

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

THE UNITED STATES OF AMERICA,)
 THE COEUR D’ALENE TRIBE and)
 THE STATE OF IDAHO,)
)
 Plaintiffs,)
)
 v.)
)
 ATLANTIC RICHFIELD COMPANY,)
)
 Defendant.)
 _____)

Civ. No. 10-578-EJL

CONSENT DECREE

I. BACKGROUND

A. The United States of America (“United States”), on behalf of the Environmental Protection Agency (“EPA”), the Department of the Interior (“DOI”) and the Department of Agriculture (“USDA”); the Coeur d’Alene Tribe (“Tribe”); and the State of Idaho (“State”) filed a complaint pursuant to Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. § 9607(a), and for purposes of claims by the State of Idaho, Idaho Code § 39-108, concurrently with lodging of this Consent Decree alleging that Atlantic Richfield Company (“Settling Defendant” or “Atlantic Richfield”) is liable for costs incurred and to be incurred by the United States in responding to the release or threat of release of hazardous substances, pollutants and contaminants at or in connection with Operable Unit 3 (“Coeur d’Alene Basin Site”) of the Bunker Hill Mining and Metallurgical Complex Superfund Site (“Site”) in Northern Idaho and for damages for injury to natural resources resulting from such releases.

B. As a result of the release or threatened release of hazardous substances, EPA and the State have undertaken response actions at or in connection with the Coeur d’Alene Basin Site under Section 104 of CERCLA, 42 U.S.C. § 9604, and Idaho Code § 39-108, and will undertake response actions in the future. In performing these response actions, EPA and the State have incurred and will continue to incur Response Costs, as defined below, at or in connection with the Coeur d’Alene Basin Site. As of May 31, 2010, EPA has incurred more than \$230 million in connection with the Coeur d’Alene Basin Site.

C. The United States, acting by and through DOI and USDA; the Tribe; and the State are co-trustees of injured natural resources, including but not limited to certain migratory natural resources such as fish, wildlife, birds, biota, and water.

D. Settling Defendant Atlantic Richfield and its predecessor, The Anaconda Copper Mining Company or The Anaconda Company, owned and/or operated mining or milling related properties within the Coeur d'Alene Basin.

E. Settling Defendant does not admit any liability to the United States, the Tribe or the State arising out of the transactions or occurrences alleged in the complaint.

F. The Parties agree, and this Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, that settlement of this matter will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

THEREFORE, with the consent of the Parties to this Decree, it is ORDERED, ADJUDGED, AND DECREED:

II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, 1362 (federal-question jurisdiction suits “brought by any Indian tribe or band with a governing body duly recognized by the Secretary of the Interior”), 1367(a) (including supplemental jurisdiction over claims arising under State law) and 42 U.S.C. §§ 9607 and 9613(b). This Court also has personal jurisdiction over Settling Defendant. Solely for the purposes of this Consent Decree and the underlying complaint, Settling Defendant waives all objections and defenses that it may have to jurisdiction of the Court or to venue in this District. Settling Defendant shall not challenge the terms of this Consent Decree or this Court’s jurisdiction to enter and enforce this Consent Decree.

III. PARTIES BOUND

2. This Consent Decree is binding upon the United States, the Tribe, the State, and upon Settling Defendant and its successors and assigns. Any change in ownership or corporate or other legal status, including but not limited to any transfer of assets or real or personal property, shall in no way alter the status or responsibilities of Settling Defendant under this Consent Decree.

IV. DEFINITIONS

3. Unless otherwise expressly provided herein, terms used in this Consent Decree which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Decree, the following definitions shall apply:

- a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.*
- b. "Consent Decree" shall mean this Consent Decree.
- c. "Coeur d'Alene Basin Site" shall mean Operable Unit 3 of the "Site," as defined in the EPA Interim Record of Decision relating to Operable Unit 3 of the Site signed on September 12, 2002, by the Regional Administrator, EPA Region 10, or his delegate.
- d. "Day" shall mean a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.
- e. "DOI" shall mean the United States Department of the Interior and any successor departments, agencies or instrumentalities of the United States.
- f. "DOJ" shall mean the United States Department of Justice and any

successor departments, agencies or instrumentalities of the United States.

