages to the Bankruptcy Court. In that instance, the Bankruptcy Court could severely limit the recovery or could decline to confirm the Plan unless the Plan Documents are amended. For example, the Debtors could be required to amend the Plan to cap the amount that the Litigation Trust Beneficiaries may recover. Thus, if you vote to accept the Plan, you assume the risk that the Litigation Trust Agreement will be amended to comply with the ruling on damages, such as to impose a cap on the Litigation Proceeds distributed to the Litigation Trust Beneficiaries. Moreover, even if the Bankruptcy Court or District Court awards damages to ASARCO and Southern Peru Holdings, LLC, the rulings on liability, damages, or both may be reversed on appeal.

On August 26, 2008, the Parent and AMC filed a motion asking the Bankruptcy Court to establish procedures to determine the maximum amounts of the unliquidated asbestos and environmental Claims. These Claims are treated in Classes 5 and 9 of the Plan, and are to receive, among other consideration, Litigation Trust Interests. Because none of the Litigation Trust Claims have been reduced to judgment, the Litigation Trust Interests have only speculative value. As a result, the Debtors have not assigned any value to such interests in determining the estimated recovery under the Plan to holders of Class 5 and Class 9 Claims. The Parent and AMC assert in their motion that the Bankruptcy Court must determine the maximum amount of these Claims in order to determine whether the Debtor is solvent, and whether the Plan complies with section 1129(b) of the Bankruptcy Code's fair and equitable standard, as applied to the Class 12 Interests. The Debtors believe that, given the settlements regarding the Class 5 and Class 9 Claims and the speculative value of the Litigation Trust Interests, the Plan is confirmable as written. However, there can be no assurance that the Debtors will prevail on their argument. If they do not, the Debtors will amend the Litigation Trust Agreement to comply with the Bankruptcy Court's ruling.

If you vote in favor of the Plan, you assume the risk that the ruling on damages in the SCC Litigation and the outcome in the other Litigation Trust Claims may be unfavorable and that the worst case scenario – that no amounts are recovered on any of the Litigation Trust Claims, despite the Litigation Trustees' expenditure of funds in the Litigation Expense Funds in prosecuting such actions – may occur.

MRI asserts that the District Court's award in the AMC Avoidance Action may be large enough to render the Estate solvent and able to pay all Claimants in Cash, in full, and that if that occurs, then the Plan would not comply with the absolute priority rule, and the Litigation Trust would lack standing to pursue pending Avoidance Actions transferred to it under the Plan (if such standing exists in the first instance). The Debtors disagree.

8.8 Risk that the Debtors May Not Be Substantively Consolidated or Voluntarily Consolidated.

As set forth below in Section 10.3, the Debtors seek to substantively consolidate the Estates of the Subsidiary Debtors (other than Covington) with and into ASARCO, with the surviving entity being ASARCO. They believe that the facts and the governing law support this proposal. However, no assurance can be given that the Bankruptcy Court will grant the Debtors' request for substantive consolidation. Consequently, the Debtors reserve the right to voluntarily consolidate the Debtors (other than Covington) into ASARCO, pursuant to section 1123(a)(5)(C) of the Bankruptcy Code. As a third alternative, the Debtors reserve the right to proceed with the Plan as to only ASARCO, Covington, ASARCO Master, and the Asbestos Subsidiary Debtors. Thereafter, the Other Subsidiary Debtors (other than Covington and ASARCO Master) would either file a proposed plan under chapter 11 of the Bankruptcy Code or convert their cases to liquidation cases under chapter 7 of the Bankruptcy Code. Under any of these alternatives, ASARCO would be able to get the Plan confirmed, and thereby complete the sale of the Sold Assets and obtain the relief needed under section 524(g) of the Bankruptcy Code.

If you vote to accept the Plan, you accept the risk that the Debtors (a) may not be able to proceed with substantive consolidation or (b) may not be able to effectuate a voluntary consolidation of the Debtors (other than Covington), in which event, the Debtors will be forced to seek confirmation of the Plan as to only certain of the Debtors.

8.9 Distributions to Holders of Unsecured Asbestos Personal Injury Claims and Demands.

The Asbestos Trust Documents require the Asbestos Trustees to adopt mechanisms such as structured, periodic or supplemental payments, pro rata distributions, matrices or periodic review of estimates of the numbers and values of Unsecured Asbestos Personal Injury Claims and Demands, or other comparable mechanisms that provide reasonable assurance that the Asbestos Trust will value, and be in a financial position to pay, Unsecured Asbestos Personal Injury Claims and Demands that involve similar Claims in substantially the same manner. Accordingly, the payment that will be made to holders of unliquidated Unsecured Asbestos Personal Injury Claims and Demands will equal the liquidated value for each claim multiplied by the then-applicable payment percentage. Estimation of the payment percentage likely to be used in the early years of the operation of the Asbestos Trust for qualified present Unsecured Asbestos Personal Injury Claimants involves data analysis or forecasting of (a) the number of compensable Unsecured Asbestos Personal Injury Claims, (b) the total value of Asbestos Trust Assets available to pay holders of Unsecured Asbestos Personal Injury Claims and Demands, and (c) the probable average values of payments under the Plan.

The amount of the Unsecured Asbestos Personal Injury Claims and Demands may be significantly higher than ~~their estimated amount~~**expected** at Confirmation once they are liquidated pursuant to the Asbestos TDP.

Similarly, the ~~value attributed to the~~**non-Cash** Asbestos Trust Assets ~~could be too high~~**are contingent and may not generate any value for the Asbestos Trust**. Likewise, the amount of anticipated Asbestos Trust Expenses could be ~~underestimated~~**higher than expected**. *See* **Exhibit F** of this Disclosure Statement. Further, while the Asbestos Trustees can be expected to use efficient and cost-effective procedures for claims resolution, it is difficult to predict how successful their efforts will be, particularly since the Asbestos Trust is expected to continue to operate for many years into the future.

8.10 Appointment of Different Trustees.

The Debtors shall request that the Bankruptcy Court appoint as Trustees for the Litigation Trust, the Environmental Custodial Trust, and the Asbestos Trust those Persons it designates not less than 10 days prior to the commencement of the Confirmation Hearing. However, the Bankruptcy Court may decline the Debtors' request and appoint one or more different Trustees for such Trusts. If different Trustees are appointed, it could materially impact the administration of the various Trusts.

8.11 Appointment of a Different Plan Administrator.

The Debtors shall request that the Bankruptcy Court appoint as Plan Administrator the Person it designates not less than 10 days prior to the commencement of the Confirmation Hearing. However, the Bankruptcy Court may decline the Debtors' request and appoint a different Plan Administrator. If a different Plan Administrator is appointed, it could materially impact the administration of the Reorganized Debtors.

8.12 Contentions of FFIC, Century Indemnity Company, and American Home Assurance Company Regarding Risk of No Insurance Coverage.

FFIC contends, for a number of reasons, that there will be no insurance coverage for certain asbestos Claims. *See* Exhibit Q attached hereto, which was provided by FFIC.

"Under the Asbestos TDP, the Asbestos Trust must handle Asbestos Premises Liability Claims in accordance with the Asbestos In-Place Insurance Coverage agreements between the Debtors and their insurers. Century Indemnity Company and American Home Assurance Company contend that, to the extent the Asbestos TDP purports to alter the parties' respective rights and obligations under any Asbestos In-Place Insurance Coverage agreements to which Century Indemnity Company or American Home Assurance Company may be parties or applicable policies issued by Century Indemnity Company or American Home Assurance Company, any coverage otherwise available under any such policies or Asbestos In-Place Coverage agreements may be vitiated."

SECTION 9
ALTERNATIVES TO THE PLAN

If the Plan is not confirmed and consummated, alternatives to the Plan include an alternative plan of reorganization or liquidation of the Debtors under chapter 7 of the Bankruptcy Code.

9.1 Alternative Plan of Reorganization.

If the Plan is not confirmed, the Debtors could attempt to formulate a different plan of reorganization. Alternatives for a plan could include a stand-alone plan of reorganization, a sale of ASARCO at a later point through an auction process, or an initial public offering of ASARCO concurrent with or subsequent to emergence from bankruptcy. The ability of ASARCO to obtain value and liquidity through any alternative sufficient to provide an attractive plan for creditors would be a function of general economic conditions, the state of the financial markets, operating performance of ASARCO, and existing and expected copper prices. Risks to such an alternative include deteriorating copper prices, such as the market has experienced in recent months, difficulty in retaining and attracting management critical to ASARCO's operations should the Debtors remain in bankruptcy for an extended period of time, and weaknesses in equity and debt markets precluding the generation of Cash sufficient to fund an exit plan. The Debtors and their advisors have explored various alternative scenarios, and believe that the Plan enables the holders of Claims to realize the maximum recovery under the circumstances. The Debtors believe that the Plan is the best plan of reorganization that can be proposed and that it serves the best interests of the Debtors and other parties in interest.

9.2 Parent Plan.

(a) The Parent Plan Exposes the Company and its Creditors to Material Risks.

The Parent Plan exposes you, the creditors of the Debtors, to material risk and uncertainty. For example, if the Parent Plan is not confirmed, you will not receive anything under the Parent Plan. Confirming a chapter 11 plan in a complex bankruptcy is difficult if not impossible without support from you, the creditors. In this case, the Debtors believe that the Parent has no such creditor support and that all creditor constituents will oppose the Parent Plan.

Among the reasons that the creditor constituents oppose the Parent Plan is the plan's exposure of creditors to potentially years of litigation before creditors are paid what they believe they are owed and the uncertainty of whether creditors' claims will be paid in full as the Parent represents. Under the Parent Plan, the Parent's only contribution is $2.7 billion and a $440 million guaranty. When combined with ASARCO's operating cash, that the Parent estimates to be $1 billion, the total cash value of the Parent Plan is $4.1 billion. Yet, the range of aggregate claims is approximately $3 billion to $9 billion without the global settlement that the Parent rejects under its plan. The Parent is forcing the creditors to gamble that the ultimate Allowed Amount of the Claims is significantly lower than the highest estimates. To cover any shortfall, the Parent makes the value of Reorganized ASARCO available to satisfy any plan obligations, but this value is illusory if Reorganized ASARCO is not worth anything. Under the Parent Plan, Reorganized ASARCO will have to expend significant resources litigating asbestos and environmental claims throughout the United States post-confirmation. Moreover, the Parent assumes that copper prices will remain stable and that no labor strike will occur as a result of the Parent's failure to agree to the terms of a collective bargaining agreement with the Unions. It is highly unlikely that Reorganized ASARCO could continue to operate in the event of a strike, causing the value of Reorganized ASARCO to plummet. The Parent not only shifts all this risk to creditors but deprives them of the global settlement that resolves billions of dollars of Claims, eliminates risk of an adverse ruling, saves the Debtors and creditors significant litigation costs, and provides the vehicle by which creditors are paid in a timely manner. The Debtors believe that the purpose of chapter 11 is to provide a forum for reaching consensus, but the Parent Plan is just the opposite, requiring Reorganized ASARCO (at the Parent's direction) to litigate with nearly all major creditor constituents in these cases.

(b) The Parent Is Not Legally Bound to Close Under the Parent Plan.

The Parent is under no enforceable obligation to fund any money under its plan if the plan does not go effective. The Parent Plan does not go effective unless and until the Parent contributes $2.7 billion, a decision exclusively under the Parent's control. Thus, the Parent is under no enforceable obligation to make the $2.7 billion contribution. This is troubling in light of the fact that the Parent has withdrawn its prior offer to fund a $500 million deposit. In addition, the effectiveness of the Parent Plan is conditioned on the confirmation order being acceptable to the Parent, without any requirement that the Parent make a reasonable decision. In other words, the Parent may elect to withdraw its plan.

(c) The Parent May Not Have the Money to Close.

The Parent proposes to contribute $2.7 billion in cash to fund the Parent Plan. The Parent does not have $2.7 billion in cash, however, and seeks to borrow $2.4 billion of such amount from UBS Securities LLC. However, the Parent has provided no commitment letter from UBS or any other lender to provide such a loan. In addition, the Parent's

ability to borrow $2.4 billion may be impaired by Judge Hanen's ruling against the Parent in the fraudulent transfer lawsuit in the SCC Litigation, which is discussed in Section 2.24(c) above.

(d) ASARCO Will Be Exposed to Labor Unrest and Ongoing Litigation in the Tort System.

ASARCO's bankruptcy case started more than three years ago with a labor strike and hundreds of thousands of unresolved asbestos and environment Claims. Under the Parent Plan, these issues will not be resolved. The Parent has no agreement with ASARCO's labor unions and the company will not receive a permanent injunction protecting the company against asbestos and environmental Claims. If the Parent Plan is confirmed, it is highly likely that ASARCO's labor force would strike and cripple ASARCO's operations and profitability post-confirmation. The Parent has not reached a collective bargaining agreement with the USW and other Unions. Pursuant to the Second Stipulation and Order Regarding Modification to Collective Bargaining Agreement, the special successorship clause of the new CBA applies to a plan of reorganization where the Parent retains a majority of equity or controlling equity in the reorganized debtors. Under the stipulation, the Bankruptcy Court may order that the successorship clause does not apply if (1) the USW has failed to satisfy its obligations under the special successorship clause or (2) in light of exigent circumstances it is necessary to a successful chapter 11 process. Absent this showing and an agreement with the unions, it is highly likely that ASARCO's labor force would strike — halting ASARCO's operations. If ASARCO ceases to become an operating company, then the alleged value of the Parent Plan (stated arbitrarily at $6.74 billion) is reduced by the value of Reorganized ASARCO which is being offered to pay any shortfall as discussed above.

(e) Release of the AMC Lawsuit and Other Claims Against Insiders.

The Parent Plan also provides for the release and dismissal of twelve adversary proceedings where the Parent, Grupo Mexico, or an affiliate is a defendant. This includes the multi-billion dollar fraudulent transfer action where U.S. District Judge Andrew Hanen held that AMC had perpetrated a fraudulent transfer to itself of ASARCO's controlling interest in SCC by intending to hinder and delay creditors in making the transfer, and that in making the transfer AMC had aided and abetted and conspired in the breach of the ASARCO directors' fiduciary duties to ASARCO's creditors.[14] ASARCO's creditors are deprived of the value of the potential recoveries from these adversary proceedings under the Parent Plan.

9.3 Liquidation under Chapter 7.

If the Plan cannot be confirmed, the Debtors' Reorganization Cases may be converted to cases under chapter 7 of the Bankruptcy Code, pursuant to which a trustee or trustees would be appointed to liquidate the assets of the Debtors for distribution in accordance with the priorities established by the Bankruptcy Code.

The Liquidation Analysis prepared by the Debtors is attached to this Disclosure Statement as **Exhibit E**. As indicated in the assumptions listed in the Liquidation Analysis, the analysis assumes the liquidation of the Debtors through orderly sales of their primary operating assets as separate going concerns. Because the Permanent Channeling Injunction would not be available in a chapter 7 liquidation, the values realized from the orderly sale of the assets would in all likelihood be reduced as a result of buyers' concerns regarding the risk of asbestos liability in the acquisition of assets. Further, the lack of a Permanent Channeling Injunction may preclude the orderly sale of the assets as separate going concerns, in which case a liquidation of the component assets would be required. The Debtors believe that the value of their operating assets as going concerns exceeds the value of the component assets. If a liquidation of the assets occurred, values realized would be further reduced and Claims against the Estates increased.

The net proceeds resulting from the disposition of the Debtors' assets and available Cash would be available first to pay the costs and expenses of liquidation and to satisfy any additional Administrative and Priority Claims that might arise from the Debtors' liquidation under chapter 7. The Debtors' costs of liquidation under chapter 7 would include fees payable to a chapter 7 trustee and other professionals retained by the trustee including attorneys, financial advisors, and accountants, asset disposition expenses, litigation costs related to the resolution of asbestos and other Claims, other expenses incurred in the chapter 11 cases Allowed in the chapter 7 case, and Claims arising from operations of the

[14] For a more detailed description of Judge Hanen's findings of fact and conclusions of law in this fraudulent transfer action, *see* Section 2.24(c) above.

Debtors during the chapter 11 case. The remaining proceeds would be allocated to creditors in strict priority pursuant to the Bankruptcy Code and thereafter available to Interest holders.

The Plan is predicated on certain settlements designed to resolve complex and contentious issues between the Debtors and a vast number of parties, including holders of Unsecured Asbestos Personal Injury Claims, Demands, and environmental Claims. Without the settlements, a hypothetical chapter 7 trustee would need to address such issues through protracted and costly litigation or negotiated settlements with all of these parties as well as additional future Claimants. This would result in significant delay and a significantly greater chapter 7 administrative expense burden on the Estates, and thereby further reduce net proceeds available for distribution.

After consideration of the effects that a chapter 7 liquidation would have on the ultimate proceeds available for distribution to creditors, the Debtors believe that Confirmation of the Plan will provide each holder of an impaired Claim that has not accepted the Plan with an amount that is not less than such holder would receive pursuant to a liquidation under chapter 7 of the Bankruptcy Code.

The Liquidation Analysis is based upon a number of estimates and assumptions which, while considered reasonable, are inherently beyond the control of the Debtors or any chapter 7 trustee. There can be no assurances that the values reflected in the Liquidation Analysis would be realized if the Debtors were to undergo such liquidation. Instead, actual results could vary materially from those shown in the Liquidation Analysis. In addition, any liquidation necessarily would take place in the future under circumstances that presently cannot be predicted. Accordingly, if the Debtors' Estates were liquidated, the actual liquidation proceeds could be materially lower or higher than the amounts set forth in **Exhibit E**, and no representation or warranty can be made with respect to the actual proceeds that could be received in chapter 7 liquidation proceedings.

SECTION 10
CORPORATE GOVERNANCE AND POST-CONFIRMATION MANAGEMENT

10.1 Cancellation of Existing Interests.

Pursuant to Article 11.10 of the Plan, unless otherwise agreed to by the Debtors and except to the extent otherwise provided therein, on the Effective Date, all instruments, certificates, and other documents evidencing the Interests in the Debtors shall be cancelled and the obligations of the Debtors or the Reorganized Debtors in any way related thereto (except any obligations provided for under the Plan) shall be discharged.

10.2 Operations Between the Confirmation Date and the Effective Date.

Except as set forth in the Plan with respect to the appointment of the Plan Administrator, during the period from the Confirmation Date through and until the Effective Date, the Debtors shall continue to operate as debtors-in-possession, subject to the oversight of the Bankruptcy Court as provided in the Bankruptcy Code, the Bankruptcy Rules, and all orders of the Bankruptcy Court that are then in full force and effect.

10.3 Substantive Consolidation of ASARCO and the Subsidiary Debtors (Other than Reorganized Covington) and Alternatives Thereto.

(a) ~~(a)~~ Substantive Consolidation.

On the Effective Date, the Estates of the Subsidiary Debtors (other than Covington) shall be substantively consolidated with and into ASARCO, with the surviving entity being Reorganized ASARCO.

As a result of the substantive consolidation of the Debtors' Estates, (1) all Intercompany Claims (other than Covington) not otherwise resolved or disposed of pursuant to the Plan are eliminated; (2) all assets and liabilities including any obligations or guarantees of the Subsidiary Debtors (other than Covington) become the assets and liabilities of ASARCO; and (3) each Proof of Claim is deemed filed against and an obligation of ASARCO.

The Debtors believe that substantive consolidation as proposed in the Plan is appropriate for a number of reasons. The Debtors believe that, generally, creditors dealt with the Debtors as a single economic unit and did not rely on their separate identities, and that the affairs of the Debtors are so entangled that consolidation will benefit all creditors. Many

of the Subsidiary Debtors sought to be consolidated have no or de ~~minimus~~**minimis** assets, and no liabilities, and so consolidation will have no effect except to save administrative expenses. In many of the instances where the Subsidiary Debtors have liabilities, ASARCO already shares those liabilities, so consolidation will not result in an increased burden on ASARCO's other creditors. The Debtors' beliefs regarding the benefits of substantive consolidation arise from the additional facts discussed below.

(1) Background of the Asbestos Subsidiary Debtors.

The Asbestos Subsidiary Committee and the FCR (in his capacity as FCR for the Asbestos Subsidiary Debtors) have conducted extensive discovery in the asbestos alter ego estimation proceeding (see Section 2.19(b) above) regarding the corporate history and operations of the Asbestos Subsidiary Debtors. Based on this discovery, the Asbestos Subsidiary Committee and FCR have alleged that the Asbestos Subsidiary Debtors' corporate separateness may have been compromised and that ASARCO is liable for the claims against the Asbestos Subsidiary Debtors. In connection with the asbestos alter ego estimation proceeding, ASARCO, the ASARCO Committee and the Parent opposed the Asbestos Subsidiary Committee and FCR's attempts to impose liability on ASARCO for asbestos-related claims against the Asbestos Subsidiary Debtors. Nonetheless, some of the evidence gathered in connection with the alter ego estimation proceeding supports the corporate interrelatedness that justifies substantive consolidation: (i) ASARCO began the asbestos mining enterprise in Canada before LAQ was formed; (ii) during LAQ's early history, ASARCO guaranteed LAQ's performance and provided the funds for the business; (iii) ASARCO's mining department, engineers, and legal department were involved in LAQ's operations; (iv) LAQ's asbestos fiber was listed as part of ASARCO's product line and LAQ was, on occasion, described as the "ASARCO asbestos mine and mill"; (v) ASARCO personnel were involved in LAQ's marketing, product labeling and branding, research, and sales activities; (vi) ASARCO formed CAPCO, in part, as a potential market for LAQ's asbestos; (vii) ASARCO provided centralized functions to both CAPCO and LAQ, including medical, legal, research, traffic, collections, and credit approval; (viii) ASARCO referred to CAPCO and LAQ as divisions rather than as subsidiaries; (ix) ASARCO once claimed to operate the CAPCO cement asbestos plants in documents submitted to the federal government; (x) ASARCO guaranteed a number of Asbestos Subsidiary Debtors' asbestos-related settlements; and (xi) ASARCO compromised insurance coverage for asbestos-related claims and, at times, used the proceeds to fund operations and cash shortfalls.

The ASARCO Committee has been an active participant in the asbestos alter ego proceeding and has asked that the following information be included in this Disclosure Statement: (i) despite allegations from various creditors of the Asbestos Subsidiary Debtors, no court ever entered a judgment determining ASARCO to be the alter ego of the Asbestos Subsidiary Debtors; (ii) the Asbestos Subsidiary Debtors had their own employees, customers, payroll, manufacturing facilities or plants; (iii) the Asbestos Subsidiary Debtors had their own officers and directors and held board of directors meetings; and (iv) ASARCO referred to the Asbestos Subsidiary Debtors as separate subsidiary entities.

