ADMINISTRATIVE ORDER/CONSENT DECREE
CLOSE-OUT FORM

SDMS Document ID
1065428

SITE NAME: Richardson Flat Tailings
SSID #: 08-94
DOCKET #: CV 2:06CV00745

DOCUMENT TYPE: _____ AOC __X__ CD _____ UAO _____ OTHER
IF OTHER, PLEASE DESCRIBE: _____

ACTIVITY: ____ REMOVAL ____ RI/FS ____ RD/RA __X__ CASH OUT ____ OTHER
IF OTHER, PLEASE DESCRIBE: _____

EFFECTIVE DATE: 11/20/06

CERTIFICATION OF COMPLETION DATE: _____

PLEASE ATTACH ALL COPIES OF ALL CLOSEOUT-RELATED DOCUMENTS:

_____ FINAL OSC REPORT
_____ PRP'S CERTIFICATION OF COMPLETION LETTER
_____ OSC/RPM'S APPROVAL OF WORK COMPLETION
_____ FINAL BILLING DOCUMENTS
_____ OTHER DOCUMENTS _____

__X__ THE ~~ABOVE DOCUMENTS~~ CD 2:06CV00745 PAST COSTS CD RICHARDSON FLAT ARE LOCATED IN THE SUPERFUND RECORDS CENTER AND THE FINANCE OFFICE RECORDS.

FINAL DEMAND/BILLING DATE: _____ AMOUNT: _____
RECOVERED FOR:
_____ OVERSIGHT COSTS __X__ PAST COSTS _____ FUTURE COSTS

DATE OF PAYMENT: 60,000 Falconbridge 12/18/06 / 400,000 UPC Mines 12/18/06 AMOUNT: _____

IF THE AMOUNT PAID DIFFERS FROM THE AMOUNT BILLED, PLEASE EXPLAIN:

_____

Maureen O'Reilly
Technical Enforcement Program (Enf Spec)
Date: 3/21/07

Jeffrey S. Hermann
OSC/RPM
Date: 4.03.07

Margaret G Livingston
Legal Enforcement Program (Attorney)
Date: 3.29.07

_____
Financial Mgmt Program (FMO)
Date: _____

OFFICIAL CLOSEOUT DATE 8/21/07

CLOSEOUT OF THIS AO/CD DOES NOT AFFECT ANY OF THE ONGOING OBLIGATIONS REMAINING UNDER THE AO/CD.

ADMINISTRATIVE ORDER/CONSENT DECREE
CLOSE-OUT FORM

SITE NAME: Richardson Flat Tailings
SSID #: 08-44
DOCKET #: CV 2:06CV00745

DOCUMENT TYPE: ____ AOC X CD ____ UAO ____ OTHER
IF OTHER, PLEASE DESCRIBE: ____

ACTIVITY: ____ REMOVAL ____ RI/FS ____ RD/RA X CASH OUT ____ OTHER
IF OTHER, PLEASE DESCRIBE: ____

EFFECTIVE DATE: 11/23/06

CERTIFICATION OF COMPLETION DATE: ____

PLEASE ATTACH ALL COPIES OF ALL CLOSEOUT-RELATED DOCUMENTS:

____ FINAL OSC REPORT
____ PRP'S CERTIFICATION OF COMPLETION LETTER
____ OSC/RPM'S APPROVAL OF WORK COMPLETION
____ FINAL BILLING DOCUMENTS
____ OTHER DOCUMENTS ____

X THE ~~ABOVE DOCUMENTS~~ CD 2:06CV00745 PAST COSTS CD RICHARDSON FLAT ARE LOCATED IN THE SUPERFUND RECORDS CENTER AND THE FINANCE OFFICE RECORDS.