g. “Effective Date” shall mean the date this Consent Decree is entered by the Court.

h. “EPA” shall mean the United States Environmental Protection Agency and any successor departments, agencies or instrumentalities of the United States.

i. “EPA Hazardous Substance Superfund” shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

j. “Hazardous Substances” shall mean hazardous substances as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14). In addition for purposes of claims by the State of Idaho, as alleged in the Complaint, the term shall further include for purposes of this Consent Decree, “Contaminants” as defined by IDAPA 58.01.11.007.10, “Hazardous Wastes” as defined in Idaho Code § 39-4403(8), “Pollutants” as defined by IDAPA 58.01.02.010.71, “Hazardous Materials” as defined by IDAPA 58.01.02.010.40 and “Deleterious Materials” as defined by IDAPA 58.01.02.010.16.

k. “Interest” shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

l. “Natural Resource Damages” shall mean damages for injury to, destruction of, or loss of natural resources, including the costs of assessing such injury, destruction, or loss resulting from a release of a hazardous substance, within the meaning of Sections 101 and 107 of CERCLA, 42 U.S.C. §§ 9601 and 9607, or from disposal and/or release of hazardous waste

within the meaning of Idaho Code 39-4414 or hazardous and deleterious materials as defined by IDAPA 58.01.02.010.16 & .40.

m. “Natural Resource Trustees” shall mean the United States, the Coeur d’Alene Tribe, and the State of Idaho.

n. “Paragraph” shall mean a portion of this Consent Decree identified by an Arabic numeral or an upper or lower case letter.

o. “Parties” shall mean the United States, the Coeur d’Alene Tribe, the State of Idaho, and Settling Defendant.

p. “Plaintiffs” shall mean the United States, the Tribe, and the State.

q. “Response Costs” shall mean all costs of response as that term is defined by Section 101(25) of CERCLA, 42 U.S.C. § 9601(25).

r. “Section” shall mean a portion of this Consent Decree identified by a Roman numeral.

s. “Settling Defendant” or “Defendant” shall mean Atlantic Richfield Company. It shall also mean any divisions and subsidiaries, including AR Environmental Remediation L.L.C., and any predecessors in interest, to the extent that such party’s liability derives from the liability of The Anaconda Company. In addition, it shall mean any successors in interest to the extent that any such successor’s liability at the Site derives from the liability of The Anaconda Company or Atlantic Richfield Company.

t. “Site” shall mean the Bunker Hill Mining and Metallurgical Complex Superfund Site.

u. “State” shall mean the State of Idaho, including its departments, agencies and instrumentalities.

v. “Tribe” shall mean the federally-recognized Indian tribe known as the Coeur d’Alene Tribe, including its departments, agencies and instrumentalities. The Tribe, which has a governing Tribal Constitution and Tribal Council duly recognized by the Secretary of the Interior, is an “Indian tribe” within the meaning of Section 101(36) of CERCLA, 42 U.S.C. § 9601(36).

w. “United States” shall mean the United States of America, including its departments, agencies and instrumentalities.

x. “USDA” shall mean the United States Department of Agriculture, Forest Service and any successor departments, agencies or instrumentalities of the United States.

V. STATEMENT OF PURPOSE

4. By entering into this Consent Decree, the mutual objectives of the Parties are for Settling Defendant to make cash payments to address its alleged liability for the Site as provided in the Covenant Not to Sue by the Plaintiffs in Section IX, and subject to the Reservations of Rights by the Plaintiffs in Section X.

VI. PAYMENTS FOR RESPONSE COSTS AND NATURAL RESOURCE DAMAGES

5. Payment of Response Costs to EPA. Within 30 days of the Effective Date of this Consent Decree, Settling Defendant shall pay five million sixty-two thousand five hundred dollars (\$5,062,500) to EPA.

6. The total amount to be paid pursuant to Paragraph 5 shall be deposited in the Bunker Hill Mining and Metallurgical Complex Superfund Site Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at

or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

7. Payment of Natural Resource Damages to the Natural Resource Trustees. Within 30 days of the Effective Date of this Consent Decree, Settling Defendant shall pay one million six hundred eighty-seven thousand five hundred dollars (\$1,687,500) to the Natural Resource Trustees.