Corporate records from the early 1970s show that there was an overlap of officers and directors among ASARCO and the Asbestos Subsidiary Debtors, and commingling of funds at various times during their history. Corporate formalities may have been suspended for periods of time. There were periods of time during which LAQ and CAPCO's board of directors did not meet. At times, ASARCO exercised direct approval rights over aspects of CAPCO and LAQ's business decisions, ranging from capital expenditures to petty cash allowances to employee salaries. The Asbestos Subsidiary Debtors did not have active boards of directors for years leading up the bankruptcy filings. In order to obtain the requisite authority to file bankruptcy, these entities, like the Other Subsidiary Debtors, had to amend their bylaws and reconstitute their boards of directors. While not controlling on state law alter ego theories, these facts support the corporate interrelatedness that justifies substantive consolidation.

The only significant asset of the Asbestos Subsidiary Debtors at the time of the filing, claims against a limited number of unsettled carriers for insurance coverage, was shared with and jointly prosecuted by ASARCO. CAPCO owns two parcels of real property, one appraised at $319,000 and the other estimated to be worth approximately $50,000. As for liabilities, a substantial number of asbestos Claims arising from exposure to the Asbestos Subsidiary Debtors' products were either asserted jointly against ASARCO and the Asbestos Subsidiary Debtors or against ASARCO only in other cases. While not controlling on state law alter ego theories, the filing of proofs of claims asserting joint liability against both ASARCO and the Asbestos Subsidiary Debtors further supports substantive consolidation.

In addition to the Claims filed against the Asbestos Subsidiary Debtors and one indemnification Claim filed by Armstrong World Industries, Inc. against each of the Debtors, asbestos-related Claims also have been filed against American Smelting and Refining Company and ASARCO Master.

Originally, ASARCO was known as American Smelting and Refining Company, a New Jersey corporation. In 1975, it changed its name to ASARCO Inc. and, in order to preserve the historical name, it created a new subsidiary, a shell company incorporated in New Jersey and known as American Smelting and Refining Company. This company, which had no operations or other purpose, is the subsidiary that filed for bankruptcy in 2005. Similarly, Federated Metals Corp., a New York corporation formed in 1924 to combine the operations of three large industrial groups covering the East, Middle West and Pacific Coast, was acquired by ASARCO in 1934. Thereafter, Federated Metals Corp. continued to operate as a division of ASARCO. It ceased operations in the 1980s and was merged into ASARCO Master, Inc. in 2005.

(2) Background of the Other Subsidiary Debtors.

(A) Corporate and Accounting Practices

For the most part, the Other Subsidiary Debtors maintained no corporate governance or separate business records in the years leading up the bankruptcy filings, and each needed to reconstitute their boards and amend their corporate governance documents in order to have the requisite authority to act and to file for chapter 11 protection.

Pre- and post-bankruptcy, the Debtors prepared consolidated financial statements, had an integrated cash management system, and shared accounting, tax, legal, and other administrative functions. Although ASARCO maintained a set of intercompany accounts, in many instances, the amounts reflected in those accounts represent debt which pre-dates Grupo Mexico's acquisition of ASARCO, and ASARCO has been unable to determine the origin of these amounts and whether they represent actual intercompany debt or capital investment. In some cases the prepetition consolidated intercompany accounting did not include separate accounting districts or bank accounts for certain of the ASARCO subsidiaries. As disclosed in the Schedules and other pleadings, the intercompany records show large intercompany balances, the origin of which is not fully understood, including a $32 million intercompany balance due to ASARCO by ASARCO Oil and Gas Company, a $11.2 million intercompany balance owed by ASARCO Exploration Company, and a $5.2 million intercompany balance due to ASARCO Consulting, Inc. owed by ASARCO.

The Debtors have attempted to correct identified deficiencies. New accounting districts and bank accounts have been opened since the bankruptcy filings. ASARCO also has sought to formalize relations by entering into Bankruptcy Court-approved intercompany contracts. For example, ASARCO entered into a property management agreement with Bridgeview Management Company, Inc. for management of ASARCO's leasehold interests in New Jersey and a storage and administrative services agreement with AR Sacaton, LLC for storage services in one or more warehouses in Arizona.

(B) Assets and Liabilities

None of the Other Subsidiary Debtors had any operations for years prior to their respective bankruptcy filings, and most have no assets or liabilities, except de ~~minimus~~**minimis** assets or liabilities, litigation assets shared with ASARCO, and common liabilities such as statutory joint and several contingent liability to the PBGC, joint liability under the Coal Act, and shared environmental liabilities. For example, ASARCO (and its predecessors) entered various environmental agreements with state and federal authorities under which it agreed to perform environmental work or guarantee environmental compliance on behalf of or in addition to various of the Other Subsidiary Debtors in order to resolve ASARCO's shared or independent environmental responsibilities. In addition, several creditors have filed Proofs of Claims against all or most of the Debtors or have failed to identify a Debtor, which indicates that creditors view them as a single economic unit.[1]

Certain of the Other Subsidiary Debtors are co-plaintiffs with ASARCO in pending fraudulent transfer actions to recover valuable assets for the benefit of all creditors. Recovery of the property transferred fraudulently and in disregard of the rights and claims of creditors while insolvent will be transferred to the Litigation Trust for the benefit of creditors under the Plan. Further, MRI, the defendant in the lawsuit to recover ASARCO's partnership interest in the Montana Resources copper and molybdenum mine (as discussed in Section 2.24(e) above), has filed Proofs of Claims (each

[1] AIG, FFIC, Armstrong World Industries, Deutsche Bank Company, Missouri Department of Natural Resources, State of New Mexico and the UMWA Plans have filed Claims against each of the Debtors. Additionally, Pierce Duanne and Joe Ricker (former ASARCO Inc. employees), Kansas Department of Health and the Environment and Washington State Department of Ecology also have filed Claims against many of the Debtors. Furthermore, out of the total 991 non-ASARCO, general Proofs of Claim filed to date, 471 failed to identify the Debtor against which the Claim is being asserted.

in the amount of approximately $87 million) against both ASARCO Master and ASARCO for the same alleged debt and expressly stated that ASARCO is the alter ego of ASARCO Master and responsible for payment of its proof of claim. ASARCO has admitted this allegation in the lawsuit.

In addition to the litigation shared with ASARCO, the only other asset of ASARCO Master is real property previously owned by either Federated Metals Corp. or Domestic Realty Company, Inc. (both of which were merged into ASARCO Master in 2005). Other than de ~~minimus~~**minimis** claims and claims also asserted against ASARCO, all other Claims filed against ASARCO Master relate to the operations of AR Montana, Domestic Realty Company, Federated Metals Corp., and Midland Coal Company. The AR Montana claims relate to the MRI lawsuit described in the preceding paragraph. The Domestic Realty Claims relate solely to the East Helena and the Everett sites, both of which historically were owned and operated by ASARCO and transferred to Domestic Realty for holding and resale purposes after operations at those sites had ceased. Finally, the remaining Claims relate to the historical operations of Federated Metals Corp. and the Midland Coal division of ASARCO. In the case of Federated Metals Corp., which operated and was marketed as a division of ASARCO, the Claims assert asbestos-related and environmental liabilities in connection with the San Francisco, Houston and Gulf Metals sites. In the case of the Midland Coal Company, a predecessor to ASARCO Master, which was created to hold the liabilities related to the operations of the Midland Coal division of ASARCO, the only Claim that facially relates to Midland Coal is a Claim filed by SAFECO Inc., which is a Claim under an undrawn surety bond that is subject to a pending claim objection under section 502(e)(1)(b) of the Bankruptcy Code. The schedule attached to the SAFECO surety bond Claim identifies the Midland Coal division of ASARCO as the principal for the bond such that this alleged liability may be a direct obligation of ASARCO.

As it relates to AR Sacaton, LLC, other than Claims filed against all Debtors and a Claim by the State of Arizona also filed against ASARCO and asserting liabilities related to ASARCO's current active operations, the only other two Claims filed against this subsidiary are a $45 million Claim filed by the ADEQ related to the Sacaton mine and a $262,163 Claim filed by AMC relating to property quitclaimed to AMC in 2004 to raise quick cash for ASARCO to pay past due operating expenses. The Claim by the ADEQ relates to remediation obligations in connection with the Sacaton mine, which was owned and operated by ASARCO until the early 1980s. The property remained as an asset of ASARCO until it was transferred to AR Sacaton, LLC, a company created for the purpose of holding this land, in 1998. In 2004, as mentioned above, AR Sacaton, LLC transferred a portion of the Sacaton property to AMC, which in turn sold most of it to a third party that year. In exchange for the transfer ASARCO (not Sacaton) was paid approximately $5 million by AMC. These transfers are the subject of the fraudulent transfer action discussed above in Section 2.24(g). Also in 2004, AMC quitclaimed to AR Sacaton, LLC the 34 acres that it did not sell. The fraudulent transfer action and the remaining portion of the Sacaton property represent AR Sacaton, LLC's only assets.

Encycle, Inc., a non-operating holding company, is the direct parent of Encycle/Texas, Inc. (the debtor in a related chapter 7 case) and ASARCO Consulting, Inc. The interests in these entities represent Encycle's sole assets. Other than the Claims filed against every Debtor, a couple of trade Claims totaling less than $10,000, and a handful of pension-related Claims to which the Debtors have objected, the only other Claims filed against Encycle are environmental Claims related to the Encycle/Texas sites, which also were asserted against ASARCO and have been settled. Similarly, other than a historical $5 million intercompany Claim against ASARCO, the assets of ASARCO Consulting, Inc. total less than $50,000 (including stale employee receivables). ASARCO Consulting, Inc. has no liabilities other than the common Claims, a couple of pension Claims to which the Debtors have objected, de ~~minimus~~**minimis** trade and tax Claims totaling less than $20,000 and two environmental Claims related to sites in Montana and Oklahoma which also were asserted against ASARCO and Other Subsidiary Debtors. ASARCO Consulting, Inc. and its predecessor Hydrometrics, Inc. were environmental engineering firms that, historically, derived 70-100% of their business from ASARCO projects. ASARCO Consulting, Inc.'s role, if any, in connection with the Montana and Oklahoma sites would have been in its capacity of environmental contractor and consultant to ASARCO and its affiliates.

Bridgeview Management Company, Inc. was created to manage the commercial real property leaseholds established in the Perth Amboy property, which used to house a secondary smelter and a copper refinery that was operated by ASARCO prior to its shutdown in the 1970s. Bridgeview Management Company, Inc.'s exclusive business is the management of properties owned by ASARCO and CAPCO. Other than the common Claims against all Debtors, the only Claim filed against Bridgeview Management Company, Inc. is a remediation Claim by a lessee who also asserted a Claim against ASARCO as owner and former operator of the Perth Amboy site.

ASARCO Oil and Gas Company has assets in the form of ~~royalties from oil and gas wells that generate approximately **[$150,000]** per year~~**oil and gas leases that post-petition have generated annual royalties anywhere between $200,00 and $500,000** and no liabilities. ASARCO Exploration Company, Inc., another wholly-owned subsidiary of ASARCO, owns 5 million shares of Elekra Mines Ltd. and a right to a contingent payment of almost $1 million

and has no liabilities other than approximately $50,000 in trade debt and, as mentioned earlier, a large historical intercompany payable due to ASARCO.

The 2008 Subsidiary Debtors have de ~~minimus~~**minimis** real estate assets worth less than $200,000 in the aggregate, less than $1,000 in potential tax-related liability, and no other liability except for liabilities shared with ASARCO. No other Claims have been asserted against the remaining Subsidiary Debtors, except for Claims filed against Southern Peru Holdings which have been withdrawn as satisfied, Claims against Government Gulch Company asserting environmental liabilities related to the Coeur D'Alene site for which ASARCO is jointly and severally liable, and less than 100 environmental, asbestos, toxic-torts and employee-related Claims filed against American Smelting and Refining Company, the non-operating company formed to preserve ASARCO's historical name.

(b) ~~(b)~~ Voluntary Consolidation Pursuant to Section 1123(a)(5)(C) of the Bankruptcy Code.

Pursuant to section 1123(a)(5)(C) of the Bankruptcy Code, "[n]otwithstanding any otherwise applicable nonbankruptcy law, a plan shall provide adequate means for the plan's implementation such as — . . . merger or consolidation of the debtor with one or more persons . . . ." 11 U.S.C. § 1123(a)(5)(C). As an alternative to substantive consolidation, the Debtors reserve the right, pursuant to section 1123(a)(5)(C), to consolidate the Subsidiary Debtors (other than Covington) into ASARCO on the Effective Date. Holders of Claims in impaired Classes shall vote on a Debtor-by-Debtor basis so that their votes may be counted in this fashion, should the Debtors elect voluntary consolidation, rather than substantive consolidation.

The Parent contends that section 1123(a)(5)(C) of the Bankruptcy Code merely allows affiliated debtors, as one of the means of implementation of a joint plan of reorganization, to emerge from bankruptcy as a single entity (provided their creditors vote to approve the plan providing for such result), and that section 1123(a)(5)(C) was never meant to allow debtors to merge their estates for distribution purposes. Had section 1123(a)(5)(C) been available to achieve that result, according to the Parent, there would have been no need for the 'substantive consolidation' remedy or vigorous legal debate surrounding its appropriateness.

The Debtors disagree.

(c) ~~(c)~~ Separate Plans under Chapter 11 or Conversion to Chapter 7 Cases for Certain of the Subsidiary Debtors.

As a third alternative, the Debtors reserve the right to proceed with the Plan as to only ASARCO, Covington, ASARCO Master, **SPHC, AR Sacaton, LLC,** and the Asbestos Subsidiary Debtors. Thereafter, the Other Subsidiary Debtors (other than Covington ~~and~~**,** ASARCO Master**, SPHC, and AR Sacaton, LLC**) would either file a proposed plan under chapter 11 of the Bankruptcy Code or convert their cases to liquidation cases under chapter 7 of the Bankruptcy Code**.**

In this event, the assets of ASARCO Master, SPHC, and AR Sacaton, LLC would vest in reorganized ASARCO Master, reorganized SPHC, and reorganized AR Sacaton, respectively, and the assets of the Asbestos Subsidiary Debtors would vest in the reorganized Asbestos Subsidiary Debtors. The Plan Administrator would hold the interests in Reorganized ASARCO, which would in turn own the interests in reorganized ASARCO Master, reorganized SPHC, and reorganized AR Sacaton. Reorganized ASARCO would continue to own the interests in the Other Subsidiary Debtors.

The rights, powers, and duties of the directors and officers of reorganized ASARCO Master, reorganized SPHC, and reorganized AR Sacaton would vest in the Plan Administrator, and the Plan Administrator or his, her, or its designee would be the presiding officer and sole director of Reorganized ASARCO, reorganized ASARCO Master, reorganized SPHC, and reorganized AR Sacaton (unless and until the appointment of additional officers and directors for any of them). The Asbestos Trust would hold the interests in Reorganized Covington. The Asbestos Trust would create an intervening trust which would hold the interests in the reorganized Asbestos Subsidiary Debtors, and would appoint the persons to serve as officers and directors of each such entity.

Reorganized ASARCO, Reorganized Covington, reorganized ASARCO Master, reorganized SPHC, reorganized AR Sacaton and the reorganized Asbestos Subsidiary Debtors would continue their existences as separate entities after the Effective Date.

(d) Effect of Voting in Favor of the Plan.

A vote in favor of the Plan constitutes a vote in favor of voluntary consolidation pursuant to Section 10.3(b) above and a vote in favor of the separate plans proposed pursuant to Section 10.3(c) above.

10.4 Issuance of Interests in Reorganized ASARCO.

On or after the Effective Date, Reorganized ASARCO shall issue interests in Reorganized ASARCO for distribution in accordance with the terms of the Plan, which shall represent all of the equity interests in Reorganized ASARCO as of the Effective Date. They shall be held by the Plan Administrator.

10.5 Issuance of Interests in Reorganized Covington.

On or after the Effective Date, Reorganized Covington shall issue interests in Reorganized Covington for distribution in accordance with the terms of the Plan, which shall represent all of the equity interests in Reorganized Covington as of the Effective Date. The Asbestos Trust shall own 100 percent of the interests in Reorganized Covington, and shall be entitled to periodic dividends and other distributions from Reorganized Covington.

10.6 Charter Documents.

The charter documents of each of the Reorganized ASARCO Debtors shall be amended, as of the Effective Date, to prohibit the issuance of nonvoting equity securities. The forms of the these documents are attached to the Plan as **Exhibit 13**.

10.7 Management of the Reorganized Debtors.

On the Effective Date, (a) the current directors and officers of ASARCO and the Subsidiary Debtors shall be removed (without the necessity of further action) and shall have no further obligations; (b) to the fullest extent permitted by applicable law, the rights, powers, and duties of the directors and officers of ASARCO shall vest in the Plan Administrator, and the Plan Administrator or his, her, or its designee shall be the presiding officer and the sole director of Reorganized ASARCO (unless and until additional officers or directors are appointed); and (c) the Asbestos Trustees shall appoint the persons to serve as officers and directors of Reorganized Covington. The compensation for service as officer and director of each of the Reorganized Debtors, and biographical data regarding the proposed Plan Administrator shall be filed with the Bankruptcy Court at least 10 days prior to the commencement of the Confirmation Hearing.

10.8 Reorganized Debtors' Name Changes.

On the Effective Date, Reorganized ASARCO shall change its name to ASARCO Administration Company, LLC, and Reorganized Covington shall change its name to The Covington Company, LLC.

10.9 Continued Corporate Existence and Business Operations of the Reorganized Debtors.

Except as otherwise provided in Article XI of the Plan, the Reorganized Debtors shall continue their existences as separate entities after the Effective Date for the purposes of satisfying their obligations under the Plan, in accordance with applicable law and pursuant to their applicable organizational documents. The Plan Administrator shall, in accordance with the Plan Administration Agreement, operate the ~~businesses~~**business** of ~~the Reorganized Debtors~~**Reorganized ASARCO and the Asbestos Trustees shall, in accordance with the Asbestos Trust Agreement, operate the business of Reorganized Covington**. On or after the Effective Date, the Plan Administrator **and the Asbestos Trustees, as applicable,** may take such action as permitted by applicable law and each of the Reorganized Debtors' organizational documents, as ~~the Plan Administrator~~**they** may determine is reasonable and appropriate, including to cause (a) each of the Reorganized Debtors' legal name to be changed; (b) the closure ~~of either or both~~ of the Reorganized Debtors' bankruptcy cases (upon consultation with Litigation Trustees and the Asbestos Trustees); or (c) the Reorganized Debtors to be engaged in such businesses or activities as are appropriate to their respective corporate purposes.

10.10 Director and Executive Compensation.

A schedule of the annual compensation to be paid to persons serving as executives, officers and directors of the Reorganized Debtors as of the Effective Date shall be filed with the Bankruptcy Court no later than 10 days before the commencement of the Confirmation Hearing.

SECTION 11
CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the IRS, holders of Claims are hereby notified that: (a) any discussion of United States federal tax issues in this document is not intended or written to be relied upon, and cannot be relied upon, by holders of Claims, for the purpose of avoiding penalties that may be imposed on such holders of Claims under the Internal Revenue Code; (b) such discussion is written in connection with the promotion or marketing of the transactions or matters addressed herein; and (c) holders of Claims should seek advice based on their particular circumstances from an independent tax advisor.

11.1 General

Set forth below is a summary of certain federal income tax consequences of the consummation of the Plan. The summary is based on the Internal Revenue Code, final, temporary, and proposed Treasury Regulations promulgated thereunder, administrative pronouncements or practices, and judicial decisions, all as of the date hereof. Future legislative, judicial, or administrative modifications, revocations, or interpretations, which may or may not be retroactive, may result in federal income tax consequences significantly different from those discussed herein. This summary is not binding on the IRS or United States courts, and no assurance can be given that the conclusions reached in this summary will not be challenged by the IRS or will be sustained by a United States court if so challenged. In addition, the Debtors have not requested, and do not intend to request, a ruling from the IRS regarding any of the federal income tax consequences of the implementation of the Plan.

This summary does not address the federal income tax consequences to certain categories of holders of Claims subject to special rules, including, without limitation, holders of Claims that are (a) banks, financial institutions, or insurance companies, (b) real estate investment trusts, cooperatives, regulated investment companies, mutual funds, or small business investment companies, (c) brokers or dealers in securities, (d) tax-exempt organizations, (e) investors in pass-through entities and such entities themselves, and (f) foreign taxpayers. Furthermore, this summary is limited to United States federal income tax consequences and does not discuss state, local or foreign tax consequences or federal estate or gift tax consequences.

This summary is for general information purposes only and does not purport to be a complete analysis or listing of all potential federal income tax consequences that may apply to holders of Claims as a result of the implementation of the Plan. In addition, this summary does not take into account the individual facts and circumstances of particular holders of Claims that may affect the federal income tax consequences of the implementation of the Plan to such holders. Accordingly, this summary is not intended to be, and should not be construed as, legal or federal income tax advice. Holders of Claims should consult their own tax advisors regarding the federal, state, local, and foreign tax consequences of the Plan.

11.2 Federal Income Tax Classification of Trusts, Disputed Claims Reserve and Disputed Secured Claims Escrow Accounts.

The federal income tax consequences of the Plan to the Debtors and Claimants will depend to a large degree on the federal income tax classification of the Litigation Trust, the Asbestos Trust, the Environmental Custodial Trusts, the Disputed Claims Reserve, and the Disputed Secured Claims Escrow Accounts.

(a) Classification of Litigation Trust.

It is intended that the Litigation Trust be treated as a liquidating trust under Treasury Regulations section 301.7701-4(d). IRS Rev. Proc. 94-45 provides conditions under which the IRS will generally issue a ruling that an entity created pursuant to a bankruptcy plan under chapter 11 of the Bankruptcy Code qualifies as a liquidating trust. The Litigation Trust has been structured so as to comply with these conditions to the maximum extent possible. However, the Debtors have not, and do not intend to, seek a ruling from the IRS or an opinion of counsel regarding the status of the Litigation Trust as a

liquidating trust. Accordingly, there can be no assurance that the IRS will not take a contrary position. Except as otherwise specified, the remainder of the tax considerations discussion assumes that the Litigation Trust will be treated as a liquidating trust under Treasury Regulations section 301.7701-4(d). Assuming that the Litigation Trust qualifies for such liquidating trust treatment, no entity-level tax will be imposed on any of the income or gain derived by the Litigation Trust but, instead, the Litigation Trust Beneficiaries (and any other Claimants that may be entitled to receive distributions from the Litigation Trust) will be treated as the owners of the Litigation Trust's assets for federal income tax purposes and will be required to include in their computation of taxable income their allocable share of income and gain generated by the Litigation Trust.

(b) Classification of Asbestos Trust and Environmental Custodial Trusts.