FINAL DEMAND/BILLING DATE: ____ AMOUNT: ____
RECOVERED FOR:
____ OVERSIGHT COSTS X PAST COSTS ____ FUTURE COSTS

DATE OF PAYMENT: 60,000 Falconbridge 400,000 UPC Mines AMOUNT: 12/18/06 12/18/06

IF THE AMOUNT PAID DIFFERS FROM THE AMOUNT BILLED, PLEASE EXPLAIN:

SIGN HERE

Maureen O'Reilly
Technical Enforcement Program (Enf Spec)
Date: 3/21/07

[signature]
OSC/RPM
Date: 4.03.07

Margaret G. Livingston
Legal Enforcement Program (Attorney)
Date: 3.29.07

Dana Anderson
~~Financial Mgmt Program (FMO)~~ Cincinnati Finance
Date: 8/01/07

OFFICIAL CLOSEOUT DATE ____

CLOSEOUT OF THIS AO/CD DOES NOT AFFECT ANY OF THE ONGOING OBLIGATIONS REMAINING UNDER THE AO/CD.

Robert Butts/TMS/R8/USEPA/US
08/01/2007 12:38 PM

To Connie Ely/CI/USEPA/US@EPA
cc
bcc
Subject Richardson Flats close-out order

Connie,

Program would like to close-out this Order (2:06CV00745) for Richardson Flats [08-94] (not the site). Please review and return the signed form.

Doc	SFO	Acmp Date	BFY	Fund	Site	Comments	Check No	Line Desc	Line Amt	Ref Trans
CI 2780729S029	AP27	12/6/2006	2007	TR2B	0894SV00	06CV00745		UNITED PARK CITY MI	400,000.00	BD2780729S029 001
CI 2780729S029	AP27	12/6/2006	2007	TR2B	0894SV00	06CV00745		UNITED PARK CITY MI	3,525.09	BD2780729S029 997
CI 2780729S030	AP27	12/7/2006	2007	TR2B	0894SV00	06CV00745		NORANDA MINING	60,000.00	BD2780729S030 001
CI 83902T013XB	AP27	1/18/2007	2007	TR2B	0894SV00	06CV00745		NORANDA MINING	386.14	BD2780729S030 997

Richardson Flats

Document.pdf

R Jeffrey Butts, Accountant – 8TMS F
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
1595 Wynkoop Street, Denver, CO, 80202
voice: 303.312.6950 fax: 303.312.6007

SUPERFUND DOCUMENT (

Sent this (along w/ oc's listed) to the Rec. Ctr. 9/21/06 per request from Peggy —
Still need entered copy or page w/ judge's sign. to go to all on dist. list.

Instructions: Complete all fields and check all applicable boxes (if more than name, not initials, for signature line(s).

❶ **Site Name** Richardson Flat

❸ **Operable Unit(s)** _____ **Operable Unit Name(s)** _____

❹ **Phase Activity**

Check one or more below

____ **Site Assessment**
- ____ Screening
- ____ PA
- ____ SI
- ____ ESI
- ____ Decision Document
- ____ Other (i.e. contact info., media records, interviews)

Check one or more below

____ **Removal**
- ____ ER/Time Critical
- ____ ER/Non-Time Critical
- ____ Site Evaluation

Check one or more below

____ **Remedial**
- ____ Design/Action
- ____ Studies/Remedy Selection

____ **HRS (Check one or more below)**
- ____ Proposed Package
- ____ Documentation ____ Category (1-7)

____ **Post Construction**

✓ **Post Work Cost Recovery**

____ **Brownfields**

____ **Other (describe)** ① Complaint in cost recovery lawsuit, filed 9-15-06 Case No. 2:06CV00745, U.S. v United Park City Mines, et al (ora)

❺ **Access Code(s)**

✓ **Public (Releasable)**

____ **Privileged (Not Releasable)** (Check type below)
- ____ Attorney Work Product
- ____ Attorney-Client Communication
- ____ CBI Claimed
- ____ CBI Determined
- ____ Deliberative Process
- ____ OGC OK
- ____ Enforcement Confidential
- ____ Privacy