8. The payments pursuant to Paragraphs 5 and 7 above shall be made by FedWire Electronic Funds Transfer (“EFT”) to the U.S. Department of Justice account in accordance with current EFT procedures to be provided to Settling Defendant by the Financial Litigation Unit of the U.S. Attorney’s Office in the District of Idaho following lodging of the Consent Decree. Any payment received by the Department of Justice after 4:00 p.m. Eastern Time shall be credited on the next business day.

9. At the time of each payment pursuant to this Section, Settling Defendant shall also send notice that payment has been made to the United States, the Tribe, and the State in accordance with Section XIV (Notices and Submissions). Such notice shall reference the Coeur d’Alene Basin Site, DOJ case number 90-11-3-128/9, and the civil action number. For the payment to EPA, the notice shall also reference EPA Region 10 and Site/Spill Identification Number 2Q. For the payment to the Natural Resource Trustees, the notice shall also reference “Natural Resource Damages for the Coeur d’Alene Basin Site” and NRDAR Account No.14X5198.

VII. FAILURE TO COMPLY WITH CONSENT DECREE

10. Interest on Late Payments. If Settling Defendant fails to make any payment under Paragraph 5 by the required due date, Interest shall accrue on the unpaid balance from the due date through the date of payment.

11. Stipulated Penalties.

a. If any amounts due under Section VI are not paid by the required date, Settling Defendant shall be in violation of this Consent Decree and shall pay, as a stipulated penalty, in addition to the Interest required by Paragraph 10, \$2,000 per violation per day that such payment is late.

b. Stipulated penalties are due and payable within 30 days of the date of the demand for payment of the penalties by the United States, the Tribe or the State. All payments to EPA under this Paragraph for stipulated penalties for late payments pursuant to Paragraph 5 shall be identified as “stipulated penalties” and shall be made by certified or cashier’s check made payable to “EPA Hazardous Substance Superfund.” The check, or a letter accompanying the check, shall reference the name and address of the party making payment, the Coeur d’Alene Basin Site, EPA Region 10 and Site Spill ID Number 2Q, DOJ Case Number 90-11-3-128/9, and the civil action number. The Settling Defendant shall send the check (and any accompanying letter) to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

All payments to the Natural Resource Trustees for stipulated penalties for late payments pursuant to Paragraph 7 shall be owed one-third each to the United States, the Tribe and the State.

Payments shall be identified as “stipulated penalties” and shall be paid following instructions in the demand letter by the respective Natural Resource Trustee. The check, or a letter accompanying the check or providing notice of the wire transfer, shall identify the payment as “stipulated penalties” for late payment of Natural Resource Damages for the Coeur d’Alene Basin Site and shall reference the name and address of the party making payment, the civil action number, and this Consent Decree.

c. At the time of each payment, Settling Defendant shall send notice that payment has been made to the United States, the Tribe and the State in accordance with Section XIV (Notices and Submissions). Such notice shall include the information required by Paragraph 9 and shall identify payments as “stipulated penalties.”

d. Penalties shall accrue as provided in this Paragraph regardless of whether the United States, the Tribe or the State has notified Settling Defendant of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the day after payment is due and shall continue to accrue through the date of payment. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree, including stipulated penalties for late payment of the amounts due under Paragraphs 5 and 7.

12. If the United States, the Tribe, or the State brings an action to enforce this Consent Decree, Settling Defendant shall reimburse the United States, the Tribe, and the State for all costs and expenses of such action, including but not limited to costs of attorney time.

13. Payments made under this Section shall be in addition to any other remedies or sanctions available to the United States, the Tribe, or the State by virtue of Settling Defendant’s failure to comply with the requirements of this Consent Decree.

14. Notwithstanding any other provision of this Section, the United States, the Tribe, and the State each may, in its unreviewable discretion, waive payment of any or all of its share of the stipulated penalties that have accrued pursuant to this Consent Decree. Payment of stipulated penalties shall not excuse Settling Defendant from payments as required by Section VI or from performance of any other requirements of this Consent Decree.