The Treasury regulations promulgated under section 468B of the Internal Revenue Code provide that a fund, account, or trust will be a qualified settlement fund if three conditions are met. First, the fund, account, or trust must be established pursuant to an order of, or be approved by, a government authority, including a court, and must be subject to the continuing jurisdiction of that government authority. Second, the fund, account, or trust must be established to resolve or satisfy one or more contested or uncontested claims that have resulted or may result from an event or related series of events that has occurred and that has given rise to at least one claim asserting liability arising out of, among other things, a tort, violation of law, or CERCLA claim. Third, the fund, account, or trust must be a trust under applicable state law or have its assets physically segregated from the other assets of the transferor and persons related to the transferor.

The Asbestos Trust and the Environmental Custodial Trusts have been structured so as comply with the foregoing requirements to the maximum extent possible. However, the Debtors have not, and do not intend to, seek a ruling from the IRS or an opinion of counsel regarding the status of the Asbestos Trust and the Environmental Custodial Trusts as qualified settlement funds. Accordingly, there can be no assurance that the IRS will not take a contrary position. Except as otherwise specified, the remainder of the tax considerations discussion assumes that the Asbestos Trust and the Environmental Custodial Trusts will be treated as qualified settlement funds.

Assuming that the Asbestos Trust and the Environmental Custodial Trusts qualify for qualified settlement fund treatment, the Asbestos Trust and the Environmental Custodial Trusts will be treated as separate taxable entities and will generally be subject to federal income tax on their modified taxable income at the maximum rate applicable to trusts, which is currently 35 percent. In determining the modified taxable income of the Asbestos Trust and each Environmental Custodial Trust, (1) amounts transferred by the Debtors to such trust (other than payments in compensation for late or delayed transfers, dividends on stock of a Debtor or related person, or interest on the debt of a Debtor or related person) pursuant to the Plan will generally be excluded from the trust's income; (2) any sale, exchange or distribution of property by such trust will generally be treated as a sale and result in the recognition of gain or loss in an amount equal to the difference between the fair market value of the property on the date of such disposition and the adjusted tax basis of the trust in such property; and (3) administrative costs (including state and local taxes) incurred by such trust that would be deductible in determining the taxable income of a corporation will generally be deductible by the trust. The adjusted tax basis of the Asbestos Trust and the Environmental Custodial Trusts in property received from the Debtors (or from an insurer on behalf of the Debtors) pursuant to the Plan will generally be the fair market value of such property at the time of such transfer.

(c) Classification of Disputed Claims Reserve and Disputed Secured Claims Escrow Accounts.

The Treasury regulations promulgated under IRC section 468B provide that a fund, escrow account, or trust will be a disputed ownership fund if four conditions are met. First, the fund, escrow account, or trust must be established to hold money or property subject to conflicting claims of ownership. Second, the fund, escrow account, or trust must be subject to the continuing jurisdiction of a court. Third, the fund, escrow account, or trust is required to obtain the approval of the court to pay or distribute money or property to, or on behalf of, a claimant, transferor, or transferor claimant. Finally, the fund, escrow account, or trust must not be a bankruptcy estate (or part thereof) resulting from the commencement of a case under title 11 of the United States Code, a qualified settlement fund, or a liquidating trust (except for certain liquidating trusts established pursuant to a confirmed bankruptcy plan).

It is unclear as to whether the Disputed Claims Reserve or a Disputed Secured Claims Reserve qualifies as a disputed ownership fund under the foregoing rules since it is not clear that either of the last two conditions are satisfied. If the Disputed Claims Reserve or a Disputed Secured Claims Reserve qualifies as a disputed ownership fund within the meaning of Treasury Regulations section 1.468B-9(b)(1), it would be subject to entity level federal income taxation on its income as if it were a corporation, and such entity level taxes imposed on the Disputed Claims Reserve or the Disputed Secured Claims Reserve would be paid out of the Disputed Claims Reserve or the Disputed Secured Claims Escrow Account, respectively. If the Disputed Claims Reserve or a Disputed Secured Claims Reserve does not qualify as a disputed ownership

fund within the meaning of Treasury Regulations section 1.468B-9(b)(1), then it will not be treated as a separate taxable entity subject to entity level taxation, and the person that is deemed to "own" the Disputed Claims Reserve or the Disputed Secured Claims Reserve for U.S. federal income tax purposes would be required to pay federal income taxes on its earnings. The Plan Administrator intends to take the position that the Disputed Claims Reserve and the Disputed Secured Claims Escrow Accounts do not qualify as disputed ownership funds within the meaning of Treasury Regulations section 1.468B-9(b)(1). The Plan Administrator will cause taxes attributable to the earnings of the Disputed Claims Reserve or a Disputed Secured Claims Reserve (as well as any taxes directly imposed on the Disputed Claims Reserve or a Disputed Secured Claims Escrow Account) to be paid out of the assets of the Disputed Claims Reserve or the Disputed Secured Claims Reserve, respectively.

11.3 Federal Income Tax Consequences to Debtors.

(a) Cancellation of Indebtedness.

Under the Internal Revenue Code, a taxpayer generally must include in gross income the amount of any ~~cancellation of indebtedness income (~~"COD Income"~~)~~ realized during the taxable year. Section 108 of the Internal Revenue Code provides that a taxpayer does not realize COD Income from cancellation of indebtedness to the extent that payment of such indebtedness would have given rise to an income tax deduction. Section 108 of the Internal Revenue Code provides further that COD Income may be excluded from gross income to the extent that the taxpayer is insolvent or is in bankruptcy, but such excluded amount must be applied to reduce certain tax attributes of the taxpayer.

It is expected that the satisfaction of all or substantially all of the Claims in Class 5 and Class 6, and the satisfaction of most of the Claims in Classes 7 through 9, will not result in COD Income to the Debtors because payment of such Claims would have given rise to a deduction for the Debtors. Moreover, the Debtors do not expect (based on current projections) that the satisfaction of the Claims in the other Classes under the Plan will be in an amount that represents, in the aggregate, a significant discount to the amount of Allowed Claims in those Classes. Accordingly, the Debtors do not expect to recognize a significant amount of COD Income from the Plan.

(b) Sale of Sold Assets to Plan Sponsor.

The sale of the Sold Assets to the Plan Sponsor will be a taxable event, resulting in taxable gain to the Debtors in an amount equal to the difference between (1) the amount of cash and the fair market value of any other property received and (2) the Debtors' adjusted tax basis of the Sold Assets. This taxable gain is expected to be substantial. However, tax deductions generated as a result of the satisfaction of certain of the Claims (as more particularly described below) are expected to offset most of such taxable gain.

(c) Transfers of Assets other than Cash to Trusts.

Assuming that the Litigation Trust qualifies as a liquidating trust, and that the Asbestos Trust and the Environmental Custodial Trusts qualify as qualified settlement funds (as discussed above), the Debtors will be treated as having made a taxable disposition of the assets transferred to the Litigation Trust, the Asbestos Trust, and the Environmental Custodial Trusts. As a result, the Debtors will generally recognize gain or loss on the transfer of any such assets other than cash in an amount equal to the difference between (1) the fair market value of the assets transferred and (2) the Debtors' adjusted tax basis in the transferred assets.

(d) Deductibility of Amounts Transferred in Satisfaction of Asbestos, Toxic Tort, and Certain Environmental Claims.

The Debtors should be entitled to a deduction for all or substantially all of the amount of cash and the fair market value of other assets paid in satisfaction of the Class 5 Claims (Unsecured Asbestos Personal Injury Claims) and Class 6 Claims (Toxic Tort Claims), and for a substantial portion of the amounts paid in satisfaction of the Environmental Claims in Classes 7 through 9, once the usual requirements imposed on accrual basis taxpayers with respect to the satisfaction of liabilities are met. Assuming that the Litigation Trust qualifies as a liquidating trust, and that the Asbestos Trust and the Environmental Custodial Trusts qualify as qualified settlement funds (as discussed above), these requirements should generally be met at the time Cash or assets are transferred to the Litigation Trust, the Asbestos Trust, and the Environmental Custodial Trusts.

The Debtors will not be allowed a deduction for payments to the Trusts to the extent that such payments represent insurance proceeds received by the Debtors. In such case, payments of amounts representing insurance proceeds should not cause recognition of income to the Debtors. Alternatively, if the Debtors' transfer of amounts representing insurance proceeds were to cause recognition of income by the Debtors, the Debtors should be entitled to a corresponding deduction for the payment of such amounts to the trusts.

Similarly, the Debtors will not be allowed a deduction for payments to the Trusts to the extent the Debtors have a right to reimbursement (with a positive fair market value) with respect to such payments from any third party.

Any deductions for payments made to the Trusts first would reduce or eliminate the Debtors' federal taxable income for the taxable year in which the payments are made. To the extent these deductions created a taxable loss for such year, the loss would constitute a net operating loss.

11.4 Federal Income Tax Consequences to Holders of Claims.

The tax consequences of the Plan to a holder of a Claim will depend, in part, on the type of consideration the holder receives in exchange for the Claim, whether the holder reports income on the accrual or cash-basis method, and whether the holder receives distributions under the Plan in more than one taxable year.

In general, a holder of a Claim that receives cash or property in satisfaction of its Claim in a single taxable year will recognize (a) ordinary interest income to the extent such payments are attributable to interest that has accrued but has not been previously taken into income by the holder with respect to the Claim and (b) gain or loss in an amount equal to the difference between (1) the amount of cash and the fair market value of other property received by such holder in satisfaction of such Claim (other than amounts attributable to accrued interest, which is taxed as described above) and (2) the holder's adjusted tax basis in such Claim. This treatment is expected to apply to holders of Claims in Classes 1, 2 (subject to the discussion below on Reinstatement), 3, 4, 5 and 6 (subject to the discussion regarding personal injury claims below), 7, 8, 9, 10, 11, and 12. For federal income tax purposes, the transfer of assets to the Litigation Trust will be treated as a deemed transfer to the Litigation Trust Beneficiaries (and any other Claimants that may be entitled to receive distributions from the Litigation Trust), followed by a deemed transfer by the Litigation Trust Beneficiaries (and any other Claimants that may be entitled to receive distributions from the Litigation Trust) to the Litigation Trust, and all income and gain of the Litigation Trust which is earned after such deemed transfer will be taxed to the Litigation Trust Beneficiaries (and any other Claimants that may be entitled to receive distributions from the Litigation Trust) on a current basis. The fair market value of the portion of the Litigation Trust assets that are so treated as having been transferred to each Litigation Trust Beneficiary (and any other Claimants that may be entitled to receive distributions from the Litigation Trust) shall be determined by the Litigation Trustees, and all parties (including ~~the Debtors, Reorganized ASARCO~~**, without limitation**, the Litigation Trustees~~, AMC and its Affiliates~~, the Litigation Trust Beneficiaries ~~and~~**,** any other Claimants that may be entitled to receive distributions from **the Litigation Trust, and the transferors, for tax purposes, of any assets transferred to** the Litigation Trust) are required to utilize such fair market value determined by the Litigation Trustees in all U.S. federal income tax returns filed by such parties. A recipient of Litigation Trust Interests (and any other Claimants that may be entitled to receive distributions from the Litigation Trust) will have a tax basis in the Litigation Trust assets which equals such fair market value (increased by any taxable income recognized by such recipient or Claimant with respect to subsequent earnings of the Litigation Trust and decreased by any applicable deductions taken by such recipient or Claimant with respect to the assets of the Litigation Trust), and would recognize additional gain with respect to distributions from the Litigation Trust only if and to the extent that such distributions exceed such tax basis. If the payments ultimately received from the Litigation Trust are less than such tax basis, the holder would recognize a tax loss once final distributions have been received from the Litigation Trust.

Holders of Class 5 Unsecured Asbestos Personal Injury Claims will receive interests in the Asbestos Trust. Such holders shall not be treated as receiving property as a result of their receipt of interests in the Asbestos Trust. Instead, such holders shall be treated as receiving cash or property when they receive distributions from the Asbestos Trust. All distributions to holders of Claims will be subject to any applicable withholding and backup withholding.

Payments under the Plan to Claimants with respect to damages on account of personal physical injuries or physical sickness will not be includable in such Claimants' gross income pursuant to section 104 of the Internal Revenue Code. However, to the extent payments under the Plan to Claimants are attributable to medical expense deductions allowed under section 213 of the Internal Revenue Code for a prior taxable year, such payments will be taxable as ordinary income to the recipient. Payments under the Plan to Claimants representing punitive damages or interest will generally be taxable as ordinary income to the recipient. Payments under the Plan to a Claimant attributable to attorneys' fees of such Claimant may be taxable as ordinary income to the Claimant depending upon the unique circumstances of such Claimant. If taxable, such a

Claimant may also be entitled to deduct such payments as an expense (subject to certain limitations). Some portion of the amounts received by holders of Class 5 Unsecured Asbestos Personal Injury Claims and Class 6 Toxic Tort Claims may qualify for the treatment described in this paragraph.

Under the Plan, each Allowed Class 2 Secured Claim, at the option of the Debtors, shall be Reinstated. In the event that (1) a Secured Claim is treated as debt for tax purposes, (2) such Secured Claim is Reinstated, (3) such Reinstatement constitutes a "significant modification" of the Secured Claim for tax purposes, and (4) such Reinstatement does not constitute a tax-free recapitalization, the holder of such Secured Claim would generally have taxable gain or loss to the extent that the "issue price" of the reinstated Secured Claim is greater than or less than, respectively, the holder's tax basis in the Secured Claim. If the Reinstatement of a Secured Claim does not constitute a significant modification, or constitutes a tax-free recapitalization, the holder of the Secured Claim would generally not recognize gain or loss as a result of such Reinstatement, except with respect to payments for accrued interest, fees, expenses, charges, or principal (to the extent that the holder previously took a bad debt deduction with respect to such principal) received by the holder in connection with the Reinstatement. Whether the Reinstatement of a Secured Claim would constitute a significant modification that is not a tax-free recapitalization depends on the specific facts and circumstances. Holders of Secured Claims should consult their own tax advisors to determine the tax consequences of Reinstatement.

Where gain or loss is recognized by a holder of Claims under the foregoing rules, the character of such gain or loss as long-term or short-term capital gain or loss or as ordinary income or loss will be determined by a number of factors, including the tax status of the holder, whether the Claim constitutes a capital asset in the hands of the holder and how long it has been held, whether the Claim was acquired at a market discount, and whether and to what extent the holder had previously claimed a bad debt deduction.

Holders of Claims are strongly advised to consult their tax advisors with respect to the tax treatment under the Plan of their particular Claim.

11.5 Information Reporting; Backup Withholding Tax.

Payments made pursuant to the Plan will generally be subject to applicable federal income tax information reporting and withholding requirements. The Internal Revenue Code imposes backup withholding tax on certain payments, including payments of interest, if a taxpayer (a) fails to furnish its correct taxpayer identification number (generally on IRS Form W-9), (b) furnishes an incorrect taxpayer identification number, (c) is notified by the IRS that it has previously failed to report properly items subject to backup withholding tax, or (d) fails to certify, under penalty of perjury, that such taxpayer has furnished its correct taxpayer identification number and that the IRS has not notified such taxpayer that it is subject to backup withholding tax. However, taxpayers that are corporations generally are excluded from these information reporting and backup withholding tax rules provided that evidence of such corporate status is furnished to the payor. Backup withholding is not an additional federal income tax. Any amounts withheld under the backup withholding tax rules will be allowed as a credit against a taxpayer's federal income tax liability, if any, or will be refunded to the extent the amounts withheld exceed the taxpayer's actual tax liability, if such taxpayer furnishes required information to the IRS. A taxpayer that does not provide a correct taxpayer identification number may be subject to penalties imposed by the IRS. Each taxpayer should consult its own tax advisor regarding the information reporting and backup withholding tax rules.

11.6 Importance of Obtaining Professional Tax Assistance.

The foregoing discussion is intended only as a summary of certain federal income tax consequences of the Plan, and is not a substitute for careful tax planning with a tax professional. The tax consequences are in many cases uncertain and may vary depending on the individual circumstances of a holder of Claims. Accordingly, holders of Claims are urged to consult with their tax advisors about the federal, state, local, and foreign tax consequences of the Plan.

SECTION 12
FINANCIAL INFORMATION

12.1 General.

An analysis of the Debtors' financial condition appears in the historic unaudited financial information for the fiscal years 2005, 2006, 2007, and 2008 (through June 30, 2008), attached to this Disclosure Statement as **Exhibit D**. This information is provided to permit holders of Claims and Interests to better understand the Debtors' financial condition.

The Debtors are required to file monthly operating reports with the Bankruptcy Court. Such financial information is on file with the clerk of the Bankruptcy Court and publicly available for review on the Bankruptcy Court's public website: *www.ecf.txsb.uscourts.gov*, or at the Debtors' restructuring website: *www.asarcoreorg.com*.

The Parent contends that due to the recent decline in the Plan Sponsor's stock price and a change in Fitch Ratings' outlook from stable to negative, there is a risk that the Plan Sponsor will be unable to perform on its obligations under the Plan Sponsor PSA. The Plan Sponsor's balance sheet is attached as Exhibit N hereto and indicates as of the date thereof, the Plan Sponsor has access to sufficient cash and availability under credit facilities to fund the Purchase Price (as defined in the Plan Sponsor PSA). Although the outlook was changed, there has been no ratings downgrade of the Plan Sponsor Parent. The decline in the Plan Sponsor Parent's stock price is in line with the market decline of the stocks of other commodity companies. Although no assurance can be given, the Debtors anticipate that the Plan Sponsor will have the financial wherewithal to perform under the Plan Sponsor PSA.

12.2 Funding for Plan Administration Expenses.

In addition to the Available Plan Funds and the Litigation Proceeds attributable to Litigation Trust Interests, the Plan Administrator may satisfy obligations under the Plan to holders of unpaid Claims and Class 12 Interests from the following sources: (a) excess Cash in the Plan Administration Reserve, as determined by the Plan Administrator, after consultation with and approval by the Plan Administration Committee; (b) proceeds recovered from the settlement or litigation of any of the Vested Causes of Action (as listed in **Exhibit 14-A** to the Plan); and (c) proceeds received from the sale of, or income generated by, any Remaining Assets.

The Plan Administration Reserve includes $55.5 million that ASARCO has set aside to cover various contingencies that may arise after the Effective Date, with $17.5 million for the Claim allowance process and associated fees and expenses. Another $38 million is to be used by the Plan Administration and the Litigation Trustee to prosecute litigation.

12.3 Reorganized Debtors' Business Operations.

ASARCO owns approximately 20 acres of real property in Madera Canyon, located in Santa Cruz County, Arizona ~~(the "Madera Property")~~. The land is valued at $1 million, and was purchased as part of a planned land exchange with the United States Forest Service that was never effectuated. Six cabins, five of which are habitable, are on the property. The Madera Property is leased to Mr. and Mrs. Richard J. Lansky, and generates rental income of $500 per month. Pursuant to the Plan, the Madera ~~Property~~**property** shall be transferred to Reorganized Covington, and ASARCO shall assume the lease with the Lanskys and assign it to Reorganized Covington.

SECTION 13
SOURCES OF INFORMATION PROVIDED AND THE ACCOUNTING METHOD USED

13.1 Sources of Information.

The information set forth in this Disclosure Statement and the attached exhibits was provided by the Debtors, the Committees, the FCR, the Plan Sponsor, and their respective advisors. The financial information in **Exhibit D** to this Disclosure Statement was provided by the Debtors.

13.2 Accounting Method.

The Debtors' books and records (a) present fairly in all material respects the consolidated financial position of ASARCO as of the respective dates thereof, and the consolidated results of operations of ASARCO for the periods covered thereby and (b) have been prepared in all material respects in accordance with generally accepted accounting principles applied on a basis consistent with the past practices of ASARCO during the pendency of the Reorganization Cases, in each case, subject to (i) the absence of footnotes thereto, (ii) in the case of interim financial statements, the absence of normal year-end adjustments, and (iii) audit adjustments resulting from the independent accountants' audit, review and finalization of the ASARCO's financial statements for the years ended December 31, 2005, 2006, and 2007.

SECTION 14
REQUIREMENTS FOR CONFIRMATION OF THE PLAN AND VOTING PROCEDURES

14.1 Acceptance or Rejection of the Plan.

Under the Bankruptcy Code, only classes of claims and interests that are impaired under a plan of reorganization can vote to accept or reject that plan. Under section 1124 of the Bankruptcy Code, a class of claims or interests is impaired under a plan unless, with respect to each claim or interest in that class, that plan:

- leaves unaltered the legal, equitable, and contractual rights to which that claim or interest entitles its holder; or
- notwithstanding any contractual provision or applicable law that entitles the holder of that claim or interest to demand or receive accelerated payment of that claim or interest after the occurrence of a default:
  - cures that default, if other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code;
  - reinstates the maturity of that claim or interest as it existed prior to that default;
  - compensates the holder of that claim or interest for any damages incurred as a result of that holder's reasonable reliance on that contractual provision or applicable law; and
- does not otherwise alter the legal, equitable, or contractual rights to which that claim or interest entitles its holder.

Under the Debtors' Plan, Class 1 is unimpaired; therefore, the holders of Claims in such Class are conclusively presumed under section 1126(f) of the Bankruptcy Code to have accepted the Plan. ~~The Debtors are not soliciting acceptances from this Class.~~ The Debtors shall solicit the votes of all holders of Secured Claims in Class 2, but if the Debtors elect to Reinstate certain sub-Classes of Class 2, the Reinstated Claims are unimpaired and so the votes of the Secured Claimant in those sub-Classes shall not be counted.

Classes 13 and 14 shall not receive or retain any property on account of their Interests; therefore, the holders of Interests in such Classes are conclusively presumed under section 1126(g) of the Bankruptcy Code to have rejected the Plan. ~~The Debtors are not soliciting acceptances from these Classes.~~

Classes 3 through 12, as well as the Secured Claims in any sub-Classes of Class 2 that the Debtors elect to Pay in Full, are impaired under the Plan; therefore, the holders of Claims in such Classes are entitled to vote to accept or reject the Plan. As noted above, the Debtors shall solicit the votes of all holders of Secured Claims in Class 2, but only the votes of the Secured Claimants in sub-Classes that the Debtors elect to Pay in Full will be counted.

~~The Debtors have requested that the Bankruptcy Court adopt a presumption that, if no holder of a Claim or Interest eligible to vote in a particular Class timely votes to accept or reject the Plan, the Plan shall be deemed accepted by the holders of such Claims or Interests in such Class. Accordingly, if the holder of a Claim or an Interest does not wish such a presumption with respect to any Class for which it holds Claims or Interests to become effective, such holder should timely submit a ballot accepting or rejecting the Plan for any such Class.~~ Any Class of Claims or Interests that does not have a holder of an Allowed Claim or Interest or a Claim or Interest temporarily allowed by the Bankruptcy Court as of the date of the Confirmation Hearing shall be deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for purposes of determining acceptance or rejection of the Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code.