❻ **Special Instructions or Notes** _____

❼ **Collection Name:** ____ AR ____ Work Performed ____ FOIA ✓ Cost Recovery ____ Discovery ____ Special or Other (Describe): _____

1 Lodged cc: of CD
2 2:06CV00745
3
4
5
6
7
8
9
10

❽ SIGNATURE(S)

Submitter's Signature Margaret J (Peggy) Livingston **Date** 9.20.06

Attorney's Signature Margaret J (Peggy) Livingston **Date:** 9.20.06

Revision 2/2005

(2) 9.6.06 letter from Mark Elmer, DOJ, to Kevin R. Murray and Richard O. Curley

(3) 9.6.06 letter from Mark Elmer, DOJ, to John D. ~~Fognia~~ Fognani

(4) Notice of Lodging of Proposed Partial Consent Decree (Falconbridge Limited and Noranda Mining)

(5) Notice of Lodging of Proposed Consent Decree (United Park City Mines Company and Atlantic Richfield Company)

(6) Motion for Pro Hac Vic Admission and Consent of Local Counsel

(7) 9.12.06 email from Mark Elmer, forwarding 9.12.06 email from Bret F. Randal, Chapman + Cutler

(8) 9.11.06 letter from John D. Fognani to Mark Elmer

9.21.06

Dear Audrey:

This info is to go into the Superfund Records Center. The CDs have been lodged with the court but cannot be finalized (i.e. signed by the judge) until the public comment period is over. Maureen has copies of these CDs, too. I don't need copies. I'll wait till I get a copy signed by the judge. Thank you. Peggy L x6858.

Kelsey

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
DENVER, CO 80202
Phone 800-227-8917
http://www.epa.gov/region08

9/12

Per Maureen –
She has provided Brenda & Dianne copies of this CD. ($60,000 & $40,000 in escrow) When it is entered (approx. 30 days) I need to make cc's for Finance and the record center. Keep cc in S/A file.

Ref: 8ENF-RC

MAR - 7 2007

MEMORANDUM

To: Susan Bromm, Director
Office of Site Remediation Enforcement
and
Jim Woolford, Director
Office of Superfund Remediation & Technology Innovation
and
Lorne McAlister, Director
Office of Financial Management

From: Maureen O'Reilly, Superfund Enforcement Specialist

Thru: Kelcey Land, Region 8 Cost Recovery Program Manager

Re: Notification of Intent to Deposit Past Costs and Future Costs Recovered at the Richardson Flat Superfund Site into the Richardson Flat Site-Specific Special Account

This memorandum serves to notify your office that EPA Region 8, along with the Department of Justice and the parties to the Allocation of Past Costs Consent Decree, Case No. 2:06CV00745, have agreed and determined that all past costs and future costs recovered at the Richardson Flat Superfund site will be deposited into the Richardson Flat Site-Specific Special Account rather than the general Superfund Trust Fund. United Park City Mines, a PRP at the Richardson Flat site will commence RD/RA activities in the spring of 2007 which will require the Agency to incur oversight and related expenses. Funds deposited into the Richardson Flat Site-Specific Special Account will help defray these expenses.

The EPA Region Site Spill ID# is 08-94. If you have any questions regarding this request, please call Maureen O'Reilly, Superfund Enforcement Specialist, 303-312-6402.

cc: M. O'Reilly, ENF-RC
K. Land, ENF-RC
P. Livingston, ENF-L
R. Butts, TMS-F

BRETT L. TOLMAN (#8821), United States Attorney
DANIEL D. PRICE (#2646), Assistant United States Attorney
185 South State Street, Suite 400
Salt Lake City, UT 84111
(801) 325-3234 (PHONE)
(801) 524-6924 (FAX)
daniel.price2@usdoj.gov

MARK C. ELMER (*Pro hac vice*)
Trial Attorney, Environmental Enforcement Section
United States Department of Justice
1961 Stout Street, 8th Floor
Denver, CO 80206
(303) 844-1352 (PHONE)
(303) 844-1350 (FAX)
mark.elmer@usdoj.gov