VIII. CERTIFICATION OF SETTLING DEFENDANT

15. By signing this Consent Decree, Settling Defendant certifies that, to the best of its knowledge and belief, it:

a. has conducted a thorough, comprehensive, good faith search for documents, and has fully and accurately disclosed to the Plaintiffs, all information currently in its possession, or in the possession of its officers, directors, employees, contractors or agents, that relates in any way to the ownership, operation, or control of the Site, or to the ownership, possession, generation, treatment, transportation, storage or disposal of a hazardous substance, pollutant, or contaminant at or in connection with the Site;

b. has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents, or other information relating to its potential liability regarding the Site after notification of potential liability or the filing of a suit against it regarding the Site;

c. has and will comply fully with any and all EPA, Tribe, and State requests for information regarding the Site pursuant to Sections 104(e), 122(e)(3)(B), and 122(g)(8) of CERCLA, 42 U.S.C. §§ 9604(e), 9622(e)(3)(B), and 9622(g)(8).

IX. COVENANT NOT TO SUE BY UNITED STATES, THE TRIBE, AND THE STATE

16. Covenant Not to Sue by the United States, the Tribe, and the State. Except as specifically provided in Section X (Reservation of Rights), the United States, the Tribe, and the

State covenant not to sue or to take administrative action against Settling Defendant pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607, relating to the Site. The State further covenants not to sue or to take action against Settling Defendant pursuant to the Hazardous Waste Management Act (HWMA), Idaho Code Section 39-4401, *et seq.*, the Environmental Protection and Health Act (EPA), Idaho Code Section 39-101, *et seq.*, or any other applicable statutory or common law provision to recover costs or damages or obtain the performance of actions relating to the presence of or the release or threatened release of Hazardous Substances at, in, from, on, or under the Site. With respect to present and future liability, this covenant shall take effect upon receipt by EPA and the Natural Resource Trustees of all amounts required by Section VI (Payments for Response Costs and Natural Resource Damages). This covenant not to sue is conditioned upon the satisfactory performance by Settling Defendant of its obligations under this Consent Decree and the veracity of the information provided to the United States by Settling Defendant relating to the Settling Defendant's involvement with the Site. This covenant not to sue extends only to Settling Defendant and does not extend to any other person.

X. RESERVATION OF RIGHTS BY UNITED STATES, THE TRIBE, AND THE STATE

17. The United States, the Tribe, and the State reserve, and this Consent Decree is without prejudice to, all rights against Settling Defendant with respect to all matters not expressly included within the Covenant Not to Sue by United States, the Tribe, and the State in Paragraph 16. Notwithstanding any other provision of this Consent Decree, the United States, the Tribe, and the State reserve all rights against Settling Defendant with respect to:

- a. claims based on a failure by Settling Defendant to meet a requirement of this Consent Decree;
- b. criminal liability;
- c. liability based upon the ownership or operation of any portion of the Site after signature of this Consent Decree by the Settling Defendant;
- d. liability based upon the transportation, treatment, storage, or disposal, or the arrangement for the transportation, treatment, storage, or disposal, of a hazardous substance or a solid waste at or in connection with the Site, after signature of this Consent Decree by Settling Defendant; and
- e. liability arising from the past, present, or future disposal, release or threat of release of a hazardous substance, pollutant, or contaminant outside of the Site.

XI. COVENANT NOT TO SUE BY SETTLING DEFENDANT

18. Settling Defendant covenants not to sue and agrees not to assert any claims or causes of action against the United States, the Tribe, or the State, or their contractors or employees, with respect to the Site or this Consent Decree, including but not limited to:

- a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;
- b. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the Constitution of the State of Idaho, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

c. any claim against the United States, the Tribe, or the State pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Site.

19. Nothing in this Consent Decree shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

20. Settling Defendant agrees not to assert any claims and to waive all claims or causes of action (including but not limited to claims or causes of action under Sections 107(a) and 113 of CERCLA) that it may have for all matters relating to the Site against any other person who is a potentially responsible party under CERCLA at the Site. This waiver shall not apply with respect to any defense, claim, or cause of action that Settling Defendant may have against any person if such person asserts or has asserted a claim or cause of action relating to the Site against Settling Defendant.