14.2 Confirmation Hearing.

Section 1128(a) of the Bankruptcy Code requires the court, after notice, to hold a hearing on confirmation of a proposed plan. The Confirmation Hearing has been scheduled ~~for _____ __,~~**to commence on November 17, 2008 at __:__ __9:00 a.m.** before the Honorable Richard S. Schmidt, United States Bankruptcy Judge for the Southern District of

Texas, in his courtroom located at 1133 N. Shoreline Blvd., Second Floor, Corpus Christi, Texas. ~~**[The Honorable _____, United States District Court Judge for the Southern District of Texas, shall sit with Judge Schmidt.]** The Bankruptcy Court **[and the District Court]** may adjourn the Confirmation Hearing~~**In order to obtain the protections of section 524(g) of the Bankruptcy Code, the Confirmation Order must be issued or affirmed by the District Court. Thus, the Bankruptcy Court and the District Court may jointly conduct the Confirmation Hearing. Alternatively, if solely the Bankruptcy Court conducts the Confirmation Hearing and enters the Confirmation Order, the Debtors shall ask the District Court to affirm the Confirmation Order. The Confirmation Hearing may be adjourned** from time to time without further notice except for an announcement of the adjourned date made at the Confirmation Hearing or any subsequent adjourned Confirmation Hearing.

Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to confirmation of a plan. Unless otherwise directed or permitted by the Bankruptcy Court, any objection to Confirmation of the Plan must (a) be in writing, (b) conform to the Bankruptcy Rules, (c) set forth the name of the objecting party, (d) identify the nature of Claims or Interests held or asserted by the objector against the Debtors' Estates or property, (e) state the basis for the objection and the specific grounds therefore, and (f) be filed with the clerk of the Bankruptcy Court, together with proof of service, and served upon each of the following so as to be received in the offices of each such Persons no later than ~~_____~~**October 27, 2008** at 4:00 p.m., ~~prevailing~~**Prevailing** Central Time: (1) Jack L. Kinzie, **Judith Ross, James R. Prince,** Baker Botts L.L.P., 2001 Ross Avenue, Dallas, Texas 75201-2980; (2) Tony M. Davis, **Mary Millwood Gregory,** Baker Botts L.L.P., One Shell Plaza, 910 Louisiana, Houston, Texas 77002-4995; (3) Shelby A. Jordan, Jordan, Hyden, Womble, Culbreth, & Holzer, P.C., Suite 900, Bank of America, 500 North Shoreline, Corpus Christi, Texas 78471; (4) **Luc A. Despins, Stacey J. Rappaport, Robert A. Winter, Milbank Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 10005; (5) Charles A. Beckham, Jr., Trey Monsour, Haynes and Boone LLP, 1 Houston Center, 1221 McKinney, Suite 2100, Houston, Texas 77010; (6)** James C. McCarroll, Reed Smith LLP, 599 Lexington Avenue, 29th Floor, New York, NY 10022; (~~5~~**7**) Paul M. Singer, Reed Smith LLP, 435 Sixth Avenue, Pittsburgh, PA 15219; (~~6~~**8) Derek J. Baker, Reed Smith LLP, 2500 One Liberty Place, Philadelphia, PA 19103; (9**) Sander L. Esserman, **Jacob Newton,** Stutzman, Bromberg, Esserman & Plifka, 2323 Bryan Street, Suite 2200, Dallas, Texas 75201; (~~7~~**10**) John H. Tate, II, **Raymond W. Battaglia, Debra L. Innocenti,** Oppenheimer, Blend, Harrison & Tate, Inc., 711 Navarro, Sixth Floor, San Antonio, Texas 78205; (~~8~~**11**) David L. Dain and Alan S. Tenenbaum, United States Department of Justice, Environmental Enforcement Section, 601 D Street NW, Washington, DC 20004 **(overnight mail only)**; (~~9~~**12**) Douglas P. Bartner, **Solomon Noh,** Shearman & Sterling LLP, 599 Lexington Avenue, New York, New York 10022; ~~and (10) Charles R. Sterbach, U.S. Department of Justice, Assistant~~**(13) Richard M. Seltzer, Cohen, Weiss and Simon LLP, 330 West 42nd Street, New York, NY 10025; and (14)** United States Trustee, **Attn: Charles F. McVay,** 606 N. Carancahua ~~Street~~**St.**, ~~Suite~~**Ste.** 1107, Corpus Christi, ~~Texas~~**TX** 78476.

14.3 Requirements for Confirmation.

(a) Consensual Confirmation Under Section 1129(a) of the Bankruptcy Code.

At the Confirmation Hearing, the Bankruptcy Court shall be asked to determine whether the requirements of section 1129(a) of the Bankruptcy Code have been satisfied. These requirements include, among others, judicial findings that:

- the Plan complies with applicable provisions of the Bankruptcy Code;
- the Debtors have complied with the applicable provisions of the Bankruptcy Code;
- the Plan has been proposed in good faith and not by any means forbidden by law;
- any payment made or to be made by the Debtors or by any Person acquiring property under the Plan for services, costs, or expenses in or in connection with the Reorganization Cases, or in connection with the Plan and incident to the Reorganization Cases, has been approved by, or is subject to the approval of, the Bankruptcy Court as reasonable;
- the Debtors have disclosed the identity and affiliations of any individual proposed to serve as a director or an officer of the Reorganized Debtors after Confirmation of the Plan and that the appointment to, or continuance in, such office by such individual is consistent with the interests of holders of Claims and Interests and with public policy;

- the Debtors have disclosed the identity of any insider that shall be employed or retained by the Reorganized Debtors, and the nature of any compensation for such insider;

- the Plan is in the best interests of the holders of Claims and Interests; that is, each holder of a Claim or Interest in an impaired Class either has accepted the Plan or shall receive or retain under the Plan on account of such Claim or Interest property with a value, as of the Effective Date, that is not less than the amount that the holder would receive or retain if the Debtors were liquidated under chapter 7 of the Bankruptcy Code on the Effective Date;

- except to the extent the Plan meets the "Nonconsensual Confirmation" standards discussed below, each Class of Claims or Interests has either accepted the Plan or is not impaired under the Plan;

- except to the extent that the holder of a particular Claim has agreed to a different treatment of such Claim, the Plan provides that Administrative Claims and Priority Claims shall be paid in full on the Effective Date and that Priority Tax Claims shall be either paid in full on the Effective Date or shall receive on account of such Claims deferred cash payments, over a period not exceeding six years after the date of assessment of such Claims, of a value, as of the Effective Date, equal to the Allowed Amount of such Claims;

- at least one impaired and non-insider Class of Claims has accepted the Plan;

- that the Plan is feasible; that is, Confirmation is not likely to be followed by the liquidation or the need for further financial reorganization of the Reorganized Debtors, unless such liquidation or reorganization is proposed in the Plan;

- all fees payable under section 1930 of title 28 of the United States Code, as determined by the Bankruptcy Court at the Confirmation Hearing, have been paid or the Plan provides for the payment of all such fees on the Effective Date; and

- the Plan provides for the continuation after the Effective Date of payment of all retiree benefits, as that term is defined in section 1114 of the Bankruptcy Code, at the level established pursuant to section 1114(e)(1)(B) or (g) of the Bankruptcy Code, at any time prior to Confirmation of the Plan, for the duration of the period the Debtors have obligated themselves to provide such benefits.

The Debtors believe that the Plan satisfies all applicable requirements of section 1129(a) of the Bankruptcy Code.

Best Interests Test. Under the best interests test, the Plan is confirmable if, with respect to each impaired Class of Claims or Interests, each holder of a Claim or Interest in that Class either:

- has accepted the Plan; or

- shall receive or retain under the Plan, on account of such Claim or Interest, property of a value, as of the Effective Date, that is not less than the amount that holder would receive or retain if the Debtors were liquidated under chapter 7 of the Bankruptcy Code.

To determine what the holders in each Class of Claims or Interests would receive if the Debtors were liquidated, the Bankruptcy Court must estimate the dollar amount the Debtors' assets and properties would generate if liquidated by a chapter 7 trustee. The Cash amount that would be available for satisfaction of the Allowed Claims and Interests of the Debtors would consist of the proceeds resulting from the disposition of the assets of the Debtors, augmented by the Cash held by the Debtors at the time of the commencement of the chapter 7 cases. That Cash amount would be reduced by the costs and expenses of the liquidation and by any additional Administrative Claims and Priority Claims that would result from the termination of the Debtors' businesses and the use of chapter 7 proceedings for the purposes of liquidation. The Liquidation Analysis prepared by the Debtors is attached as **Exhibit E** to this Disclosure Statement.

Based upon the analysis set forth in **Exhibit E**, the Debtors firmly believe that the distributions that would be made in a chapter 7 case would be substantially smaller than the distributions contemplated by the Plan. The Debtors therefore believe that the Plan is in the best interests of all holders of Claims and Interests.

(b) Feasibility of the Plan. In order for the Plan to be confirmed, the Bankruptcy Court also must determine that the Plan is feasible – that is, that the need for further reorganization or a subsequent liquidation of the Debtors is not likely to result following Confirmation of the Plan. In determining whether a plan of reorganization is feasible, a court shall consider:

- the adequacy of the proposed capital structure of the reorganized entity;
- the earning power of that entity;
- the overall economic conditions in which that entity shall operate;
- the capability of its management;
- the continuity of its management; and
- any other factors the court deems relevant to the successful operation of the reorganized entity to perform the provisions of the plan of reorganization.

(c) Acceptance by an Impaired Class.

Because the Plan impairs (adversely affects) Claims in Classes 2 through 12 (assuming that the Debtors make the Cash payment election in regards to some sub-Classes of the Class 2 Secured Claims), section 1129(a)(10) of the Bankruptcy Code requires that for the Plan to be confirmed, at least one impaired Class must accept the Plan by the requisite vote. All impaired Class of Claims shall have accepted the Plan if and only if at least two-thirds in amount and more than one-half in number of the Allowed Claims in such Class that vote have voted to accept the Plan.

(d) Nonconsensual Confirmation under Section 1129(b) of the Bankruptcy Code.

Although section 1129(a)(8) of the Bankruptcy Code requires that a plan be accepted by each class that is impaired by such plan, section 1129(b) of the Bankruptcy Code provides that the Bankruptcy Court may still confirm the Plan at the request of the Debtors if all requirements of section 1129(a) except section 1129(a)(8) are met and if, with respect to each Class of Claims or Interests that is impaired under the Plan and has not voted to accept the Plan, the Plan "does not discriminate unfairly" and is "fair and equitable." A plan confirmed on the basis of this provision is commonly referred to as a "cramdown" plan. In the event an impaired Class of Claims or Interests does not accept the Plan, the Debtors may seek cramdown confirmation of the Plan with respect to any such non-accepting Class. **The Debtors believe that, with respect to such Classes, the Plan meets the requirements of section 1129(b) of the Bankruptcy Code.**

- Unfair Discrimination. A plan of reorganization does not discriminate unfairly if a dissenting class is treated substantially equally to other similarly situated classes and no class receives more than it is legally entitled to receive for its claims or equity interests. **The Debtors believe that the Plan meets this requirement.**
- Fair and Equitable Test. "Fair and equitable" has different meanings for Secured Claims, Unsecured Claims, and Interests.

With respect to a Secured Claim, "fair and equitable" means that the Plan provides either (1) that the holder of a Secured Claim in an impaired Class retains the Liens securing such Claim, whether the property subject to such Liens is retained by the Debtor or transferred to another Entity, to the extent of the amount of such Allowed Claim, and that the holder of such Claim receives on account of such Claim deferred cash payments totaling at least the amount of such Allowed Claim, of a value, as of the Effective Date, of at least the value of such holder's interest in the Estate's interest in such property; (2) for the sale, subject to section 363(k) of the Bankruptcy Code, of any property that is subject to the Liens securing such Claim, free and clear of such Liens, with such Liens to attach to the proceeds of such sale, and the treatment of

such Liens on proceeds under subsections (1) or (2) hereof; or (3) the realization by such holder of the "indubitable equivalent" of such Claim.

With respect to an Unsecured Claim, "fair and equitable" means either the Plan provides that each holder of a Claim of such Class receive or retain on account of such Claim property of a value, as of the Effective Date of the Plan, equal to the amount of such Allowed Claim; or the holder of any Claim or Interest that is junior to the Claims of such Class shall not receive or retain any property under the Plan on account of such junior Claim or Interest.

With respect to an Interest, "fair and equitable" means either each holder of an Interest in an impaired Class receives or retains property of a value, as of the Effective Date of the Plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price to which such holder is entitled, or the value of such Interest; or the holder of any Interest that is junior to the Interests of such Class shall not receive or retain any property under the Plan on account of such junior Interest.

The "absolute priority" rule requires that where there is a dissenting class of Interests, they are treated in a fair and equitable manner. Under the absolute priority rule, secured creditors are paid on their Claims before unsecured creditors, who in turn must be paid in full before equity holders can receive a distribution under a plan of reorganization. The Plan complies with the absolute priority rule as to all Classes, including the Classes of Interests.

Holders of Unsecured Claims are entitled to be paid in full before the Interests are entitled to receive or retain any property under the Plan. The Litigation Trust Beneficiaries hold Unsecured Claims in Classes 5 and 9 Claims. Their Claims shall be satisfied by a combination of consideration, including Cash and Litigation Trust Interests. The Parent asserts that the Litigation Trust Interests may result in the holders of Claims in Classes 5 and 9 receiving more than the value of their Allowed Claims.

The Unsecured Asbestos Personal Injury Claims were asserted in amounts ranging from $1.3 billion to $2.1 billion, plus the value of the Asbestos Premises Liability Claims (which were not included in the asbestos estimation proceeding). The Residual Environmental Claims were asserted in amounts totaling $3.1 billion. Neither the Asbestos Personal Injury Claims nor the Residual Environmental Claims have been liquidated, and they are each very difficult to value with any precision; however, these Claims certainly represent significant liabilities. Likewise, the Litigation Trust Interests depend entirely upon the successful prosecution of the Litigation Trust Claims and many other factors; therefore, their value is speculative at best. The Litigation Trust Interests could ultimately be worth a substantial amount or, once all the trials and appeals have been concluded, they may not generate sufficient proceeds to cover the expenses of litigating them. However, at the Confirmation Hearing, the Debtors will establish that the value of all of the consideration to be distributed to the holders of Class 5 and Class 9 Claims on the date of the hearing is less than any reasonable estimated amount of these Claims. Accordingly, the Plan complies with the absolute priority rule.

The Debtors believe that the Plan will meet the fair and equitable test in the event that an impaired Class of Claims or Interests does not accept the Plan, and that the Plan meets the fair and equitable test with regard to the Classes 13 and 14, which are deemed to reject the Plan, and that the Plan does not discriminate unfairly with respect to any Class of Claims and Interests.

(e) Requirements for Injunction Under Section 524(g) of the Bankruptcy Code.

Section 524(g) of the Bankruptcy Code authorizes the court to enjoin Entities from taking action to collect, recover, or receive payment or recovery with respect to any Unsecured Asbestos Personal Injury Claim that is to be paid in whole or in part by a trust created by a plan of reorganization that satisfies the requirements of the Bankruptcy Code. The injunction also may bar any action based on such Claims or Demands against the Debtors that are directed at third parties.

To obtain the injunction, a trust must be established that:

- assumes the Debtors' asbestos liabilities;
- is funded in whole or in part by securities of one or more of the Debtors and with an obligation by the Debtors to make future payments;

- owns or is entitled to own a majority of the voting shares of the Debtors, each Debtor's parent corporation, or subsidiaries that are also Debtors; and

- uses its assets or income to satisfy Claims and Demands.

As a requirement before issuing an injunction under section 524(g) of the Bankruptcy Code, the court must determine that:

- the Debtors are likely to be subject to substantial Demands for payments arising out of the same or similar conduct or events that give rise to the Unsecured Asbestos Personal Injury Claims that are addressed by the injunction;

- the actual amounts, numbers, and timing of such Demands cannot be determined;

- pursuit of such Demands outside the procedures prescribed by the plan is likely to threaten the Plan's purpose to deal equitably with Claims and Demands; and

- the Asbestos Trust shall operate through mechanisms such as structural, periodic, or supplemental payments, pro rata distributions, matrices, or periodic review of estimates of the numbers and values of Claims and Demands, or other comparable mechanisms that provide reasonable assurance that the Asbestos Trust will value, and be in a financial position to pay, Claims and Demands that involve similar Claims in substantially the same manner.

- the court also must ensure that the terms of any proposed section 524(g) injunction are set out in the Plan and Disclosure Statement and that 75 percent of the holders of Unsecured Asbestos Personal Injury Claims who vote on the Plan vote to approve it.

The Injunctions will be valid and enforceable as to Demands made after the Plan is confirmed only if a legal representative is appointed to protect the rights of Persons that might subsequently assert Demands and if the court determines that applying the Injunctions to future claimants in favor of the beneficiaries of the Injunction is fair and equitable with respect to the Persons that might subsequently assert such Demands, in light of the benefits provided, or to be provided, to the trust on behalf of the Debtors or another beneficiary of the Injunctions.

The Confirmation Order must be issued or affirmed by the District Court that has jurisdiction over the Reorganization Cases. After the expiration of the time for appeal of the order, the Injunctions become valid and enforceable.

The Debtors believe that they shall be able to satisfy all the requirements of section 524(g), so long as the requisite number of holders of Unsecured Asbestos Personal Injury Claims vote in favor of the Plan.

14.4 Conditions to Effectiveness.

In addition to the requirements for confirmation of the Plan, the terms of the Plan provide that the Plan may not become effective unless, among other things, (a) the Bankruptcy Court has approved the Disclosure Statement, (b) the Confirmation Order has become a Final Order, (c) the Plan Documents necessary or appropriate to implement the Plan have been executed, delivered, and filed where applicable, (d) the Trusts have been funded as provided in Article 10.1(f) of the Plan, (e) the Confirmation Order provides for the sale of the Sold Assets to the Plan Sponsor on the Effective Date, and (f) the Confirmation Order contains the findings of fact and conclusions of law set forth in Article 10.1(b) of the Plan. *See* Article 10.1 of the Plan for a more complete discussion of the conditions to effectiveness of the Plan.

Upon notice, the Debtors, in their sole discretion, may waive any of the conditions to effectiveness; in Article 10.1 of the Plan by filing a notice of such waiver with the clerk of the Bankruptcy Court and by serving a copy of such notice on the Plan Sponsor, the U.S. Trustee, the Committees, the FCR, and the DOJ; *provided, however*, that:

(a) the DOJ and any affected State must consent to any waiver of any of the conditions to effectiveness set forth in Article 10.1(e)(1), (f), (i), (j), and (l) of the Plan;

(b) the Asbestos Claimants' Committee and the FCR must consent to any waiver of any of the conditions to effectiveness set forth in Article 10.1(e)(1), (f), and (k) of the Plan; and

(c) the Plan Sponsor must consent to any waiver of any of the conditions to effectiveness set forth in Article 10.1(c)(2), (e)(1)(B), and (m) of the Plan;

provided, that in each instance described in clauses (a), (b), and (c) above, such consent is not unreasonably withheld, delayed or conditioned.

14.5 Effect of Confirmation and Effectiveness.

If the Plan is confirmed and becomes effective, the Plan shall be binding upon the Debtors, all holders of Claims and Interests, and all other parties in interest, regardless of whether they have accepted or rejected the Plan.

14.6 Notice of Effective Date.

Reorganized ASARCO shall give notice of the Effective Date within five Business Days after its occurrence.

14.7 Non-Occurrence of Effective Date.

In the event that the Effective Date does not occur, all parties shall be returned to the position they would have held had the Confirmation Order not been entered, and nothing in the Plan, Disclosure Statement, or any Plan Document, or any pleading or statement in court shall be deemed to constitute an admission or waiver of any sort or in any way to limit, impair, or alter the rights of any Entity.

RECOMMENDATION AND CONCLUSION

The Debtors strongly recommend that all holders of impaired Claims and Interests in Classes 2 through 12 vote to accept the Plan and return their ballots in the enclosed envelope to the Balloting Agent *so that they are received*, on or before **4:00 p.m.,** Prevailing Central Time, on ~~_____ __~~**October 27, 2008**.

In the view of the Debtors, the Plan provides the best available alternative for providing equitable and expeditious distributions to holders of Claims and Interests out of the Debtors' Estates. Your support of the Plan will enable it to be implemented and help ensure its success.

[REST OF PAGE DELIBERATELY BLANK]

The undersigned have executed this Disclosure Statement as of the ~~12~~**25**th day of September, 2008.

Respectfully submitted,

ASARCO LLC, a Delaware limited liability company

By: */s/ Joseph F. Lapinsky*
Joseph F. Lapinsky
Chief Executive Officer and President

ALC, INC., a Tennessee corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President

ALTA MINING AND DEVELOPMENT COMPANY, a Utah corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

AMERICAN SMELTING AND REFINING COMPANY, a New Jersey corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

AR MEXICAN EXPLORATIONS, INC., a Delaware corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

AR SACATON, LLC, a Delaware limited liability company

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

ASARCO CONSULTING, INC., a Delaware corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

ASARCO EXPLORATION COMPANY, INC., a New York corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

ASARCO MASTER, INC., a Delaware corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

ASARCO OIL AND GAS COMPANY, INC., a New York corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

BLACKHAWK MINING AND DEVELOPMENT COMPANY, LIMITED, an Idaho corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

BRIDGEVIEW MANAGEMENT COMPANY, INC., a New Jersey corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

CAPCO PIPE COMPANY, INC., an Alabama corporation

By: */s/ William Perrell*
William Perrell
President and Secretary

CEMENT ASBESTOS PRODUCTS COMPANY, an Alabama corporation

By: */s/ William Perrell*
William Perrell
President and Secretary

COVINGTON LAND COMPANY, a Delaware corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

ENCYCLE, INC., a Delaware corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

GOVERNMENT GULCH MINING COMPANY LIMITED, an Idaho corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

GREEN HILL CLEVELAND MINING COMPANY, a Nevada corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

LAC D'AMIANTE DU QUÉBEC LTÉE, a Delaware corporation

By: */s/ William Perrell*
William Perrell
President and Secretary

LAKE ASBESTOS OF QUEBEC, LTD., a Delaware corporation

By: */s/ William Perrell*
William Perrell
President and Secretary

LAQ CANADA, LTD., a Delaware corporation

By: */s/ William Perrell*
William Perrell
President and Secretary

PERU MINING EXPLORATION AND DEVELOPMENT COMPANY, a Delaware corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

SOUTHERN PERU HOLDINGS, LLC, a Delaware limited liability company

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

TULIPAN COMPANY, INC., a Delaware corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

WYOMING MINING AND MILLING COMPANY, an Idaho corporation

By: */s/ Douglas E. McAllister*
Douglas E. McAllister
President and Secretary

Document comparison done by DeltaView on Friday, September 26, 2008 10:34:47 AM

Input:	
Document 1	PowerDocs://DAL02/522926/3
Document 2	PowerDocs://DAL02/522926/6
Rendering set	Redline statistics only

Legend:	
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Padding cell	

Statistics:	
	Count
Insertions	516
Deletions	337
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	853

DISCLOSURE STATEMENT EXHIBIT A

Uniform Glossary of Defined Terms for Plan Documents

Unless the context otherwise requires or a Plan Document otherwise provides, the following terms, when used in initially capitalized form in the Disclosure Statement, related exhibits, and Plan Documents, shall have the following meanings. Such meanings shall be equally applicable to both the singular and plural forms of such terms. Any term used in capitalized form that is not defined herein but that is defined in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to such term by the Bankruptcy Code or the Bankruptcy Rules (with the Bankruptcy Code controlling in the event of a conflict or ambiguity). If the Glossary adopts the meaning assigned to a term in the Plan Sponsor PSA, the Plan Sponsor PSA's definition of that term shall control in the event of a conflict between that definition and the definition set forth in this Glossary for informational purposes. The rules of construction set forth herein and in section 102 of the Bankruptcy Code shall apply. All references to the "Plan" shall be construed, where applicable, to include references to the Plan and all its exhibits, appendices, schedules, and annexes (and any amendments made in accordance with their terms or applicable law).