Attorneys for the United States of America

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA, *Plaintiff,* vs. UNITED PARK CITY MINES COMPANY, ATLANTIC RICHFIELD COMPANY, FALCONBRIDGE LIMITED, and NORANDA MINING INC., *Defendants.*	Case No. 2:06CV00745 PGC **ORDER GRANTING MOTION TO ENTER UNCHALLENGED CONSENT DECREES**

Upon consideration of the United States' Motion To Enter Unchallenged Consent Decrees, it is HEREBY ORDERED that this motion is GRANTED, and that the Consent Decrees, which were lodged with this court on September 5, 2006 (docket nos. 2 and 3), be

deemed entered this day.

It is further ORDERED that this action by the United States is hereby dismissed with respect to all defendants without prejudice; provided, however, that nothing herein shall affect the terms of the Consent Decrees entered this day and that this court retains jurisdiction to enforce the terms of the Consent Decrees as entered. The court clerk is directed to close this case.

DATED this 28th day of November, 2006.

BY THE COURT:

PAUL G. CASSELL
United States District Judge

"Elmer, Mark (ENRD)" <MElmer@ENRD.USDOJ.GOV>

04/12/2007 05:12 PM

To Audrey Henkel/ENF/R8/USEPA/US@EPA

cc Maureen OReilly/ENF/R8/USEPA/US@EPA, Brenda Cazier/ENF/R8/USEPA/US@EPA

bcc

Subject RE: CD 2:06CV00745 (Richardson Flat Tailings)

Audrey,

Here's a copy of the order entering the past costs consent decrees at Richardson Flat. The judge never signed the decrees themselves, but with this order really didn't need to.

Mark

-----Original Message-----
From: Henkel.Audrey@epamail.epa.gov
[mailto:Henkel.Audrey@epamail.epa.gov]
Sent: Wednesday, April 11, 2007 9:45 AM
To: Elmer, Mark (ENRD)
Cc: OReilly.Maureen@epamail.epa.gov; Cazier.Brenda@epamail.epa.gov
Subject: CD 2:06CV00745 (Richardson Flat Tailings)

Mark,

I am looking for a signed copy of the above referenced Consent Decree (USA vs. United Park City Mines Company, etal.) I specifically need Page 12 showing the judge's signature under Final Judgment (XVIII).

If you have any questions, please feel free to contact me. Thanks for your help.

Audrey
303-312-6577

SFX276.pdf

BRETT L. TOLMAN (#8821), United States Attorney
DANIEL D. PRICE (#2646), Assistant United States Attorney
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(303) 844-1350 (FAX)
mark.elmer@usdoj.gov

Attorneys for the United States of America

FILED IN UNITED STATES DISTRICT COURT, DISTRICT OF UTAH

SEP 05 2006

MARKUS B. ZIMMER, CLERK
BY _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA, *Plaintiff,* vs. UNITED PARK CITY MINES COMPANY, ATLANTIC RICHFIELD COMPANY, FALCONBRIDGE LIMITED, and NORANDA MINING INC., *Defendants.*	Case No. **NOTICE OF LODGING OF PROPOSED CONSENT DECREE (UNITED PARK CITY MINES COMPANY AND ATLANTIC RICHFIELD COMPANY)** Judge Paul G. Cassell DECK TYPE: Civil DATE STAMP: 09/05/2006 @ 15:07:50 CASE NUMBER: 2:06CV00745 PGC

The United States has filed a Complaint pursuant to Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. §

9607(a), for reimbursement of response costs incurred by the United States in connection with the Richardson Flat Tailings Site ("Site"), located approximately 1.5 miles northeast of Park City, Utah.