XII. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION

21. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. Except as provided in Paragraph 20 (Waiver of Claims), the Parties expressly reserve any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action that they may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto. Nothing in this Consent Decree diminishes the right of the United States, the Tribe, or the State pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional Response Costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

22. The Parties agree, and by entering this Consent Decree this Court finds, that this settlement constitutes a judicially-approved settlement for purposes of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and that Settling Defendant is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), or as otherwise provided by law, for “matters addressed” in this Consent Decree. The “matters addressed” in this Consent Decree are all Natural Resource Damages and all response actions taken or to be taken and all Response Costs incurred or to be incurred, at or in connection with the Site, by the United States, the Tribe, the State or any other person; provided, however, that if the United States, the Tribe, or the State exercises rights under the reservations in Section X (Reservation of Rights), other than in Paragraphs 17.a. (claims for failure to meet a requirement of the settlement) and 17.b. (criminal liability), the “matters addressed” in this Consent Decree will no longer include those Response Costs or response actions or Natural Resource Damages that are within the scope of the exercised reservation.

23. In any subsequent administrative or judicial proceeding initiated by the United States, the Tribe, or the State for injunctive relief, recovery of Response Costs, or other relief relating to the Site, Settling Defendant shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States, the Tribe, or the State in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenant Not to Sue by the United States, the Tribe, and the State set forth in Section IX.

XIII. RETENTION OF RECORDS

24. Until 10 years after the entry of this Consent Decree, Settling Defendant shall preserve and retain all records, reports, or information (hereinafter referred to as “records”) now in its possession or control, or which come into its possession or control, that relate in any manner to response actions taken at the Site or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary.

25. After the conclusion of the 10-year document retention period in the preceding paragraph, Settling Defendant shall notify the United States, the Tribe and the State at least 90 days prior to the destruction of any such records, and, upon request by the United States, the Tribe, or the State, Settling Defendant shall deliver any such records to the United States, the Tribe, or the State. Settling Defendants may assert that certain records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Defendant asserts such a privilege, it shall provide the United States, the Tribe, or the State with the following: 1) the title of the record; 2) the date of the record; 3) the name, title, affiliation (*e.g.*, company or firm), and address of the author of the record; 4) the name and title of each addressee and recipient; 5) a description of the subject of the record; and 6) the privilege asserted. If a claim of privilege applies only to a portion of a record, the record shall be provided to the United States, the Tribe, or the State in redacted form to mask the privileged information only. Settling Defendant shall retain all records that they claim to be privileged until the United States, the Tribe, or the State has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in the Settling Defendant’s favor. However, no records created or generated pursuant to the requirements of this or any other settlement with the United

States, the Tribe or the State pertaining to the Site shall be withheld on the grounds that they are privileged.

XIV. NOTICES AND SUBMISSIONS

26. Whenever, under the terms of this Consent Decree, notice is required to be given or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, the Tribe, the State, and Settling Defendant, respectively.

As to the United States:

As to DOJ:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice (DJ # 90-11-3-128/9)
P.O. Box 7611
Washington, D.C. 20044-7611

As to EPA:

Cara Steiner-Riley
U.S. Environmental Protection Agency
1200 Sixth Avenue
Seattle, Washington 98101

As to the federal Natural Resource Trustees:

Barry Stein
U.S. Department of the Interior
805 SW Broadway Ste. 600
Portland Oregon 97201

As to the Coeur d'Alene Tribe:

Phillip Cernera

Lake Management Director
Coeur d'Alene Tribe
850 A Street
P.O. Box 408
Plummer, ID 83851

As to the State:

Darrell G. Early, Deputy Attorney General
Office of the Idaho Attorney General
Environmental Quality Section
1410 N. Hilton
Boise, ID 83706

As to Settling Defendant:

Robin J. Bullock
Atlantic Richfield Company
c/o BP Exploration
MB 11-6
P.O. Box 196612
900 East Benson Boulevard
Anchorage, AK 99519-6612

Jean Martin
Senior Attorney - HSSE
Atlantic Richfield Company
A subsidiary of BP America Inc.
501 Westlake Park Blvd., MC 16.184
Houston, Texas 77079

XV. RETENTION OF JURISDICTION

27. This Court shall retain jurisdiction over this matter for the purpose of interpreting and enforcing the terms of this Consent Decree.

XVI. INTEGRATION

28. This Consent Decree constitutes the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Consent Decree.

The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Decree.