Glossary of Terms

1. "2005 Subsidiary Debtors" means the Subsidiary Debtors (other than the Asbestos Subsidiary Debtors) that filed bankruptcy cases in 2005, including, without limitation, ASARCO Consulting, Inc.; Encycle, Inc.; ALC, Inc.; American Smelting and Refining Company; AR Mexican Explorations Inc.; Asarco Master, Inc.; Asarco Oil and Gas Company, Inc.; Bridgeview Management Company, Inc.; Covington Land Company; and Government Gulch Mining Company, Limited.

2. "2006 Subsidiary Debtors" means the Subsidiary Debtors that filed bankruptcy cases in 2006, including, without limitation, Southern Peru Holdings, LLC; AR Sacaton, LLC; and ASARCO Exploration Company, Inc.

3. "2008 Subsidiary Debtors" means the Subsidiary Debtors that filed bankruptcy cases in 2008, including, without limitation, Green Hill Cleveland Mining Company; Alta Mining and Development Company; Blackhawk Mining and Development Company, Limited; Peru Mining Exploration and Development Company; Tulipan Company, Inc.; and Wyoming Mining and Milling Company.

4. "ADEQ" means the Arizona Department of Environmental Quality.

5. "Adjustment Payment" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, is the payment to be made by the Plan Sponsor or Seller (as the case may be) no later than 5 days after a binding determination of the Closing Accounts Amount (as such term is defined in the Plan Sponsor PSA) has been made in accordance with section 3.4 of the Plan Sponsor PSA.

6. "Adjustment Payment Reserve" means the reserve for the portion of the Plan Sales Proceeds that is to be set aside to cover any requirement that Reorganized ASARCO make the ASARCO Adjustment Payment to the Plan Sponsor.

7. "Administrative Claim" means any Claim for the payment of an Administrative Expense.

8. "Administrative Expense" means (a) any cost or expense of administration of the Reorganization Cases incurred before the Effective Date and allowable under section 503(b) of the Bankruptcy Code and entitled to priority under section 507(a)(1) of the Bankruptcy Code including, without limitation, (i) any actual and necessary postpetition cost or expense of preserving the Estates or operating the businesses of the Debtors, (ii) any payment required to cure a default on an assumed executory contract or unexpired lease, (iii) any postpetition cost, indebtedness, or contractual obligation duly and validly incurred or assumed by a Debtor in the ordinary course of its business, and (iv) compensation or reimbursement of expenses of professionals to the extent allowed by the Bankruptcy Court under sections 330(a) or 331 of the Bankruptcy Code; (b) any fee or charge assessed against the Estates under 28 U.S.C. § 1930; and (c) the Pre-524(g) Indemnity (as defined in the Asbestos Insurance Settlement Agreement), which shall constitute an Allowed Administrative Claim in accordance with the terms and conditions of such agreement.

9. "Affiliate" (and, with a correlative meaning "Affiliated") shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means, with respect to any Person, (a) any other Person that directly, or through one or more intermediaries, controls or is controlled by or is under common control with such Person or (b) any Subsidiary of such Person. As used in this definition, "control" (including with correlative meanings, "controlled by" and "under common control with") means possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise).

10. "AIG" means American International Group, Inc.

11. "Allowed" means a Claim that is not a Disputed Claim and, with respect to any other Claim (other than an Unsecured Asbestos Personal Injury Claim) or Interest, (a) any Claim or Interest, proof of which was timely filed with the Bankruptcy Court or the Claims Agent, or, by order of the Bankruptcy Court, was not required to be filed, (b) any Claim or Interest that has been, or hereafter is, listed in the Schedules as liquidated in amount and not disputed or contingent, and, in (a) and (b) above, as to which (i) during the period prior to the deadline for filing objections to Proofs of Claim as set forth in Article 15.2 of the Plan, the Claim or Interest has been allowed by a Final Order or in a settlement approved by the Confirmation Order (but only to the extent so allowed), or (ii) after the deadline for filing objections to Proofs of Claim, either no objection to the allowance thereof was filed prior to the Claims objection deadline or the Claim or Interest has been allowed by a Final Order or in a settlement approved by the Confirmation Order (but only to the extent so allowed). "Allowed" means, with respect to any Demand or

Unsecured Asbestos Personal Injury Claim, any Demand or Unsecured Asbestos Personal Injury Claim that is liquidated and allowed pursuant to the Asbestos TDP.

12. "Allowed Amount" of any Claim means the amount at which that Claim is Allowed (excluding any Post-Petition Interest).

13. "Alter Ego Theories" means theories asserting that a Debtor should be held liable for the Claims and Demands against one or more other Debtors on the ground that it was their alter ego, including, without limitation, denuding-the-corporation, single-business-enterprise, corporate trust funds, breach of fiduciary duty or conspiracy, theories that a Debtor was the mere instrumentality, agent, or alter ego of another Debtor, or that the corporate veil should be pierced, or that as a result of domination and control over any of the Debtors, directly or indirectly, another Debtor should be liable for Asbestos Personal Injury Claims and Demands or any other Claims and Demands that have origins in acts or omissions of any of the other Debtors, or any other theories of direct or indirect liability for the conduct of, Claims against, or Demands on, any of the other Debtors to the extent that such alleged liability arises by reason of any of the other circumstances enumerated in section 524(g)(4)(A)(ii) of the Bankruptcy Code.

14. "AMC" means Americas Mining Corporation.

15. "AMC Consolidated Group" means the affiliated group of corporations having AMC as the common parent and including ASARCO NJ Subgroup.

16. "Ancillary Agreements" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, are the Assignment and Assumption Agreement, the Bill of Sale, the Transition Services Agreement, the Patent Assignment, the Trademark Assignment, the Deeds, the Leasehold Deeds and the Assignment and Assumption of Ground Lease Agreement (as each such term is defined in the Plan Sponsor PSA).

17. "ARSB" means AR Silver Bell, Inc., a Delaware corporation.

18. "ASARCO" means ASARCO LLC, a Delaware limited liability company and one of the Debtors herein.

19. "ASARCO Adjustment Payment" means the payment that may be required to be made by Reorganized ASARCO to the Plan Sponsor from the Adjustment Payment Reserve in the event of a downward adjustment of the Plan Sales Proceeds pursuant to section 3.3(c) of the Plan Sponsor PSA.

20. "ASARCO Committee" means the Official Committee of Unsecured Creditors appointed by the U.S. Trustee in ASARCO's bankruptcy case pursuant to section 1102 of the Bankruptcy Code.

21. "ASARCO Master" means ASARCO Master, Inc. (f/k/a Asarco (Delaware), Inc.), a Delaware corporation and one of the Debtors herein. A number of entities were merged into ASARCO Master prior to the Petition Date, including, without limitation, AR

Montana Corporation; Asarco Arizona, Inc.; Asarco Exploration Holdings Company, Inc.; Asarco Aginskoe, Inc.; Asarco de Mexico (Delaware) Inc.; Asarco Mexicana (Delaware) Inc.; Asarco Peruvian Exploration Company; GH Holdings Inc.; GHH, LLC; Northern Peru Mining Corporation; NPMC, Incorporated; Domestic Realty Company, Inc.; Midland Coal Company Incorporated; Biotrace Laboratories, Incorporated; Federated Metals Corporation; and LSLC Corp.

22. "ASARCO NJ" means the former ASARCO Incorporated, a New Jersey corporation, a predecessor of ASARCO LLC.

23. "ASARCO NJ Consolidated Group" means the affiliated group of corporations consisting of ASARCO NJ and its subsidiaries.

24. "ASARCO NJ Subgroup" means ASARCO NJ and its subsidiaries.

25. "ASARCO Protected Non-Debtor Affiliate" means an entity listed on **Exhibit 1** to the Plan as such list may be amended or supplemented from time to time.

26. "ASARCO Protected Party" means each of (a) the Debtors and their predecessors, (b) the Reorganized Debtors, (c) the ASARCO Protected Non-Debtor Affiliates and their predecessors, (d) the Plan Sponsor and the Plan Sponsor Parent (and any of their respective Affiliates), (e) Settling Asbestos Insurance Companies, (f) the Trusts (except to the extent that the Asbestos Trust Agreement, the Asbestos TDP, or both expressly permit litigation against the Asbestos Trust), (g) the Trustees, (h) the Asbestos TAC, (i) the FCR, (j) the Committees, including their members in their member capacities, (k) the Plan Administrator, (l) the Examiner, ~~and (m~~**(m) employee benefit plan "fiduciaries" (within the meaning of section 3(21) of ERISA) who are directors or employees of a Debtor; (n) the Indenture Trustees; and (o**) the present and former directors, officers, agents, attorneys, accountants, consultants, financial advisors, investment bankers, professionals, experts, and employees of any of the foregoing, in their respective capacities as such, including, without limitation, the Protected Officers and Directors; *provided*, *however*, that the term "ASARCO Protected Parties" does not include (x) the non-Debtor named defendants in the Derivative D&O Litigation, the Burns Litigation, or the SCC Litigation or (y) Grupo Mexico and its Affiliates other than ASARCO and its direct and indirect subsidiaries.

27. "Asbestos Books" means all of the books and records of each of the Debtors and Reorganized ASARCO, wherever located, to the extent that such books and records directly relate to (a) Asbestos Trust Assets, (b) Asbestos Insurance Policies including all historical information relating to (i) such Asbestos Insurance Policies or (ii) the settlement of any such Asbestos Insurance Policies, or (c) any Unsecured Asbestos Personal Injury Claims or Demands, including all historical information relating to (i) Asbestos Personal Injury Claims or Demands, (ii) the settlement of any such Claims or Demands, or (iii) relevant sales of asbestos or asbestos-containing products.

28. "Asbestos Claimants' Committee" means the Official Committee of Asbestos Claimants appointed by the U.S. Trustee in the Reorganization Cases pursuant to section 1102 of the

Bankruptcy Code and August 15, 2008 and August 26, 2008 orders entered by the Bankruptcy Court.

29. "Asbestos In-Place Insurance Coverage" means any insurance coverage, not reduced to Cash proceeds, that is or may be available as of the Effective Date to address asbestos-related Claims, remedies, liabilities, and Demands, including Asbestos Trust Expenses, under any Asbestos Insurance Policy as a result of or in accordance with an Asbestos Insurance Settlement Agreement or a prepetition settlement agreement with an Asbestos Insurance Company.

30. "Asbestos Insurance Action" means (a) any Avoidance Action against any Asbestos Insurance Company; (b) any claim, cause of action, or right of a Debtor or a Reorganized Debtor against any Asbestos Insurance Company concerning insurance coverage for asbestos-related Claims, remedies, liabilities, and Demands or enforcement of prepetition settlement agreements or extracontractual or statutory remedies and relief, including, without limitation, litigation, arbitration, mediation, and informal negotiations, whether past, pending, or not yet initiated; and (c) any claim, cause of action, or right of a Debtor or a Reorganized Debtor to pursue insurance recovery through available administrative or other means from any Asbestos Insurance Company that is insolvent, or has been liquidated, or is otherwise subject to statutory or legal protections against litigation.

31. "Asbestos Insurance Company" means any insurance company, reinsurance company, syndicate, insurance broker, syndicate insurance broker, guaranty association, or any other Entity with demonstrated or potential liability to a Debtor or a Reorganized Debtor for coverage under an Asbestos Insurance Policy arising from or related to asbestos-related Claims, remedies, liabilities, and Demands, including, without limitation, any such Entity that entered into a prepetition settlement agreement with a Debtor that is currently the subject of an Avoidance Action.

32. "Asbestos Insurance Company Injunction" means the injunction set forth in Article 12.3(b) of the Plan in favor of the Settling Asbestos Insurance Companies.

33. "Asbestos Insurance Policy" means any insurance policy that provides or may provide coverage for claims arising from or related to asbestos-related Claims, remedies, liabilities, and Demands, whether products or premises, and that are or may become available to provide such coverage as a result of the resolution of any Avoidance Actions against any Asbestos Insurance Company, including those policies listed on **Exhibit 8** to the Plan, as such exhibit may be amended or supplemented from time to time.

34. "Asbestos Insurance Recovery or Recoveries" means (a) the right to pursue and receive the benefits and proceeds of Asbestos In-Place Insurance Coverage, including, without limitation, the benefits and proceeds from certain Asbestos Insurance Policies that are subject to prepetition settlement agreements regarding Asbestos Premises Liability Claims; (b) the right to pursue and receive the benefits and proceeds of any Asbestos Insurance Policy or Asbestos Insurance Settlement Agreement; (c) the right to pursue and receive recovery from or as a result of any Asbestos Insurance Action, including, without limitation, consequential, contractual, extracontractual, and statutory damages, or other

proceeds, distributions, awards, or benefits; and (d) the right to pursue and receive any other recovery from an Asbestos Insurance Company, in its capacity as such.

35. "Asbestos Insurance Settlement Agreement" means any post-petition settlement agreement, set forth on **Exhibit 7** to the Plan, with a Settling Asbestos Insurance Company as such exhibit may be amended or supplemented from time to time as permitted under the Plan.

36. "Asbestos Personal Injury Claim(s)" means any Claim, remedy or liability, including all related claims, debts, obligations or liabilities, whenever and wherever arising or asserted, whether arising or accruing before or after the Petition Date, whether under a direct or indirect theory of liability, whether domestic or foreign, whether now existing or hereafter arising, whether or not such Claim, remedy or liability is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, bonded, secured, or unsecured, whether or not the facts or legal bases therefore are known or unknown, whether or not known, unknown, or knowable before Confirmation of the Plan or the close of the Reorganization Cases, whether based on premises or products liability, alleging, arising out of, or in any way relating to physical, emotional, economic, or any other damage or injury for which any Debtor is alleged to be liable, whether direct or indirect and whether alleged or asserted against ASARCO or any other Debtor directly or on account of any Alter Ego Theory, arising out of or in any way relating to asbestos or any products or materials containing asbestos. Asbestos Personal Injury Claims include all such Claims, remedies, and liabilities whether in tort, contract, warranty, restitution, conspiracy, contribution, indemnity, guarantee, subrogation, joint and several liability, reimbursement, or any other theory of law, equity, admiralty, or otherwise; whether seeking compensatory, special, economic and non-economic, punitive exemplary, administrative, proximate, or any other costs or damages; or whether seeking any legal, equitable, or other relief of any kind whatsoever, whether under common law or by statute**,** including any Claim by an employee that is not otherwise barred by applicable law such as worker's compensation laws.

37. "Asbestos Personal Injury Claimant" means the holder of an Asbestos Personal Injury Claim.

38. "Asbestos Personal Injury Claims Fund" means the fund to be created by the Asbestos Trust for payment of all Unsecured Asbestos Personal Injury Claims and Demands other than Asbestos Premises Liability Claims.

39. "Asbestos Premises Liability Claim(s)" means any and all Unsecured Asbestos Personal Injury Claims against ASARCO that are identified as premises claims under the terms and conditions of the Asbestos Insurance Policies, specifically including such policies that are subject to prepetition settlement agreements for premises claims.

40. "Asbestos Premises Liability Claims Fund" means the fund to be created by the Asbestos Trust for payment of all Asbestos Premises Liability Claims and Demands.

41. "Asbestos Settlement Agreement" means the compromise and settlement of the Derivative Asbestos Claims between the Asbestos Subsidiary Debtors (whose interests are represented by the Asbestos Subsidiary Committee and the FCR) and ASARCO, substantially in the form attached as **Exhibit 9** to the Plan.

42. "Asbestos Subsidiary Cases" means the bankruptcy cases of the Asbestos Subsidiary Debtors.

43. "Asbestos Subsidiary Committee" means the Official Committee of Unsecured Creditors appointed by the U.S. Trustee in the Asbestos Subsidiary Debtors' bankruptcy cases, pursuant to section 1102 of the Bankruptcy Code.

44. "Asbestos Subsidiary Debtors" means the Subsidiary Debtors that filed bankruptcy cases on April 11, 2005, including, without limitation, Lac d'Amiante du Québec Ltée; Lake Asbestos of Quebec, Ltd.; LAQ Canada, Ltd.; CAPCO Pipe Company, Inc.; and Cement Asbestos Products Company.

45. "Asbestos TAC" means the Asbestos Trust Advisory Committee created pursuant to the Plan and the Asbestos Trust Agreement, as may be reconstituted from time to time in accordance with the terms thereof.

46. "Asbestos TDP" means the trust distribution procedures, substantially in the form attached as Exhibit 1 to the Asbestos Trust Agreement, as such procedures may be modified from time to time in accordance with the terms thereof, the Asbestos Trust Agreement, or the Plan.

47. "Asbestos Trust" means the tax-qualified settlement trust to be established pursuant to the Asbestos Trust Agreement.

48. "Asbestos Trust Agreement" means the Asbestos Trust Agreement, effective as of the Effective Date, substantially in the form attached as **Exhibit 6** to the Plan, as it may be modified from time to time in accordance with the terms thereof.

49. "Asbestos Trust Assets" means (a) the Asbestos Trust's share of the Class 5 and Class 9 Primary Payment; (b) the Asbestos Trust's share of the Class 5 and Class 9 Supplemental Distribution, if any; (c) directly or indirectly, the Asbestos Insurance Recoveries; (d) the Asbestos Trust's share of the Litigation Trust Interests, and the right to the Asbestos Trust's Priority Litigation Proceeds; and (e) 100 percent of the interests in Reorganized Covington.

50. "Asbestos Trust Beneficiaries" means the holders of Unsecured Asbestos Personal Injury Claims and Demands.

51. "Asbestos Trust Bylaws" means the Asbestos Trust Bylaws, effective as of the Effective Date, as such bylaws may be modified from time to time in accordance with the terms of the Asbestos Trust Agreement.

52. "Asbestos Trust Documents" means each of the Asbestos Trust Agreement, the Asbestos Trust Bylaws, the Asbestos TDP, and the other agreements, instruments, and documents governing the establishment, administration, and operation of the Asbestos Trust, as they may be amended or modified from time to time in accordance with the Plan and the terms of such documents.

53. "Asbestos Trust Expenses" means any costs or expenses of, or imposed upon, assumed by, or in respect of, the Asbestos Trust, except for payments to holders of Unsecured Asbestos Personal Injury Claims and Demands on account of such Unsecured Asbestos Personal Injury Claims and Demands.

54. "Asbestos Trustees" means the individuals appointed as trustees of the Asbestos Trust under the Asbestos Trust Agreement and any successor thereto chosen in accordance with the Asbestos Trust Agreement.

55. "Asbestos Trust's Priority Litigation Proceeds" means the payment of $100 million of the Litigation Proceeds to the Asbestos Trust after the Class 3, 4, 6, 7, and 8 Litigation Proceeds are paid.

56. "Assumed Liabilities" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means those Liabilities (as such term is defined in the Plan Sponsor PSA) described in section 2.3(a) through 2.3(g) of the Plan Sponsor PSA that the Plan Sponsor shall assume, pay, perform, and discharge when due.

57. "Augusta Defendants" means Augusta Resource (Arizona) Corporation and Augusta Resource Corporation.

58. "Available Plan Funds" means the funds remaining from the Available Plan Sales Proceeds, the Distributable Cash, and Subsequent Distributions, after the Plan Administrator has fully funded the Plan Administration Reserve, the Environmental Custodial Trust Administration Funding, the Environmental Custodial Trust Funding, and the Litigation Expense Fund. The Available Plan Funds shall be used by Reorganized ASARCO to make the distributions under the Plan to holders of Allowed Claims and thereafter to holders of Class 12 Interests, in accordance with the priorities established by the Plan.

59. "Available Plan Sales Proceeds" means the Plan Sales Proceeds and any interest earned thereon, less the Adjustment Payment Reserve.

60. "Avoidance Action" means causes of action arising under chapter 5 of the Bankruptcy Code, or under related state or federal statutes and common law, including fraudulent transfer and fraudulent conveyance laws, whether or not litigation has commenced to prosecute such causes of actions.

61. "Ballot" means the form or forms distributed to holders of impaired Claims on which is to be indicated the acceptance or rejection of the Plan.

62. "Balloting Agent" means AlixPartners, LLP.

63. "Bankruptcy Code" means title 11 of the United States Code, 11 U.S.C. § 101, *et seq.*, as in effect on the Petition Date, together with all amendments and modifications thereto subsequently made, to the extent applicable to the Reorganization Cases.

64. "Bankruptcy Court" means the United States Bankruptcy Court for the Southern District of Texas, Corpus Christi Division.

65. "Bankruptcy Rules" means the Federal Rules of Bankruptcy Procedure and the local rules of the Bankruptcy Court, as in effect on the Petition Date, together with all amendments and modifications thereto subsequently made applicable to the Reorganization Cases.

66. "Bar Date" means the date(s) by which all Entities asserting certain Claims against the Debtors must have filed a Proof of Claim or be forever barred from asserting such Claims against the Debtors or their Estates, as established by any order(s) of the Bankruptcy Court or the Plan.

67. "Bar Date Order" means the order(s) entered by the Bankruptcy Court authorizing the respective Bar Date(s), including the Confirmation Order.

68. "Bid Protections Order" means the interim order approving the Plan Sponsor procedures, entered by the Bankruptcy Court on March 25, 2008.

69. "Bid Protections Order" means the Final Order Granting Motion of ASARCO LLC for an Order Approving (1) Bid Procedures in Connection with Selecting a Chapter 11 Plan Sponsor and Exit Transaction under a Chapter 11 Plan and (2) Bid Protections to Sterlite (USA), Inc. in Connection Therewith, entered by the Bankruptcy Court on July 1, 2008.

70. "Bondholder" means an Entity that holds one or more of the Bonds.

71. "Bondholders' Claim" means any Claim arising under one or more of the Bonds.