By way of this Notice, the United States notifies the Court that the United States has lodged a proposed Consent Decree in this matter (the "Decree"). The Decree, which is attached as Exhibit A, would resolve the United States' claims against Defendants United Park City Mines Company and Atlantic Richfield Company for past response costs relating to the Site. The ultimate entry of the Decree would end this litigation as to these Defendants.

The Court should not sign the Decree at this time. Instead, the Decree should remain lodged with the Court while the United States provides an opportunity for public comment in accordance with CERCLA Section 122(d)(2), 42 U.S.C. § 9622(d)(2), and the policy of the Department of Justice, 28 C.F.R. Part 50.7.

The Department of Justice will publish in the Federal Register a notice that the Decree has been lodged with the Court. The Notice will solicit public comment for a period of 30 days. During the comment period, no action is required by the Court.

Respectfully submitted,

SUE ELLEN WOOLDRIDGE
Assistant Attorney General
Environment and Natural Resources Division

MARK C. ELMER, Trial Attorney
Environmental Enforcement Section
U.S. Department of Justice
1961 Stout Street, 8th Floor
Denver, CO 80294
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OF COUNSEL

MARGARET ("PEGGY") J. LIVINGSTON
Senior Enforcement Attorney
U.S. Environmental Protection Agency, Region 8
999 Eighteenth Street, Suite 300 (8-ENFL)
Denver, CO 80202-2466

Attorneys for the United States

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA, *Plaintiff*, v. UNITED PARK CITY MINES COMPANY; ATLANTIC RICHFIELD COMPANY; FALCONBRIDGE LIMITED; and NORANDA MINING INC., *Defendants*.	Civil Action No.

CONSENT DECREE

I. BACKGROUND

A. The United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), filed a complaint in this matter pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9607, as amended ("CERCLA"), seeking reimbursement of response costs incurred for response actions taken at or in connection with the release or threatened release of hazardous substances at the Richardson Flat Tailings Site located approximately 1.5 miles northeast of Park City, Utah ("the Site").

B. By entering into this Consent Decree, neither of the Settling Defendants admit any liability to Plaintiff arising out of the transactions or occurrences that were or could have been alleged in the complaint.

C. By entering into this Consent Decree, the mutual objective of the Parties is to resolve the claims of the United States against Settling Defendants for Past Response Costs, subject to the reservations of rights in Paragraph 15, by allowing Settling Defendants to make a cash payment as described herein.

C. The United States and Settling Defendants 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.

Exhibit A

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 and 1345 and 42 U.S.C. §§ 9607 and 9613(b) and also has personal jurisdiction over Settling Defendants. Solely for the purposes of this Consent Decree and the underlying complaint, Settling Defendants waive all objections and defenses that they may have to jurisdiction of the Court or to venue in this District. Settling Defendants 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 and inures to the benefit of the United States and the Settling Defendants and their respective 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 Defendants under this Consent Decree.

IV. DEFINITIONS

3. Unless otherwise expressly provided herein, terms used in this Consent Decree that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meanings assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Decree or in any appendix attached hereto, 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. "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.

d. "DOJ" shall mean the United States Department of Justice and any successor departments, agencies or instrumentalities of the United States.

e. "EPA" shall mean the United States Environmental Protection Agency and any successor departments, agencies or instrumentalities of the United States.

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

g. "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.

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

i. "Parties" shall mean the United States and Settling Defendants.

j. "Past Response Costs" shall mean all costs, including but not limited to direct and indirect costs, that EPA or DOJ on behalf of EPA has paid at or in connection with the Site through March 1, 2006, plus accrued Interest on all such costs through such date.

k. "Plaintiff" shall mean the United States.

l. "Section" shall mean a portion of this Consent Decree identified by a Roman numeral.

m. "Settling Defendants" shall mean United Park City Mines Company ("UPCM") and the Atlantic Richfield Company ("ARCO"), and their respective successors and assigns.

n. "Site" shall mean the Richardson Flat Tailings Site, CERCLIS ID # UTD980952840, which is located approximately 1.5 miles northeast of Park City, Utah and is part of a 650 acre property owned by UPCM. The Site is the location of a mine tailings impoundment that covers approximately 160 acres in the northwest corner of UPCM's property and includes diversion ditches, wetlands and other features. The Site is depicted generally on the map attached as Appendix A.

o. "United States" shall mean the United States of America, including its departments, agencies and instrumentalities.