XVII. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

29. This Consent Decree shall be lodged with the Court for a period of not less than 30 days for public notice and comment. The United States, the Tribe and the State reserve the right to withdraw or withhold their consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that this Consent Decree is inappropriate, improper, or inadequate. Settling Defendant consents to the entry of this Consent Decree without further notice.

30. If for any reason this Court should decline to approve this Consent Decree in the form presented, this Consent Decree is voidable at the sole discretion of any party and the terms of the Consent Decree may not be used as evidence in any litigation between the Parties.

XVIII. SIGNATORIES/SERVICE

31. The undersigned representatives of Settling Defendant to this Consent Decree, the Tribe, and the State and the Assistant Attorney General of the Environment and Natural Resources Division of the United States Department of Justice each certify that he or she is authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally such Party to this document.

32. Settling Defendant hereby agrees not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree, unless the United States, the Tribe, or the State has notified Settling Defendant in writing that it no longer supports entry of the Consent Decree.

33. Settling Defendant shall identify, on the attached signature page, the name and address of an agent who is authorized to accept service of process by mail on its behalf with respect to all matters arising under or relating to this Consent Decree. Settling Defendant hereby agrees to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including but not limited to, service of a summons. The Parties agree that Settling Defendant need not file an answer to the complaint in this action unless or until the Court expressly declines to enter this Consent Decree.

XIX. FINAL JUDGMENT

34. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute the final judgment between the United States, the Tribe, the State and Settling Defendant. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED THIS 13 DAY OF January, 2011.



Judge Edward J. Lodge
United States District Judge

THE UNDERSIGNED PARTIES enter into this Consent Decree relating to the Bunker Hill Mining and Metallurgical Complex Superfund Site:

FOR THE UNITED STATES OF AMERICA

Date: 10/24/10

/s

IGNACIA S. MORENO
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

Date: 10/26/10

/s

ERIKA M. ZIMMERMAN
Oregon Bar #055004
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
c/o NOAA, Damage Assessment
7600 Sand Point Way, N.E.
Seattle, Washington 98115
Telephone:(206) 526-6608
Facsimile: (206) 526-6665
erika.zimmerman@usdoj.gov

WENDY J. OLSON
United States Attorney
District of Idaho

NICHOLAS J. WOYCHICK
Civil Chief
U.S. Attorney's Office
District of Idaho
WGI Plaza IV
800 Park Blvd., Suite 600
Boise, Idaho 83712
(208) 334-1211
Nick.Woychick@usdoj.gov

THE UNDERSIGNED PARTIES enter into this Consent Decree relating to the Bunker Hill Mining and Metallurgical Complex Superfund Site:

Date: 10/25/10

/s

DANIEL D. OPALSKI
Director, Office of Environmental Cleanup
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

Date: 10/21/10

/s

CARA STEINER-RILEY
KELLY COLE
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

THE UNDERSIGNED PARTIES enter into this Consent Decree relating to the Bunker Hill Mining and Metallurgical Complex Superfund Site:

FOR THE COEUR D'ALENE TRIBE

Date: 10/14/10

/s
HOWARD A. FUNKE
Special Counsel
Coeur d'Alene Tribe
Howard Funke & Associates, P.C.
P.O. Box 969
Coeur d'Alene, Idaho 83816-0969
hfunke@indian-law.org

Date: 10/14/10

/s
CHIEF J. ALLAN, Chairman
Coeur d'Alene Tribal Council
Coeur d'Alene Tribe
P.O. Box 408
Plummer, Idaho 83851

THE UNDERSIGNED PARTIES enter into this Consent Decree relating to the Bunker Hill Mining and Metallurgical Complex Superfund Site:

FOR THE STATE OF IDAHO

Date: 11/17/10

/s
Governor C.L. "Butch" Otter

THE UNDERSIGNED PARTIES enter into this Consent Decree relating to the Bunker Hill Mining and Metallurgical Complex Superfund Site:

FOR DEFENDANT ATLANTIC RICHFIELD COMPANY

Date: 10/6/10

/s

Robin J. Bullock
Atlantic Richfield Company
c/o BP Exploration
MB 11-6
P.O. Box 196612
900 East Benson Boulevard
Anchorage, AK 99519-6612

Date: 10/6/10

/s

Jean Martin
Senior Attorney - HSSE
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