72. "Bonds" means ASARCO's unsecured long-term bond debt, consisting of the following:

Bond	**Maturity**	**Face Value**
CSFB JP Morgan Sec Debentures at 7.875%	April 2013	$100.00m
Nueces River Env Bond (IRB) Series 1998 A 5.60%	April 2018	$22.20m
CSFB Corporate Debentures at 8.50%	May 2025	$150.00m
Gila County – Installment Bond 5.55%	January 2027	$71.90m
Lewis & Clark County Env Bond (IRB) 5.60%	January 2027	$33.16m
Nueces River Env Bond (IRB) 5.60%	January 2027	$27.74m
Lewis & Clark County Env Bond (IRB) 5.85%	October 2033	$34.80m

73. "Burns Litigation" means the claims and causes of action of the Debtors in the action pending in the Supreme Court of the State of New York, County of New York, styled *Phillip Nelson Burns, et al., v. Grupo Mexico, S.A. de C.V., et al.*, Index No. 0114728/2004 against various defendants, including Grupo Mexico, but not including the Debtors' claims and causes of action that have been removed and transferred to the

District Court and are now pending as Civil Action Nos. 07-00018 and 07-00203 as part of the SCC Litigation.

74. "Business" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means the business of mining, smelting, and refining of copper and other metals as conducted by the Sellers on the date of the Plan Sponsor PSA.

75. "Business Day" means any day other than a Saturday, Sunday, or legal holiday (as such term is defined in Bankruptcy Rule 9006(a)).

76. "CAPCO" means CAPCO Pipe Company, Inc., and Cement Asbestos Products Company.

77. "Cash" means cash, cash equivalents, and other readily marketable securities or instruments, including, without limitation, direct obligations of the United States and certificates of deposit issued by federally insured banks.

78. "CBA" means the collective bargaining agreement between ASARCO and the USW on behalf of itself and the other labor organizations representing the bargaining unit employees of ASARCO.

79. "CBRI" means Copper Basin Railway, Inc., a Delaware corporation.

80. "CDA Trust" means the Environmental Custodial Trust established pursuant to the Plan for the Coeur d'Alene Basin site.

81. "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. § 9601, *et seq*.

82. "Certificate" means an instrument evidencing an Allowed Bondholder Claim.

83. "Charging Lien" means any lien which an Indenture Trustee is entitled to exercise under the terms of its Indenture against, or any other priority in payment to which such Indenture Trustee is entitled under the terms of its Indenture with respect to, any distribution to be made under such Indenture or on account of any debts of the Debtors owed to holders of obligations under such Indenture.

84. ~~82.~~ "Chase" means JPMorgan Chase Bank, N.A., the issuer of the Credit Facility described in Section 2.15(b) of the Disclosure Statement.

85. ~~83.~~ "Claim" shall have the meaning assigned to such term by section 101(5) of the Bankruptcy Code.

86. ~~84.~~ "Claimant" means the holder of a Claim.

87. ~~85.~~ "Claims Agent" means AlixPartners, LLP.

88. ~~86.~~ "Class" means a category of Claims or Interests as defined in Article III of the Plan.

89. ~~87.~~ "Class 3, 4, 6, 7, and 8 Litigation Proceeds" means the payment of Litigation Proceeds to the holders of Claims in Classes 3, 4, 6, 7, and 8, if the Available Plan Funds are not sufficient to pay ~~such Claimants the Allowed Amount of their Claims, plus~~ Post-Petition Interest **to such Claimants**.

90. ~~88.~~ "Class 3, 4, 6, 7, and 8 Principal Payment" means the payment to holders of Allowed Claims in Classes 3, 4, 6, 7, and 8 in satisfaction of the Allowed Amounts of such Claims.

91. ~~89.~~ "Class 5 and Class 9 Primary Payment" means the pro rata payment of (a) up to **$**750 million (less any outstanding amounts due under the Secured Intercompany DIP Credit Facility) to the Asbestos Trust and (b) up to $750 million ratably to the holders of Residual Environmental Claims. The Class 5 and Class 9 Primary Payment shall be made from Available Plan Funds remaining after the holders of Allowed Claims in (a) Class 1 are Paid in Full, (b) Class 2 are Reinstated or Paid in Full, and (c) Classes 3, 4, and 6 through 8 are paid the Allowed Amounts of their Claims.

92. ~~90.~~ "Class 5 and Class 9 Supplemental Distribution" means the pro rata payment of (a) up to $102 million to the Asbestos Trust and (b) up to $102 million ratably to the holders of Residual Environmental Claims. The Class 5 and Class 9 Supplemental Distribution shall be made from Available Plan Funds remaining after the Pro Rata Post-Petition Interest Payment has been fully paid.

93. ~~91.~~ "Closing" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means the closing of the sale and purchase of the Sold Assets and the assumption of the Assumed Liabilities pursuant to the Plan Sponsor PSA.

94. ~~92.~~ "Closing Date" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means the date on which the Closing occurs.

95. ~~93.~~ "Coal Act" means the Coal Industry Retiree Health Benefit Act of 1992, as amended.

96. "COBRA" means the Consolidated Omnibus Budget Reconciliation Act.

97. "COD Income" means cancellation of indebtedness income.

98. ~~94.~~ "Committees" means the ASARCO Committee, the Asbestos Subsidiary Committee, and the Asbestos Claimants' Committee.

99. ~~95.~~ "Confidentiality Agreement" means the confidentiality agreement dated July 6, 2007, between the Plan Sponsor Parent and ASARCO.

100. ~~96.~~ "Confirmation", "Confirmation of the Plan", or "Confirmation of this Plan" means the approval of the Plan by the Bankruptcy Court at the Confirmation Hearing.

101. ~~97.~~ "Confirmation Date" means the date on which the Confirmation Order is entered on the docket of the Bankruptcy Court.

102. ~~98.~~ "Confirmation Hearing" means the hearing(s) that will be held before the Bankruptcy Court, in which the Debtors will seek Confirmation of the Plan.

103. ~~99.~~ "Confirmation Order" means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 and other applicable sections of the Bankruptcy Code.

104. ~~100.~~ "Consulting Representative" means the representative of the ASARCO Committee who may, in some instances, consult with the Litigation Trustees pursuant to the terms of the Litigation Trust Agreement.

105. ~~101.~~ "Consummation" means the occurrence of the Effective Date.

106. ~~102.~~ "Covington" means Covington Land Company, one of the Debtors .

107. ~~103.~~ "Corporate Governance Stipulation" means the Stipulation and Order Regarding Corporate Governance, entered by the Bankruptcy Court on December 15, 2005.

108. ~~104.~~ "Credit Facility" means the $5 million senior secured twelve month credit facility issued by Chase, as discussed in Section 2.15(b) of the Disclosure Statement.

109. ~~105.~~ "Creditor Constituents" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means the creditor constituents at the time of the Plan Sponsor selection meeting, consisting of the ASARCO Committee, the Asbestos Subsidiary Committee, the FCR, the DOJ, the USW, and the State of Washington.

110. ~~106.~~ "Cure Amount Claim" means the amount due to the non-Debtor contracting party based upon a Debtor's defaults under an executory contract or unexpired lease at the time such contract or lease is assumed pursuant to section 365 of the Bankruptcy Code.

111. ~~107.~~ "Custodial Trust Administrative Accounts" means the trust accounts established pursuant to the various Environmental Custodial Trust Agreements into which Environmental Custodial Trust Administration Funding shall be deposited.

112. ~~108.~~ "Custodial Trust Environmental Cost Accounts" means the trust accounts established pursuant to the various Environmental Custodial Trust Agreements into which the Environmental Custodial Trust Funding shall be deposited.

113. ~~109.~~ "Debtor" means one of the Debtors.

114. ~~110.~~ "Debtors" means the debtors in the Reorganization Cases, including, without limitation, Lac d'Amiante du Québec Ltée; Lake Asbestos of Quebec, Ltd.; LAQ Canada, Ltd.; CAPCO Pipe Company, Inc.; Cement Asbestos Products Company; ASARCO LLC; ASARCO Consulting, Inc.; Encycle, Inc.; ALC, Inc.; American Smelting and Refining Company; AR Mexican Explorations, Inc.; Asarco Master, Inc.; Asarco Oil and Gas Company, Inc.; Bridgeview Management Company, Inc.; Covington Land Company; Government Gulch Mining Company, Limited; Southern Peru Holdings, LLC; AR Sacaton, LLC; ASARCO Exploration Company, Inc.; Green Hill Cleveland Mining

Company; Alta Mining and Development Company; Blackhawk Mining and Development Company, Limited; Peru Mining Exploration and Development Company; Tulipan Company, Inc.; and Wyoming Mining and Milling Company.

115. ~~111.~~ "Delaware Trustee" means the Entity appointed under the Asbestos Trust Agreement and the Litigation Trust Agreement to fulfill the requirement of section 3807 of the Delaware Statutory Trust Act, 12 DEL. CODE ANN. § 3807.

116. ~~112.~~ "Demand" means a demand, to the fullest extent such term is used or defined in section 524(g)(5) of the Bankruptcy Code, for payment, present or future, that (a) was not a Claim during the proceedings before the Bankruptcy Court leading to Confirmation of the Plan in the Reorganization Cases, (b) arises out of the same or similar conduct or events that gave rise to (i) an Asbestos Personal Injury Claim or (ii) an Asbestos Premises Liability Claim, and (c) pursuant to the Plan is to be paid by the Asbestos Trust from either the Asbestos Personal Injury Claims Fund or the Asbestos Premises Liability Claims Fund.

117. ~~113.~~ "Derivative Asbestos Claims" means Asbestos Personal Injury Claims against the Asbestos Subsidiary Debtors for which ASARCO is alleged to be liable under any of the various Alter Ego Theories. These Claims are resolved pursuant to the Asbestos Settlement Agreement.

118. ~~114.~~ "Derivative D&O Litigation" means the claims and causes of action of the Debtors asserted derivatively by the ASARCO Committee in Adversary No. 07-02077, pending in the Bankruptcy Court.

119. ~~115.~~ "Designated Properties" means each parcel of real property generally identified on **Exhibit 10** to the Plan under the heading Designated Properties.

120. ~~116.~~ "DIP Agent" means The CIT Group/Business Credit, Inc., the Entity that provided the DIP Facility to ASARCO.

121. ~~117.~~ "DIP Facility" means the debtor in possession credit facility provided by the DIP Agent to ASARCO.

122. ~~118.~~ "Discharge Injunction" means the permanent injunction set forth in Article 12.2 of the Plan.

123. ~~119.~~ "Disclosure Order" means the order entered by the Bankruptcy Court on _____, **September 25,** 2008, approving the Disclosure Statement, a copy of which is attached to the Disclosure Statement as **Exhibit C**.

124. ~~120.~~ "Disclosure Schedule" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means the disclosure schedule delivered to the Plan Sponsor pursuant to the Plan Sponsor PSA.

125. ~~121.~~ "Disclosure Statement" means the Disclosure Statement in Support of the Debtors' **Second Amended** Joint Plan of Reorganization Under Chapter 11 of the United States

Bankruptcy Code, including all exhibits attached thereto, as submitted by the Debtors pursuant to section 1125 of the Bankruptcy Code and approved by the Bankruptcy Court, as such Disclosure Statement may be further amended, supplemented, or modified from time to time.

126. ~~122.~~ "Disputed Claim" means a Claim (other than an Asbestos Personal Injury Claim) that is not an Allowed Claim, including a Claim that is, in whole or in part: (a) listed on the Schedules as, or proof of which is filed as, unliquidated, disputed, or contingent; (b) as to which a Proof of Claim designating such Claim as liquidated in amount and not contingent was not timely and properly filed; (c) as to which a Debtor, Reorganized ASARCO, the Plan Administrator, the Asbestos Trustees, or other party in interest has filed a timely objection or request for estimation in accordance with the Bankruptcy Code and Bankruptcy Rules; or (d) is otherwise disputed by a Debtor, Reorganized ASARCO, the Plan Administrator, the Asbestos Trustees, or other party in interest in accordance with applicable law, which objection, request for estimation, or dispute has not been withdrawn or determined by a Final Order.

127. ~~123.~~ "Disputed Claims Reserve" means a reserve for any distributions to be set aside by the Plan Administrator pursuant to Article ~~14.9~~**14.8** of the Plan on account of Disputed Claims.

128. ~~124.~~ "Disputed Secured Claims Reserve" means the escrow account(s) established by the Plan Administrator pursuant to Article ~~14.9~~**14.8** of the Plan on account of allegedly Secured Claims that are Disputed Claims.

129. ~~125.~~ "Distributable Cash" means unrestricted Cash on hand with the Debtors on the Effective Date, plus interest earned thereon, if any.

130. ~~126.~~ "Distribution Record Date" means the close of business on the Confirmation Date.

131. ~~127.~~ "District Court" means the United States District Court for the Southern District of Texas.

132. ~~128.~~ "DOJ" means the United States Department of Justice, Environment & Natural Resources Division.

133. **"DTC" means the Depository Trust Company.**

134. **"East Helena Soils Settlement Agreement" means the Settlement Agreement Regarding Response Costs at the East Helena Superfund Site referenced in the motion for approval thereof filed on September 19, 2008 [Docket No. 9231].**

135. ~~129.~~ "Effective Date" means, and shall occur on, the first Business Day upon which all of the conditions to occurrence of the Effective Date contained in Article 10.1 of the Plan have been satisfied, or waived pursuant to Article 10.2 of the Plan.

136. ~~130.~~ "Effective Order" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means a Plan Confirmation Order (as such term

is defined in the Plan Sponsor PSA) entered by the Bankruptcy Court: (a) which has not been reversed, stayed, modified, amended, or revoked, and as to which (i) any right to appeal or seek certiorari, review, reargument, stay, or rehearing has been waived or (ii) the time to appeal or seek certiorari, review, reargument, stay, or rehearing has expired and no appeal or petition for certiorari, review, reargument, stay, or rehearing is pending; or (b) as to which an appeal has been taken or petition for certiorari, review, reargument, stay, or rehearing has been filed and (i) such appeal or petition for certiorari, review, reargument, stay, or rehearing has been resolved by the highest court to which the order or judgment was appealed or from which certiorari, review, reargument, stay, or rehearing was sought and (ii) the time to appeal further or seek certiorari, further review, reargument, stay, or rehearing has expired and no such further appeal or petition for certiorari, further review, reargument, stay, or rehearing is pending; *provided* that no order or judgment shall fail to be an "Effective Order" solely because of the possibility that a motion pursuant to section 502(j) or 1144 of the Bankruptcy Code, Rule 59 or 60 of the Federal Rules of Civil Procedure or Rule 9024 of the Federal Rules of Bankruptcy Procedure may be filed with respect to such order or judgment; *provided* further that notwithstanding the pendency of any appeal with respect to such Plan Confirmation Order, such Plan Confirmation Order shall be deemed to be an "Effective Order" if such appeal was (x) filed or otherwise initiated, directly or indirectly, by Grupo or Harbinger Capital Partners Master Fund I, Ltd., Harbinger Capital Partners Special Situations Fund, L.P. or any of their Affiliates; or (y) filed by any other Person, so long as such Person's appeal would not reasonably be likely to result in a material adverse effect on the Plan Sponsor (or Plan Sponsor Parent) or on the ability of Sellers and Plan Sponsor (and Plan Sponsor Parent) to consummate the transactions contemplated by the Plan Sponsor PSA and, in the case of each of (x) and (y), no stay pending such appeal has been granted (and no request for such stay is pending).

137. ~~131.~~ "El Paso Paving SEP Claim" means the City of El Paso's claim related to the paving supplemental environmental project.

138. **"El Paso Stipulation" means the Stipulation Relating to Proofs of Claim for El Paso County Metals Survey Site and Dona Ana Metal Site and Modification of Case Management Order referenced in the motion for approval thereof filed on September 12, 2007 [Docket No. 5775], and approved by the Bankruptcy Court by orders entered on October 5, 2007 [Docket No. 6019] and on December 4, 2007 [Docket No. 6434].**

139. ~~132.~~ "ELT/ES" means ELT Houston, LLC and EnergySolutions, LLC.

140. ~~133.~~ "Employee Benefit Plan" shall have the meaning assigned to "Seller Employee Benefit Plan" in the Plan Sponsor PSA, which for reference purposes only, means each "employee pension benefit plan" (as defined in section 3(2) of ERISA), "employee welfare benefit plan" (as defined in section 3(1) of ERISA), stock option, stock purchase, stock appreciation right, incentive, deferred compensation plan or arrangement, and other employee fringe benefit plan or arrangement maintained, contributed to, or required to be maintained or contributed to by Sellers or with respect to which any of Sellers or their Affiliates have any obligation or liability.

141. ~~134.~~ "Entity" shall have the meaning assigned to such term by section 101(15) of the Bankruptcy Code.

142. ~~135.~~ "Environmental Agencies" means Governmental Units whose responsibilities include enforcement and oversight of Environmental Law.

143. ~~136.~~ "Environmental Claims" means the Class 7 Previously Settled Environmental Claims, the Class 8 Miscellaneous Federal and State Environmental Claims, and the Class 9 Residual Environmental Claims.

144. ~~137.~~ "Environmental Custodial Trust(s)" means the custodial trusts to be established pursuant to Article VII of the Plan, pursuant to the various Environmental Custodial Trust Agreements.

145. ~~138.~~ "Environmental Custodial Trust Accounts" means the Custodial Trust Environmental Cost Accounts and the Custodial Trust Administrative Accounts.

146. ~~139.~~ "Environmental Custodial Trust Administration Funding" means the Cash that ASARCO shall allocate and disburse to the various Environmental Custodial Trusts for administration of the Designated Properties, as set forth in **Exhibit F** to the Disclosure Statement.

147. ~~140.~~ "Environmental Custodial Trust Agreements" means the agreements governing the operation of the Environmental Custodial Trusts, as well as any other ancillary agreements or related documents, to be entered into pursuant to Article VII of the Plan.

148. ~~141.~~ "Environmental Custodial Trust Assets" means the Designated Properties and related contracts, fixtures, and personalty to be transferred to the Environmental Custodial Trusts in accordance with the Environmental Custodial Trust Settlement Agreements, the Environmental Custodial Trust Administration Funding, and the Environmental Custodial Trust Funding.

149. ~~142.~~ "Environmental Custodial Trust Documents" means the Environmental Custodial Trust Agreements and the other agreements, instruments, and documents governing the establishment, administration, and operation of the Environmental Custodial Trusts, as they may be amended or modified from time to time in accordance with the Plan and the terms of such documents.

150. ~~143.~~ "Environmental Custodial Trust Funding" means Cash in the total aggregate amount of approximately $243.8 million that ASARCO shall allocate and disburse to the various Environmental Custodial Trusts for remediation and restoration of, and other environmental costs related to, the Designated Properties, as further described in the Environmental Custodial Trust Settlement Agreements.

151. ~~144.~~ "Environmental Custodial Trust Settlement Agreements" means the settlement agreements with EPA or other Environmental Agencies relating to the Designated Properties~~,~~**. One of these is** attached to the Plan as **Exhibit 12-A~~(1)~~** ~~to Exhibit 12-A(3)~~.

152. ~~145.~~ "Environmental Custodial Trustees" means the Entities appointed as Environmental Custodial Trustees under the various Environmental Custodial Trust Agreements and any successor thereto chosen in accordance with such Environmental Custodial Trust Agreements.

153. ~~146.~~ "Environmental Law" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means any Law pertaining to health, industrial hygiene, public safety, occupational safety, mining, mine reclamation, natural or cultural resources, fish, wildlife or other protected species, or the environment, including without limitation, CERCLA; RCRA; the Toxic Substances Control Act (15 U.S.C. § 2601, *et seq.*); the Clean Water Act (33 U.S.C. § 1251, *et seq.*); the Oil Pollution Act of 1990 (33 U.S.C. § 2701, *et seq.*); the Clean Air Act (42 U.S.C. § 7401, *et seq.*); the Atomic Energy Act (42 U.S.C. § 2011, *et seq.*); the Hazardous Materials Transportation Act (49 U.S.C. § 5101, *et seq.*); the Emergency Planning and Community Right-To-Know Act (42 U.S.C. 11001, *et seq.*); the Endangered Species Act of 1973 (16 U.S.C. §1531, *et seq.*); the Federal Land Policy and Management Act of 1976 (43 U.S.C. § 1701, *et seq.*); the Lead-Based Paint Exposure Reduction Act (15 U.S.C. § 2681, *et seq.*); the Safe Water Drinking Act Amendments of 1996 (42 U.S.C. § 300); the National Historic Preservation Act of 1966; the Mine Safety and Health Act (30 U.S.C. § 801, *et seq.*); the Surface Mining Control and Reclamation Act (30 U.S.C. § 1201, *et seq.*), and state and local counterparts of each of the foregoing.

154. ~~147.~~ "EPA" means the United States Environmental Protection Agency.

155. ~~148.~~ "ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

156. ~~149.~~ "Estate" means a Debtor's bankruptcy estate created pursuant to section 541 of the Bankruptcy Code on its Petition Date.

157. ~~150.~~ "Examiner" means Michael Denis Warner in his capacity as examiner of the Debtors.

158. ~~151.~~ "Excluded Assets" means the properties, assets, and rights of any Seller described in section 2.2 of the Plan Sponsor PSA which are expressly excluded from the transactions contemplated by the Plan Sponsor PSA and are not included in the Sold Assets.

159. ~~152.~~ "FCR" means Judge Robert C. Pate, appointed by the Bankruptcy Court pursuant to section 524(g) of the Bankruptcy Code to represent future asbestos-related claimants and any and all Persons that may assert Demands against any of the Debtors but have not presently done so, and who shall continue to serve after the Effective Date on behalf of holders of Demands in order to exercise the rights, duties and responsibilities set forth in the Asbestos Trust Documents.

160. ~~153.~~ "Federal Rules" means the Federal Rules of Civil Procedure, as in effect on the Petition Date, together with all amendments and modifications thereto subsequently made applicable to the Reorganization Cases.

161. ~~154.~~ "FFIC" means Fireman's Fund Insurance Company.

162. ~~155.~~ "Final Order" means an order of a court: (a) as to which the time to appeal, petition for writ of certiorari, or otherwise seek appellate review or to move for reargument, rehearing, or reconsideration has expired and as to which no appeal, petition for writ of certiorari, or other appellate review, or proceedings for reargument, rehearing, or reconsideration shall then be pending; (b) as to which any right to appeal, petition for certiorari, or move for reargument, rehearing, or reconsideration shall have been waived in writing by the party with such right; or (c) in the event that an appeal, writ of certiorari, or other appellate review or reargument, rehearing, or reconsideration thereof has been sought, which shall have been affirmed by the highest court to which such order was appealed, from which writ of certiorari or other appellate review or reargument, rehearing, or reconsideration was sought, and as to which the time to take any further appeal, to petition for writ of certiorari, to otherwise seek appellate review, and to move for reargument, rehearing, or reconsideration shall have expired; *provided, however*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure or under section 1144 of the Bankruptcy Code, or any analogous rule under the Bankruptcy Rules, may be filed with respect to such order shall not cause such order not to be a Final Order.