V. PAYMENT OF RESPONSE COSTS

4. Payment of Past Response Costs to EPA. Within five business days after Settling Defendants receive notice from the United States that this Consent Decree has been lodged, Settling Defendants shall deposit $400,000 into an escrow account bearing interest on commercially reasonable terms, in a federally chartered bank (the "Escrow Account"). If the Consent Decree is not entered by the Court, and the time for any appeal of that decision has run, or if the Court's denial of entry is upheld on appeal, the monies placed in escrow, together with accrued interest thereon, shall be returned to Settling Defendants. If the Consent Decree is entered by the Court, Settling Defendants shall, within 15 days thereof, cause the monies in the Escrow Account to be paid to EPA in accordance with Paragraphs 5 and 6 below.

5. Payment shall be made by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice account in accordance with EFT instructions provided to Settling Defendants by the Financial Litigation Unit of the U.S. Attorney's Office in the District of Utah following lodging of the Consent Decree.

6. At the time of payment, Settling Defendants shall also send notice that payment has been made to EPA and DOJ in accordance with Section XIII (Notices and Submissions). Such notice shall reference the EPA Region and Site/Spill Identification Number 0894, DOJ case number 90-11-3-08764, and the civil action number.

7. The total amount to be paid pursuant to Paragraph 4 shall be deposited in the EPA Hazardous Substance Superfund.

VI. FAILURE TO COMPLY WITH CONSENT DECREE

8. Interest on Late Payments. If any Settling Defendant fails to make any payment under Paragraph 4 (Payment of Response Costs) by the required due date, Interest shall accrue on the unpaid balance from the due date through the date of payment.

9. Stipulated Penalty.

a. If any amounts due under Paragraph 4 are not paid by the required date, Settling Defendants shall be in violation of this Consent Decree and shall pay to EPA, as a stipulated penalty, in addition to the Interest required by Paragraph 8, $500 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 EPA. All payments to EPA under this Paragraph 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 Site name, the EPA Region and Site Spill ID Number 0894, DOJ Case Number 90-11-3-08764, and the civil action number. Settling Defendants shall send the check (and any accompanying letter) to:

Regular Mail:

Mellon Bank
EPA Region 8
Attn: Superfund Accounting
Lockbox 360859
Pittsburgh, Pennsylvania 15251-6859

Or Express Mail:

EPA 360859
Mellon Client Service Center, Room 670
500 Ross Street
Pittsburgh, Pennsylvania 15262-0001

or to such other address as EPA may designate in writing.

c. At the time of payment of any penalties to EPA, each Settling Defendant shall send notice that such payment has been made to EPA and DOJ in accordance with Section XIII (Notices and Submissions). Such notice shall reference the EPA Region and Site/Spill ID Number 0894, DOJ Case Number 90-11-3-08764, and the civil action number.

d. Penalties shall accrue as provided in this Paragraph regardless of whether EPA has notified Settling Defendants 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.

10. If the United States brings an action to enforce this Consent Decree, Settling Defendants shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

11. The obligations of Settling Defendants to pay any amounts owed to EPA under this Consent Decree are joint and several. In the event of the failure of any one or more Settling Defendants to make the payments required under this Decree, the remaining Settling Defendant shall be responsible for such payments.

12. Payments made under this Section shall be in addition to any other remedies or sanctions available to Plaintiff by virtue of Settling Defendants' failure to comply with the requirements of this Consent Decree.

13. Notwithstanding any other provision of this Section, the United States may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Consent Decree. Payment of stipulated penalties shall not excuse Settling Defendants from payment as required by Section V or from performance of any other requirements of this Consent Decree.