163. ~~156.~~ "Flow Through Bonds" means the surety bonds numbered 403998, 394729, 133771, 142706, and 403855 issued by Seaboard on behalf of ASARCO, as principal, to bond ASARCO's obligations to various Entities.

164. ~~157.~~ "Forfeited Distributions" means funds in the Undeliverable and Unclaimed Distribution Reserve that remain unclaimed or otherwise undeliverable to the Claimant entitled thereto.

165. **"Global Settlement" means the settlement proposed by the Plan and, if accepted, to be entered by the Debtors, the Parent, the Asbestos Subsidiary Debtors, the Asbestos Claimants' Committee, the FCR, and the holders of the Residual Environmental Claims pursuant to which the Asbestos Subsidiary Debtors, Asbestos Claimants' Committee and the FCR would agree to reduce the aggregate asbestos-related Claims and Demands to $1.25 billion and the holders of the Residual Environmental Claims would agree to reduce those Claims to $1.13 billion. The Asbestos Trust would receive the Global Settlement Allowed Claim of $1.25 billion for payment of Unsecured Asbestos Personal Injury Claims and Demands and the holders of Residual Environmental Claims would receive the Global Settlement Allowed Claim of $1.13 billion for payment of those Claims. The Global Settlement would require that holders of Claims in Classes 3, 4, 6, 7, and 8 and the Global Settlement Allowed Claims be Paid in Full pursuant to the Plan. The Global Settlement would be funded first from Available Plan Sales Proceeds and Distributable Cash and then from the Global Settlement Reserve.**

166. **"Global Settlement Amount" means the amount to be determined by the Bankruptcy Court in the Confirmation Order (if the Plan Settlement proposed by the Plan is accepted), based on information available at the time of the Confirmation**

Hearing, to be sufficient to ensure payment in full of the Global Settlement after application of Available Plan Sales Proceeds and Distributable Cash. For purposes of clarity, the Global Settlement Amount is the difference between (a) the total of Available Plan Sales Proceeds and Distributable Cash and (b) the total of (1) Allowed Administrative Claims, (2) Allowed Priority Tax Claims and Class 1 Claims, (3) the amount needed to Reinstate or Pay in Full each Class 2 Claim, (4) the principal amount due to Claims in Classes 3, 4, 6, 7, and 8, (5) the Post-Petition Interest due to Claims in Classes 3, 4, 5, 6, 7, and 8 so that, upon payment, such Claims are Paid in Full, and (6) the Allowed Claims under the Global Settlement.

167. **"Global Settlement Reserve" means the fund to be established by the Plan Administrator on the Effective Date (if the Plan Settlement proposed by the Plan is accepted) to hold the Global Settlement Amount, whether funded by the Parent by Cash or by a letter of credit in a form satisfactory to ASARCO.**

168. ~~158.~~ "Glossary" means this Uniform Glossary of Defined Terms for Plan Documents.

169. ~~159.~~ "Governmental Authority" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means any entity exercising executive, legislative, judicial, regulatory, or administrative functions of or pertaining to government, foreign or domestic, including any governmental authority, agency, department, board, commission, or instrumentality of the United States or other country, any state, province, tribal authority, or any political subdivision of any of the foregoing, and any tribunal, court, arbitrator(s), or other private adjudicator whose decisions are binding of competent jurisdiction, and shall include the Bankruptcy Court.

170. ~~160.~~ "Governmental Unit" shall have the meaning assigned to such term by section 101(27) of the Bankruptcy Code.

171. ~~161.~~ "Grupo Mexico" means Grupo Mexico S.A. de C.V., ASARCO's ultimate parent company.

172. ~~162.~~ "Hayden Settlement Agreement" means the Administrative Settlement Agreement and Order on Consent for Removal Action, U.S. EPA Region IX, CERCLA Docket No. 2008-09, and the Administrative Settlement Agreement and Order on Consent for Removal Action, U.S. EPA Region IX, CERCLA Docket No. 2008-13, by and among the EPA, the ADEQ and ASARCO.

173. ~~163.~~ "Hazardous Materials" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means any substance, material, pollutant, contaminant, waste, or special waste, whether solid, liquid, or gaseous, that is infectious, toxic, hazardous, explosive, corrosive, flammable, or radioactive or which is defined, designated, listed, regulated, or included in any Environmental Law, including, without limitation, asbestos or asbestos-containing material, petroleum or petroleum additive substances, polychlorinated biphenyls, or sewage.

174. **"Hourly Plan" means the Retirement Income Plan for Hourly-Rated Employees of ASARCO LLC.**

175. **"Hourly and Salaried Plans" means the Hourly Plan and the Salaried Plan.**

176. ~~164.~~ "HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

177. ~~165.~~ "Indemnification Escrow" means the escrow account in the amount of $20 million to address Reorganized ASARCO's anticipated indemnification obligations, pursuant to Article 12.8(b) of the Plan.

~~166. "Indenture Trustee" means an indenture trustee for an issue of the Bonds, in its capacity as such.~~

178. **"Indenture Trustee Fee Claim" means, individually and collectively, any claim against the Debtors for any compensation, disbursements, fees, expenses and indemnification pursuant to an Indenture, including any claim under such Indenture for the reasonable fees and expenses of an Indenture Trustee, its counsel and any other professionals of the Indenture Trustee payable thereunder, any unpaid prepetition fees and costs of the Indenture Trustee (including its counsel and other professionals) payable thereunder, and any claim for unpaid fees and expenses of any predecessor Indenture Trustee payable thereunder.**

179. **"Indenture Trustees" means Wilmington Trust Company, Deutsche Bank Trust Company Americas, and Wells Fargo Bank, National Association, each in their respective capacity as a trustee under the Indentures.**

180. **"Indentures" means, collectively, the (a) Indenture, dated as of October 1, 1994, as supplemented by the First Supplemental Indenture, dated as of February 16, 2005, by and between ASARCO LLC, successor to ASARCO Incorporated, as issuer, JPMorgan Chase Bank (formerly known as Chemical Bank), as Indenture Trustee, pursuant to which the ASARCO LLC issued its 8.5% Corporate Debentures Due 2025; (b) Indenture dated as of October 1, 1998 between Lewis and Clark County, Montana and Deutsche Bank Trust Company Americas (formerly known as Bankers Trust Company) pursuant to which Lewis and Clark County, Montana issued the Lewis and Clark County, Montana Environmental Facilities Revenue Bonds (ASARCO Incorporated Project) Series 1998 due 2033; (c) Indenture dated as of January 1, 1998 between Lewis and Clark County, Montana and Deutsche Bank Trust Company Americas (formerly known as Bankers Trust Company) pursuant to which Lewis and Clark County, Montana issued the Lewis and Clark County, Montana Environmental Revenue Refunding Bonds (ASARCO Incorporated Project) Series 1998 due 2027; (d) Indenture dated as of October 1, 1998 between Nueces River Authority and Deutsche Bank Trust Company Americas (formerly known as Bankers Trust Company) pursuant to which Nueces River Authority issued the Nueces River Authority Environmental Revenue Refunding Bonds (ASARCO Incorporated Project) Series 1998A due 2018; (e) Indenture dated as of January 1, 1998 between Nueces River Authority and Deutsche Bank Trust Company Americas (formerly known as Bankers Trust Company) pursuant to which Nueces River Authority issued the Nueces River Authority Environmental**

Revenue Refunding Bonds (ASARCO Incorporated Project) Series 1998 due 2027; (f) Indenture dated as of January 1, 1998 between The Industrial Development Authority of the County of Gila, Arizona and Deutsche Bank Trust Company Americas (formerly known as Bankers Trust Company) pursuant to which The Industrial Development Authority of the County of Gila, Arizona issued the The Industrial Development Authority of the County of Gila, Arizona Environmental Revenue Refunding Bonds (ASARCO Incorporated Project) Series 1998 due 2027; and (g) Indenture dated as of February 1, 1993 by and between ASARCO LLC, successor to ASARCO Incorporated, as Issuer and Bankers Trust Company, as Trustee, pursuant to which ASARCO LLC issued its 7⅞ % Debentures due 2013.

181. ~~167.~~ "Initial Administrative Claims Bar Date" means September 19, 2008, the date established by the Bankruptcy Court for filing Administrative Claims that arise after the Petition Date but prior to the Subsequent Administrative Claims Bar Date.

182. ~~168.~~ "Initial Distribution Date" means the date on which ASARCO makes the Initial Distributions under the Plan, which shall be the Effective Date.

183. ~~169.~~ "Initial Distributions" means the distributions to be made by Reorganized ASARCO, including those to holders of Allowed Claims and to the Trusts, on the Initial Distribution Date.

184. ~~170.~~ "Injunctions" means the Discharge Injunction, the Permanent Channeling Injunction, the Asbestos Insurance Company Injunction, and the 346 Injunction issued by the Bankruptcy Court in the Reorganization Cases.

185. ~~171.~~ "Insurance Neutrality Order" means the Bankruptcy Court's May 29, 2008 Order Extending Scope of Insurance Neutrality Addendum Attached to Order Approving Compromise and Settlement Regarding Resolution of Derivative Asbestos Claims.

186. ~~172.~~ "Intercompany Claims" means any Claims held by one Debtor against another Debtor.

187. ~~173.~~ "Interest" means the rights of the holders of the equity securities of a Debtor and the rights of any Entity to purchase or demand the issuance of any equity security of such Debtor, including (a) redemption, conversion, exchange, voting, participation, and dividend rights, (b) liquidation preferences, and (c) stock options and warrants.

188. ~~174.~~ "Interior" means the United States Department of the Interior.

189. ~~175.~~ "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended.

190. ~~176.~~ "IRS" means the Internal Revenue Service.

191. ~~177.~~ "LAQ" means Lac d'Amiante du Québec Ltée., Lake Asbestos of Quebec, Ltd., and LAQ Canada, Ltd.

192. ~~178.~~ "Late-Filed Claims" means those Class 10 Unsecured Claims (a) evidenced by Proofs of Claim filed after the applicable Bar Date but on or prior to the Voting Record Date and (b) that have not been determined as of the Confirmation Date to satisfy the excusable neglect standard. "Late-Filed Claims" do not include Unsecured Asbestos Personal Injury Claims (or Demands) that are filed after the applicable Bar Date, which shall be dealt with exclusively pursuant to the Asbestos TDP.

193. ~~179.~~ "Law" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means any federal, tribal, state, or local or provincial law (including common law), statute, code, ordinance, rule, regulation, executive order, Final Order, administrative, or judicial decision, judgment or decree, or other requirement enacted, promulgated, issued, or entered by a Governmental Authority.

194. ~~180.~~ "LIBOR" means London interbank offered rate of interest.

195. ~~181.~~ "Lien" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means any lien, pledge, mortgage, deed of trust, security interest, attachment, levy, or other encumbrance affecting title.

196. ~~182.~~ "Liquidation Analysis" means the liquidation analysis attached as **Exhibit E** to the Disclosure Statement.

197. ~~183.~~ "Litigation Claims" means any of the Debtors' causes of action, including, without limitation, the Burns Litigation, the Derivative D&O Litigation, the MRI Litigation, the SCC Litigation, and any other Avoidance Actions.

198. ~~184.~~ "Litigation Expense Fund" means the Cash in the amount of $31.7 million to be transferred to the Litigation Trustees by the Debtors on the Effective Date, together with all additions thereto in accordance with the Litigation Trust Agreement, in order to fund the operations of the Litigation Trust.

199. ~~185.~~ "Litigation Proceeds" means the proceeds from the prosecution, compromise, and settlement of the Litigation Trust Claims, which shall be an asset of the Litigation Trust and held as part thereof.

200. ~~186.~~ "Litigation Trust" means that certain litigation trust to be formed on the Effective Date pursuant to the Litigation Trust Agreement.

201. ~~187.~~ "Litigation Trust Agreement" means the form of trust agreement, effective as of the Effective Date, substantially in the form attached as **Exhibit 4** to the Plan, as it may be modified from time to time in accordance with the terms thereof or Article 6.1 of the Plan.

202. ~~188.~~ "Litigation Trust Beneficiaries" means (1) on or prior to the time that the Litigation Trustees distribute the Litigation Trust Interests, the Asbestos Trust, the holders of Class 9 Residual Environmental Claims, and the Environmental Custodial Trust established pursuant to the Plan for the Coeur d'Alene Basin site and (2) after the time that the

Litigation Trustees distribute the Litigation Trust Interests, the holders of the Litigation Trust Interests.

203. ~~189.~~ "Litigation Trust Claims" means the Litigation Claims that are transferred to the Litigation Trust pursuant to the Plan as listed on **Exhibit 14-B** to the Plan.

204. ~~190.~~ "Litigation Trust Interests" means the beneficial interests in the Litigation Trust to be distributed to the Asbestos Trust (on behalf of holders of Allowed Claims in Class 5) and holders of Allowed Residual Environmental Claims in Class 9.

205. ~~191.~~ "Litigation Trustees" means the Persons appointed as trustees of the Litigation Trust under the Litigation Trust Agreement and any successor(s) thereto chosen in accordance with such agreement.

206. ~~192.~~ "LLC Agreement" means the Amended and Restated Limited Liability Company Agreement of ASARCO LLC, approved by the Bankruptcy Court on December 15, 2005, as may be subsequently amended.

207. ~~193.~~ "Madera Property" means the real property owned by ASARCO in Madera Canyon, Santa Cruz County, Arizona, which shall vest in Reorganized Covington pursuant to the Plan.

208. ~~194.~~ "Master Ballot" means the Ballot prepared for submission by an attorney on behalf of Unsecured Asbestos Personal Injury Claimants, or by a Nominee on behalf of Bondholders.

209. ~~195.~~ "MDEQ" means the State of Montana *ex rel*. the Montana Department of Environmental Quality.

210. ~~196.~~ "Miscellaneous Federal and State Environmental Claims" means those Class 8 Claims filed by a federal or state government in the Reorganization Cases and addressed by the Miscellaneous Federal and State Environmental Settlement Agreement.

211. ~~197.~~ "Miscellaneous Federal and State Environmental Settlement Agreement" means the settlement agreement between ASARCO and holders of Miscellaneous Federal and State Environmental Claims, attached to the Plan as **Exhibit 12-B**.

212. ~~198.~~ "Miscellaneous Plan Administration Accounts" means the Adjustment Payment Reserve, the Disputed Claims Reserve, the Unpaid Cure Claims Reserve, the Disputed Secured Claims Reserve, the Prepetition ASARCO Environmental Trust Escrow, the Indemnification Escrow, and the Undeliverable and Unclaimed Distribution Reserve.

213. ~~199.~~ "Mission Mine Leases" means the two mining leases and 21 business leases between ASARCO's predecessor in interest and the Secretary of the Interior, relating to the Mission Mine.

214. ~~200.~~ "Mission Mine Leases" means the two mining leases and 21 business leases between ASARCO's predecessor in interest and the Secretary of the Interest, relating to the Mission Mine.

215. ~~201.~~ "Mission Mine Settlement Agreement" means the settlement agreement among ASARCO, the Nation, the San Xavier District, the San Xavier Allottees Association, and the United States, as amended, attached to the Plan as **Exhibit 15**.

216. ~~202.~~ "Mission Mine Unexpired Agreements" means the agreements that ASARCO assumed in the Mission Mine Settlement Agreement and which are to be assigned to the Plan Sponsor pursuant to the Plan.

217. ~~203.~~ "Mitsui" means, collectively, Ginrei, Inc., a Delaware corporation and a wholly-owned subsidiary of Mitsui & Co. (USA), Inc., a New York corporation, and MSB Copper Corp., a Delaware corporation and a wholly-owned subsidiary of Mitsui & Co., Ltd., a corporation organized under the laws of Japan.

218. ~~204.~~ "MRI" means Montana Resources, Inc.

219. ~~205.~~ "MRI Litigation" means the claims and causes of action of the Debtors asserted in Adversary No. 07-02024, pending in the Bankruptcy Court.

220. "MR Partnership" means Montana Resources general partnership, a Montana-based, mining-operations partnership in which ASARCO and MRI were partners.

221. ~~206.~~ "MSHA" means the Mine Safety and Health Administration.

222. ~~207.~~ "Nation" means the Tohono O'odham Nation.

223. ~~208.~~ "Nominee" means any broker, dealer, commercial bank, trust company, savings and loan, financial institution, or other party in whose names the Bonds are registered or held of record on behalf of the holder of the beneficial interest therein.

224. ~~209.~~ "Non-Debtor Sellers" means ARSB, CBRI and Santa Cruz.

225. ~~210.~~ "Non-Target Properties" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means all real property that is not (a) a Real Property or (b) a Silver Bell Property.

226. ~~211.~~ "Ordinary Course of Business" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means the ordinary course of business of the Sellers, taken as a whole, relating to the Business, consistent with past practice during the pendency of and, as applicable, taking into account the Bankruptcy Cases (as such term is defined in the Plan Sponsor PSA).

227. ~~212.~~ "OSHA" means the Occupational Safety and Health Administration.

228. ~~213.~~ "Other Subsidiary Debtors" means the Subsidiary Debtors other than the Asbestos Subsidiary Debtors.

229. ~~214.~~ "Paid in Full" means paid in Cash the Allowed Amount of the holder's Claim with Post-Petition Interest.

230. ~~215.~~ "Parent" means ASARCO Incorporated, a Delaware corporation.

231. ~~216.~~ "PBGC" means the Pension Benefit Guaranty Corporation.

232. ~~217.~~ "Pension Plans" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means each Employee Benefit Plan which is an "employee pension benefit plan" within the meaning of Section 3(2) of ERISA.

233. ~~218.~~ "Permanent Channeling Injunction" means the injunction set forth in Article 12.3(a) of the Plan.

234. ~~219.~~ "Permitted Liens" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means (i) all Liens set forth in section 1.1A of the Disclosure Schedule, (ii) statutory Liens for current taxes, assessments, or other governmental charges not yet delinquent or the amount or validity of which is being contested in good faith by appropriate proceedings, to the extent that a reserve has been established therefore or such amount has been deposited with the appropriate Governmental Authority or other adjudicating Person, (iii) mechanic's, materialman's, warehouseman's, carrier's, and similar liens for labor, materials, or supplies, as would not reasonably be expected to have, individually or in the aggregate, a Seller Material Adverse Effect (as such term is defined in the Plan Sponsor PSA), (iv) purchase money security interests arising in the Ordinary Course of Business, (v) any Lien arising out of a Tolling Arrangement (as such term is defined in the Plan Sponsor PSA) or Exchange Arrangement (as such term is defined in the Plan Sponsor PSA), to the extent not arising out of a breach of such Tolling Arrangement or Exchange Arrangement, (vi) rights of landlords in respect of any Leasehold Property (as such term is defined in the Plan Sponsor PSA) where the applicable lease is not in default, (vii) any Lien that, pursuant to Section 363(f) of the Bankruptcy Code, will be released upon entry of the Plan Confirmation Order (as such term is defined in the Plan Sponsor PSA); and (viii) such other Liens as would not reasonably be expected to have, individually or in the aggregate, a Seller Material Adverse Effect.

235. ~~220.~~ "Person" means any person, individual, partnership, corporation, limited liability company, joint venture company, association, or other entity or being of whatever kind, whether or not operating or existing for profit, including, without limitation, any "person" as such term is defined in section 101(41) of the Bankruptcy Code, but excluding any Governmental Unit. [Note that this definition diverges from the definition set forth in the Plan Sponsor PSA in that the Glossary, similar to the Bankruptcy Code, excludes Governmental Units.]

236. ~~221.~~ "Petition Date" means, as to each Debtor, the date on which the Debtor's bankruptcy case was commenced by the filing of a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

237. ~~222.~~ "Plan" means the **Second Amended** Joint Plan of Reorganization for the Debtors Under Chapter 11 of the United States Bankruptcy Code and all exhibits attached thereto or referenced therein, as the same may be amended, modified, or supplemented.

238. ~~223.~~ "Plan Administration Account" means the bank account(s) that the Plan Administrator shall establish, other than any general accounts established by the Plan Administrator and the Miscellaneous Plan Administration Accounts.

239. ~~224.~~ "Plan Administration Agreement" means the form of agreement with the Plan Administrator, effective as of the Effective Date, substantially in the form attached as **Exhibit 3** to the Plan, as it may be modified from time to time in accordance with the terms thereof.

240. ~~225.~~ "Plan Administration Committee" means the three-member committee appointed pursuant to the Plan Administration Agreement to consult with and advise the Plan Administrator.

241. ~~226.~~ "Plan Administration Reserve" means the funds placed in the Plan Administration Account (and any subaccounts), the Miscellaneous Plan Administration Accounts and any general accounts established by the Plan Administrator.

242. ~~227.~~ "Plan Administrator" means the Entity that shall (a) make distributions under the Plan to Claimants (other than the Unsecured Asbestos Personal Injury Claimants) after the Initial Distribution Date; (b) prosecute, settle, or otherwise resolve any objections to such Claimants' Claims; (c) liquidate Remaining Assets that are not needed for Reorganized ASARCO's operations or business; (d) serve as Reorganized ASARCO's sole officer and director; (e) operate the business of Reorganized ASARCO; and (f) perform the other duties assigned to such Entity by the Plan, the Plan Administration Agreement, or the Confirmation Order.

243. ~~228.~~ "Plan Documents" means the Plan, the Disclosure Statement, and all documents, attachments, and exhibits attached to the Plan or the Disclosure Statement that aid in effectuating the Plan, including, without limitation, the Asbestos Trust Documents, as the same may be amended, modified, or supplemented, in accordance with their terms.

244. ~~229.~~ "Plan Proponents" means the Debtors.

245. ~~230.~~ "Plan Sales Proceeds" means the $2.6 billion to be paid by the Plan Sponsor in connection with its purchase of the Sold Assets, as adjusted pursuant to section 3.3(c) of the Plan Sponsor PSA.

246. **"Plan Settlement" means the settlement proposed by the Plan and, if accepted, to be entered into by the Debtors and the Parent in connection with the SCC Litigation, the Burns Litigation, the Derivative D&O Litigation, and the Plan, pursuant to**

which the Parent and its affiliates shall receive the Settlement Benefits. In exchange, on the Effective Date, the Parent and its affiliates shall provide a deposit in Cash or in the form of a letter of credit satisfactory to ASARCO in the Global Settlement Amount, which shall fund the Global Settlement Reserve. After exhaustion of the Available Plan Sales Proceeds and Distributable Cash, the Plan Administrator shall draw on the Global Settlement Reserve to the extent necessary to complete the funding of Plan payments to Allowed Administrative Claims, Allowed Priority Tax Claims and Claims in Classes 1, 2, 3, 4, 6, 7, and 8 so that the Claims in Class 2 are Reinstated or Paid in Full, the Claims in Classes 1, 3, 4, 6, 7, and 8 are Paid in Full, and the Allowed Claims under the Global Settlement are fully paid on the Effective Date. Excess funds, if any, in the Global Settlement Reserve, shall be returned to the Parent upon payment in full of the Global Settlement. The Asbestos Subsidiary Debtors, the Asbestos Claimants' Committee, and the FCR agree, as part of the Global Settlement, to reduce their aggregate asbestos-related Claims and Demands to $1.25 billion and the holders of the Residual Environmental Claims agree, as part of the Global Settlement, to reduce those Claims to $1.13 billion, and these Claims shall be Allowed in these amounts.