VII. COVENANT NOT TO SUE BY PLAINTIFF

14. Covenant Not to Sue by United States. Except as specifically provided in Section VIII (Reservation of Rights by United States), the United States covenants not to sue or to take administrative action against Settling Defendants or their respective officers, directors, or employees (to the extent that that the liability of such officers, directors, or employees arises solely

from their legal status as officers, directors, or employees) pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), to recover Past Response Costs. This covenant not to sue shall take effect upon receipt by EPA of all payments required by Section V, Paragraph 4 (Payment of Response Costs) and any amount due under Section VI (Failure to Comply with Consent Decree). This covenant not to sue is conditioned upon the satisfactory performance by Settling Defendants of their obligations under this Consent Decree. This covenant not to sue extends only to Settling Defendants (and their respective officers, directors, and employees to the extent that that the liability of such officers, directors, or employees arises solely from their legal status as officers, directors, or employees) and does not extend to any other person.

VIII. RESERVATIONS OF RIGHTS BY UNITED STATES

15. The United States reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendants with respect to all matters not expressly included within the Covenant Not to Sue by Plaintiff in Paragraph 14. Notwithstanding any other provision of this Consent Decree, the United States reserves all rights against Setting Defendants with respect to:

a. liability for failure of Settling Defendants to meet a requirement of this Consent Decree;

b. liability for costs incurred or to be incurred by the United States that are not within the definition of Past Response Costs;

c. liability for injunctive relief or administrative order enforcement under Section 106 of CERCLA, 42 U.S.C. § 9606;

d. criminal liability; and

e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments.

IX. COVENANT NOT TO SUE BY SETTLING DEFENDANTS

16. Settling Defendants covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to Past Response Costs 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 the response actions at the Site for which the Past Response Costs were incurred, including any claim under the United States Constitution, the Constitution of the State of Utah, 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 pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to Past Response Costs.

17. 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).

18. Settling Defendants agree not to assert any claims and to waive all claims or causes of action that they may have for all matters relating to the Site, including for contribution, against any person where the person's liability to Settling Defendants with respect to the Site is based solely on having arranged for disposal or treatment, or for transport for disposal or treatment, of hazardous substances at the Site, or having accepted for transport for disposal or treatment of hazardous substances at the Site, if all or part of the disposal, treatment, or transport occurred before April 1, 2001, and the total amount of material containing hazardous substances contributed by such person to the Site was less than 110 gallons of liquid materials or 200 pounds of solid materials.

19. The waiver in Paragraph 18 shall not apply with respect to any defense, claim, or cause of action that Settling Defendants may have against any person meeting the above criteria if such person asserts a claim or cause of action relating to the Site against such Settling Defendants. This waiver also shall not apply to any claim or cause of action against any person meeting the above criteria if EPA determines:

a. that such person has failed to comply with any EPA requests for information or administrative subpoenas issued pursuant to Section 104(e) or 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) or 9622(e), or Section 3007 of the Solid Waste Disposal Act (also known as the Resource Conservation and Recovery Act or "RCRA"), 42 U.S.C. § 6927, or has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the Site, or has been convicted of a criminal violation for the conduct to which this waiver would apply and that conviction has not been vitiated on appeal or otherwise; or

b. that the materials containing hazardous substances contributed to the Site by such person have contributed significantly, or could contribute significantly, either individually or in the aggregate, to the cost of response action or natural resource restoration at the Site.

X. RESERVATION OF RIGHTS BY SETTLING DEFENDANTS

20. The Settling Defendants reserve, and this Consent Decree is without prejudice to, all rights against the United States with respect to all matters not expressly included within the Settling Defendants' Covenant Not to Sue by Settling Defendants in Paragraph 16.

XI. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION

21. Except as provided in Paragraph 18, 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 18, 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.