247. ~~231.~~ "Plan Sponsor" means Sterlite (USA), Inc., a Delaware corporation.

248. ~~232.~~ "Plan Sponsor Adjustment Payment" means the payment that may be required to be made by the Plan Sponsor to Reorganized ASARCO in the event of an upward adjustment of the Plan Sales Proceeds pursuant to section 3.3(c) of the Plan Sponsor PSA.

249. ~~233.~~ "Plan Sponsor Parent" means Sterlite Industries (India) Ltd., an Indian limited liability company.

250. ~~234.~~ "Plan Sponsor PSA" means the Purchase and Sale Agreement dated as of May 30, 2008, among ASARCO, ARSB, CBRI, Santa Cruz, the Plan Sponsor, and the Plan Sponsor Parent, attached to the Disclosure Statement as **Exhibit M**.

251. ~~235.~~ "Post-Petition Interest" means interest on an Allowed Claim or any unpaid portion thereof, compounded annually, calculated at the rate of 3.84 percent, in accordance with section 1961 of title 28 of the United States Code, from August 10, 2005 to and including five Business Days immediately prior to the date a distribution is made, until such amounts are fully satisfied. After the Effective Date, interest shall accrue on any unpaid portion of an Allowed Claim and on any unpaid Post-Petition Interest at the same rate and to the same extent.

252. ~~236.~~ "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.

253. ~~237.~~ "Prepetition ASARCO Environmental Trust Escrow" means the escrow account established pursuant to Article 11.8(c) of the Plan.

254. ~~238.~~ "Previously Settled Environmental Claims" means those Class 7 Claims filed by a federal or state government, an Indian tribe or a PRP in the Reorganization Cases and listed on a site-by-site basis in **Exhibit 11-A** to the Plan.

255. ~~239.~~ "Previously Settled Environmental Sites" means no sites relating to the Previously Settled Environmental Claims.

256. ~~240.~~ "Priority Claim" means any Claim (other than an Administrative Claim or a Priority Tax Claim) to the extent such Claim is entitled to a priority in payment under section 507(a) of the Bankruptcy Code.

257. ~~241.~~ "Priority Tax Claim" means any Claim to the extent that such Claim is entitled to a priority in payment under section 507(a)(8) of the Bankruptcy Code.

258. ~~242.~~ "Privileges" means any attorney-client privilege, work-product privilege, or other privilege or immunity attaching to any documents or communications (whether electronic, written, or oral).

259. ~~243.~~ "Professional Persons" means Persons retained or to be compensated under sections 327, 328, 330, 503(b), or 1102 of the Bankruptcy Code.

260. ~~244.~~ "Proof of Claim" means any proof of claim filed with the Bankruptcy Court or the Claims Agent with respect to a Debtor pursuant to section 501 of the Bankruptcy Code and Bankruptcy Rules 3001 or 3002.

261. ~~245.~~ "Pro Rata Post-Petition Interest Payment" means the pro rata payment to holders of Allowed Claims in Classes 3, 4, 6, 7, and 8 in satisfaction of Post-Petition Interest on such Claims, until such Claims are Paid in Full.

262. ~~246.~~ "Protected Officers and Directors" means ~~[~~Edward R. Caine, H. Malcolm Lovett, Jr., Carlos Ruiz Sacristán, Joseph F. Lapinsky, Donald B. Mills, Douglas E. McAllister, John B. George, Gary A. Miller, Manuel E. Ramos Rada, Thomas L. Aldrich, John D. Low, Jr., Oscar Gonzalez Barron, Russell A. Smith, William Perrell~~]~~**, Joseph Hitter,** and any officers and directors appointed to replace one or more of them (or such replacement officer or director) prior to the Effective Date; *provided*, *however*, that the term "Protected Officers and Directors" does not include the named defendants in the Derivative D&O Litigation, the Burns Litigation, or the SCC Litigation.

263. ~~247.~~ "PRP" means a non-governmental Entity that has asserted a Claim against a Debtor for one or more environmental clean-up sites, including any non-governmental Entity that is co-liable with one or more of the Debtors for such a claim.

264. ~~248.~~ "PRP-Only Environmental Claims" means those Class 3 Claims filed by PRPs in the Reorganization Cases that are not included within Previously Settled Environmental Claims.

265. ~~249.~~ "RCRA" means the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901, *et seq*.

266. ~~250.~~ "Real Property" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means all leases, subleases, licenses, or other agreements relating to the occupancy of real property identified in section 2.1(e)(i) of the Disclosure Schedule, together with all of Sellers' right, title and interest in and to all fixtures and improvements located thereon and all appurtenances, rights, easements, rights-of-way and other interests incidental thereto, leased, subleased, licensed, or occupied by Sellers and used or held for use in the Business and the real property identified in section 2.1(c) of the Disclosure Schedule, including, all mines, dumps, impoundments, leach pads, tailings, buildings, plants, warehouses, railroad tracks, rights of way, easements, facilities, and other improvements and fixtures thereon and appurtenances thereto and all mining rights, mineral rights, mineral claims, riparian rights, water rights, water claims, water allocations, and water delivery contracts associated therewith.

267. ~~251.~~ "Reference Order" means the District Court's General Order 2005-6, whereby, with certain exceptions, bankruptcy cases and proceedings arising under the Bankruptcy Code or arising in or related to a bankruptcy case are automatically referred to the bankruptcy judges of the Southern District of Texas.

268. ~~252.~~ "Reinstated" or "Reinstatement" means a Claim or an Interest unimpaired within the meaning of section 1124 of the Bankruptcy Code.

269. ~~253.~~ "Release" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means disposing, discharging, injecting, spilling, leaking, leaching, dumping, emitting, escaping, emptying, seeping, placing, and the like into or upon any land or water or air or otherwise entering into the environment.

270. ~~254.~~ "Remaining Assets" means any tangible or intangible assets that vest in Reorganized ASARCO after the Sold Assets are sold to the Plan Sponsor and distributions are made on the Initial Distribution Date to Claimants and the Trusts. The Remaining Assets include the causes of action listed in **Exhibit 14-A** of the Plan.

271. ~~255.~~ "Remedial Action" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means all action to (a) investigate, clean up, remove, treat or handle in any other way Hazardous Materials in the environment; (b) restore or reclaim the environment or natural resources; (c) prevent the Release of Hazardous Materials so that they do not migrate, endanger or threaten to endanger public health or the environment; or (d) perform remedial investigations, feasibility studies, corrective actions, closures and post-remedial or post-closure studies, investigations, operations, maintenance, and monitoring on, about or in any Real Property.

272. ~~256.~~ "Reorganization Cases" means the proceedings before the Bankruptcy Court leading to the Confirmation of the Plan under chapter 11 of the Bankruptcy Code.

273. ~~257.~~ "Reorganized ASARCO" means ASARCO, on or after the Effective Date, which shall be known as ASARCO Administration Company, LLC.

274. ~~258.~~ "Reorganized Covington" means Covington, on or after the Effective Date, which shall be known as The Covington Company, LLC.

275. ~~259.~~ "Reorganized Debtors" means Reorganized ASARCO and Reorganized Covington.

276. ~~260.~~ "Residual Environmental Claims" means those Class 9 Claims of the United States and the State of Washington asserting civil liabilities addressed by the Residual Environmental Settlement Agreement.

277. ~~261.~~ "Residual Environmental Settlement Agreement" means the settlement agreement between ASARCO and holders of Residual Environmental Claims, attached to the Plan as **Exhibit 12-C**.

278. ~~262.~~ "Residual Environmental Settlement Sites" means the state and federal sites relating to the Residential Environmental Claims.

279. ~~263.~~ "Retained Books and Records" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means (a) the books, records, data and files (in any form or medium, including computerized or electronic) of the Business (i) to the extent relating to any Excluded Assets or Retained Liabilities, or (ii) to the extent related or pertaining to asbestos or asbestos-containing materials or products or to asbestos personal injury claims or demands against Sellers, including claims which have been litigated, settled or otherwise dealt with by Sellers or any one of the Sellers, and (b) bids, letters of intent, expressions of interest, or other proposals received in connection with the transactions contemplated by the Plan Sponsor PSA or any of the Ancillary Agreements or otherwise and information and analyses relating to such communications.

280. ~~264.~~ "Retained Liabilities" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means any Liabilities of Sellers, other than those that are expressly assumed by the Plan Sponsor under the Plan Sponsor PSA as Assumed Liabilities, including, without limitation, those Liabilities of Sellers set forth in section 2.4(a) through 2.4(h) of the Plan Sponsor PSA.

281. ~~265.~~ "Rosemont Ranch Defendants" means Rosemont Ranch, LLC, TWW Investments, LLC, DAS Holdings, LLC, Habibi, LLC, West Santa Rita Land, LLC, and Lazy Y I Ranch, LLC.

282. **"Salaried Plan" means the Retirement Benefit Plan for Salaried Employees of ASARCO LLC.**

283. ~~266.~~ "Santa Cruz" means ASARCO Santa Cruz, Inc., a Delaware corporation.

284. ~~267.~~ "SCC" means Southern Copper Corporation (f/k/a Southern Peru Copper Company).

285. ~~268.~~ "SCC Litigation" means the claims and causes of action of the Debtors asserted in Civil Action Nos. 07-00018 and 07-00203, both pending in the District Court.

286. ~~269.~~ "Schedules" means the schedules, statements, and lists filed by the Debtors with the Bankruptcy Court pursuant to Bankruptcy Rule 1007, as may be amended or supplemented from time to time.

287. ~~270.~~ "Seaboard" means Seaboard Surety Company.

288. ~~271.~~ "Secured Asbestos Personal Injury Claim" means an Asbestos Personal Injury Claim that is secured by a valid, perfected and enforceable Lien against proceeds of an Asbestos Insurance Policy.

289. ~~272.~~ "Secured Claim" means any Claim that is (a) secured in whole or part, as of the Petition Date, by a Lien against property of a Debtor that is valid, perfected, and enforceable under applicable law and is not subject to avoidance under the Bankruptcy Code or applicable nonbankruptcy law or (b) subject to setoff under section 553 of the Bankruptcy Code; *provided, however*, with respect to both (a) and (b) above, a Claim is a Secured Claim only to the extent of the value, net of any Lien senior to the applicable Lien, of the Estate's interest in the assets or property securing any such Claim or the amount subject to setoff, as the case may be.

290. ~~273.~~ "Secured Intercompany DIP Credit Facility" means the secured debtor in possession term loan credit facility of up to $10 million from ASARCO to the Asbestos Subsidiary Debtors.

291. ~~274.~~ "Seller Material Adverse Effect" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means (a) a material adverse effect on the financial condition of the Business (to the extent related to the Sold Assets and Assumed Liabilities) or the condition of the Sold Assets, taken as a whole, or (b) any change, circumstance or event that, individually or in the aggregate, would materially hinder or materially and adversely affect Sellers' ability to consummate the transactions contemplated by the Plan Sponsor PSA, excluding, in each case, any such effect, change, circumstance or event attributable to or resulting from (i) the announcement, pendency or consummation of the Plan Sponsor PSA, the sale of the Sold Assets or any other action by Sellers or its Affiliates required or expressly contemplated by the Plan Sponsor PSA, (ii) the conversion or dismissal of any Bankruptcy Case (as such term is defined in the Plan Sponsor PSA) or the filing of additional petitions under Chapter 11 of the Bankruptcy Code by or involving any of Sellers' Affiliates, (iii) any outbreak of hostility, terrorist activities or war, (iv) any changes in general economic (including changes in the securities markets, commodity prices, or foreign exchange rates), political or regulatory conditions generally, (v) any changes in economic, political, or regulatory conditions in the mining or smelting industries or other industries in which Sellers operate, (vi) any change in Applicable Law or accounting regulations or interpretations thereof by any court, accounting regulatory authority or other Governmental Authority, (vii) any action or omission of any Seller taken in accordance with the terms of the Plan Sponsor PSA or with the prior written consent of the Plan Sponsor, (viii) any failure by any Seller to meet any projections, budgets, plans or forecasts (but not excluding the underlying cause of such failure to meet projections, budgets, plans, or forecasts), or (ix) any expenses incurred by any Seller in the Ordinary Course of Business or in connection with the Plan

Sponsor PSA, the Ancillary Agreements (as such term is defined in the Plan Sponsor PSA) or the transactions contemplated hereby or thereby; *provided, however*, that in the case of clauses (iv), (v) and (vi), such changes do not affect Sellers in a materially disproportionate manner compared to other businesses conducting a business substantially similar to the Business of Sellers. Any determination as to whether any condition or other matter has a Seller Material Adverse Effect shall be made only after taking into account all proceeds or amounts that are expected to be received by the Plan Sponsor with respect to such condition or matter from insurance policies.

292. ~~275.~~ "Sellers" means ASARCO and the Non-Debtor Sellers, each of which is, individually, a "Seller."

293. **"Settlement Benefits" means the benefits that would be available to the Parent and its affiliates if the holder of the Class 12 Interests enters into the Plan Settlement in connection with the SCC Litigation, the Burns Litigation, the Derivative D&O Litigation, and the Plan. The Settlement Benefits would consist of (a) the addition of the Parent and its affiliates to "ASARCO Protected Parties" and (b) the Parent and its affiliates' receipt of the full benefit of the Permanent Channeling Injunction and a full release in the SCC Litigation, the Burns Litigation, and the Derivative D&O Litigation.**

294. ~~276.~~ "Settling Asbestos Insurance Company" means any Asbestos Insurance Company that has entered into an Asbestos Insurance Settlement Agreement approved by the Bankruptcy Court as of the Effective Date. The Asbestos Insurance Settlement Agreements are listed on **Exhibit 7** to the Plan, as amended or supplemented.

295. ~~277.~~ "Silver Bell" means Silver Bell Mining, L.L.C., a Delaware limited liability company.

296. ~~278.~~ "Silver Bell Interests" means the limited liability company interests of Silver Bell owned by any Seller.

297. ~~279.~~ "Silver Bell LLC Agreement" means that certain membership interest agreement, dated February 5, 1996, among Ginrei, Inc., MSB Copper Corp., and ARSB, as amended.

298. ~~280.~~ "Silver Bell Property" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means all real property owned or leased by Silver Bell.

299. ~~281.~~ "Sold Assets" means the "Purchased Assets" as defined in the Plan Sponsor PSA and identified in section 2.1 thereof, and are substantially all of the tangible and intangible operating assets of ASARCO and the Non-Debtor Sellers.

300. ~~282.~~ "SPHC" means Southern Peru Holdings, LLC.

301. ~~283.~~ "SPT" means Seaboard and St. Paul Fire.

302. ~~284.~~ "SPT Indemnity Agreement" means the General Agreement of Indemnity dated October 19, 1993, which was executed by ASARCO and delivered to Seaboard and St. Paul Fire.

303. ~~285.~~ "St. Paul Fire" means St. Paul Fire and Marine Insurance Company.

304. ~~286.~~ "SPT Settlement Agreement" means the settlement agreement between ASARCO, Seaboard Surety Company and St. Paul Travelers and Marine Insurance Company.

305. ~~287.~~ "Subordinated Claims" means those Class 11 Unsecured Claims that are subordinated to all other Unsecured Claims, pursuant to an order or by agreement of the Claimant.

306. ~~288.~~ "Subsequent Administrative Claims" means any Administrative Claims that arise after the Initial Administrative Claims Bar Date.

307. ~~289.~~ "Subsequent Administrative Claims Bar Date" means the date established in Article 16.13 of the Plan for the filing of Subsequent Administrative Claims.

308. ~~290.~~ "Subsequent Distribution(s)" means any excess funds, including interest, in the Plan Administration Reserve that the Plan Administrator, after consultation with and approval by the Plan Administration Committee, determines is available for distribution to unpaid Claimants and thereafter to the holder of the Class 12 Interest, in accordance with the priorities established by the Plan.

309. ~~291.~~ "Subsidiary" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means, with respect to any Person, any corporation, limited liability company, joint venture, or partnership of which such Person (a) beneficially owns, either directly or indirectly, more than 50% of (i) the total combined voting power of all classes of voting securities of such entity, (ii) the total combined equity interests, or (iii) the capital or profit interests, in the case of a partnership; or (b) otherwise has the power to vote or to direct the voting of sufficient securities to elect a majority of the board of directors or similar governing body.

310. ~~292.~~ "Subsidiary Debtors" means ASARCO's subsidiaries with pending chapter 11 bankruptcy cases, including, without limitation, Lac d'Amiante du Québec Ltée; Lake Asbestos of Quebec, Ltd.; LAQ Canada, Ltd.; CAPCO Pipe Company, Inc.; Cement Asbestos Products Company; Encycle, Inc.; ASARCO Consulting, Inc.; ASARCO Master, Inc.; ASARCO Oil and Gas Company, Inc.; Bridgeview Management Company, Inc.; ALC, Inc.; American Smelting and Refining Company; AR Mexican Explorations, Inc.; Government Gulch Mining Company, Limited; Covington Land Company; Southern Peru Holdings, LLC; AR Sacaton, LLC; ASARCO Exploration Company, Inc.; Green Hill Cleveland Mining Company; Alta Mining and Development Company; Blackhawk Mining and Development Company, Limited; Peru Mining Exploration and Development Company; Tulipan Company, Inc.; and Wyoming Mining and Milling Company.

311. ~~293.~~ "Superfund" means the Hazardous Substance Superfund established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507.

312. ~~294.~~ "Tax Refund" means the tax refund that ASARCO contends (in Adversary Proceeding No. 07-02011 pending before the Bankruptcy Court) is owed to its Estate as a result of the overpayment of federal income taxes.

313. ~~295.~~ "TCEQ" means the Texas Commission on Environmental Quality.

314. ~~296.~~ "Toxic Tort Claims" means the toxic tort, personal injury, environmental property damage, and related breach-of-settlement Claims asserted against the Debtors, including, without limitation, those resulting from the Debtors' operations of a site in Tar Creek, Oklahoma, the Ray Mine and Hayden Smelter in Ray Complex, Arizona and the El Paso smelter located in El Paso, Texas. The Toxic Tort Claims do not include any Claims by Governmental Units or Asbestos Personal Injury Claims.

315. ~~297.~~ "Trade and General Unsecured Claim" means an Unsecured Claim that is not a Bondholders' Claim, an Unsecured Asbestos Personal Injury Claim, a Toxic Tort Claim, an Unsecured Environmental Claim, a Late-Filed Claim, or a Subordinated Claim; *provided, however*, that the El Paso Paving SEP Claim, past response costs incurred by the EPA in connection with site investigation activities at and around the Hayden Smelter Complex, natural resource damage Claims relating to the Ray Mine/Hayden Smelter Complex, **and the** PRP-Only Environmental Claims~~, and the reasonable fees and expenses of the Indenture Trustees~~ shall be classified as Trade and General Unsecured Claims.

316. ~~298.~~ "Transition Services Agreement" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means the Transition Services Agreement, dated as of the Closing Date, between the Plan Sponsor and ASARCO, to be negotiated in accordance with section 7.14 of the Plan Sponsor PSA, which will include, among other things, the services and terms described in Exhibit K to the Plan Sponsor PSA.

317. ~~299.~~ "Trust Documents" means the Asbestos Trust Documents, the Litigation Trust Agreement, and the Environmental Custodial Trust Documents.

318. ~~300.~~ "Trust Register" means the register maintained by the Litigation Trustees with the names, addresses, and number of Litigation Trust Interests of the Litigation Trust Beneficiaries.

319. ~~301.~~ "Trustees" means the Persons appointed pursuant to the Plan for the purpose of acting as initial trustees of the Asbestos Trust, the Litigation Trust, and the Environmental Custodial Trusts.

320. ~~302.~~ "Trusts" means the Asbestos Trust, the Litigation Trust, and the Environmental Custodial Trusts.

321. ~~303.~~ "Undeliverable and Unclaimed Distribution Reserve" means the escrow account established pursuant to Article 14.5(b) of the Plan.

322. ~~304.~~ "Unions" means the labor organizations representing the current employees of ASARCO.

323. ~~305.~~ "Unpaid Cure Claim Amount" shall have the meaning assigned to such term in the Plan Sponsor PSA, which for reference purposes only, means with respect to any Contract (as such term is defined in the Plan Sponsor PSA) that is the subject of an Assumption Notice (as such term is defined in the Plan Sponsor PSA), the aggregate amount of any Cure Claims (as such term is defined in the Plan Sponsor PSA) that remains unpaid as of the Closing Date for any reason, *provided* that if such amount remains disputed as of such date, the "Unpaid Cure Claims Amount" shall be such amount as is asserted by the non-debtor counterparty to such Contract.

324. ~~306.~~ "Unpaid Cure Claims Reserve" means the reserve for any Unpaid Cure Claim Amount which ASARCO may be required to reimburse the Plan Sponsor, in accordance with section 2.5(d) of the Plan Sponsor PSA.

325. ~~307.~~ "U.S. Trustee" means the United States Trustee for the Southern District of Texas.

326. ~~308.~~ "Unsecured Asbestos Personal Injury Claim" means any Asbestos Personal Injury Claim that is an Unsecured Claim.

327. ~~309.~~ "Unsecured Asbestos Personal Injury Claimant" means the holder of an Unsecured Asbestos Personal Injury Claim.

328. ~~310.~~ "Unsecured Claim" means any Claim that is not a Secured Claim, Priority Claim, or Priority Tax Claim, including, without limitation, (a) any claim arising from the rejection of an executory contract or unexpired lease under section 365 of the Bankruptcy Code and (b) any portion of a Claim to the extent the value of the holder's interest in the Estate's interest in the property securing such Claim is less than the amount of the Claim or, to the extent that the amount of the Claim subject to setoff is less than the amount of the Claim, as determined pursuant to section 506(a) of the Bankruptcy Code.

329. ~~311.~~ "USDA" means the United States Department of Agriculture.

330. ~~312.~~ "USW" means the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC.

331. ~~313.~~ "Vested Causes of Action" means the Litigation Claims, other than those which shall be transferred to the Litigation Trust and the Asbestos Trust.

332. ~~314.~~ "Voting Deadline" means **October 27, 2008,** the deadline set by the Bankruptcy Court for submitting Ballots on the ~~Plan~~**plans**.

333. ~~315.~~ "Voting Record Date" means **September 23, 2008,** the record date established by the Bankruptcy Court for purposes of deciding which Claimants are entitled to vote on the ~~Plan~~**plans**.

334. **"Winterthur Swiss" means Winterthur Swiss Insurance Company.**