22. The Parties agree, and by entering this Consent Decree this Court finds, that Settling Defendants are entitled, as of the date of entry of this Consent Decree, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for "matters addressed" in this Consent Decree. The "matters addressed" in this Consent Decree means Past Response Costs as defined herein and the response actions at the Site for which the Past Response Costs were incurred. The contribution protection set forth in this Paragraph is intended to provide the broadest protection afforded by CERCLA for the matters addressed in this Consent Decree.

23. Settling Defendants agree that, with respect to any suit or claim for contribution brought by them for matters related to this Consent Decree, they will notify EPA and DOJ in writing no later than 60 days prior to the initiation of such suit or claim. Settling Defendants also agree that, with respect to any suit or claim for contribution brought against them for matters related to this Consent Decree, it will notify EPA and DOJ in writing within 10 days of service of the complaint or claim upon it. In addition, Settling Defendants shall notify EPA and DOJ within 10 days of service or receipt of any Motion for Summary Judgment, and within 10 days of receipt of any order from a court setting a case for trial, for matters related to this Consent Decree.

24. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of response costs, or other relief relating to the Site, Settling Defendants 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 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 Plaintiff set forth in Section VII.

XII. RETENTION OF RECORDS

25. Until ten (10) years after the entry of this Consent Decree, Settling Defendants shall preserve and retain all records, reports, or information (hereinafter referred to as "records") now in

their possession or control, or which come into their 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.

26. After the conclusion of the 10-year document retention period in the preceding paragraph, Settling Defendants shall notify EPA and DOJ at least 90 days prior to the destruction of any such records, and, upon request by EPA or DOJ, Settling Defendants shall deliver any such records to EPA. Settling Defendants may assert that certain records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Defendants assert such a privilege, they shall provide Plaintiff 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 to only a portion of a record, the record shall be provided to Plaintiff in redacted form to mask the privileged information only. Settling Defendants shall retain all records that they claim to be privileged until the United States 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 EPA pertaining to the Site shall be withheld on the grounds that they are privileged.

27. Settling Defendants each hereby certify that, to the best of their knowledge and belief, after thorough inquiry, they have not altered, mutilated, discarded, destroyed or otherwise disposed of any records, reports, or information relating to their potential liability regarding the Site since notification of alleged liability by the United States or the State or the filing of suit against them regarding the Site and that they have fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6972.

XIII. NOTICES AND SUBMISSIONS

28. 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, EPA, DOJ, and Settling Defendants, respectively.

As to the United States:

As to DOJ:

Chief, Environmental Enforcement Section
U.S. Department of Justice (DJ # 90-11-3-08764)
P.O. Box 7611
Washington, D.C. 20044-7611

As to EPA:

Margaret (Peggy) J. Livingston
Senior Enforcement Attorney
U.S. Environmental Protection Agency, Region 8
999 Eighteenth Street, Suite 300 (8-ENFL)
Denver, CO 80202-2466

Maureen O'Reilly
EPA Enforcement Specialist
Richardson Flat Superfund Site
U.S. Environmental Protection Agency, Region 8
999 Eighteenth Street, Suite 300 (8ENF-RC)
Denver, CO 80202-2466

As to Settling Defendants:

As to United Park City Mines Company:

Kerry C. Gee
United Park City Mines Company
P.O. Box 1450
Park City, Utah 84060

Kevin R. Murray, Esq.
Chapman and Cutler, LLP
136 S. Main, Suite 1000
Salt Lake City, Utah 84101

As to Atlantic Richfield:

Pamela Kaye
Atlantic Richfied Company
317 Anaconda Road
Butte, MT 59701

Sheila D'Cruz
BP America, Inc.
4101 Winfield Road
Mail Code 4 West
Warrenville, IL 60555

XIV. RETENTION OF JURISDICTION

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

XV. INTEGRATION/APPENDICES

30. This Consent Decree and its appendix constitute 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. The following appendix is attached to and incorporated into this Consent Decree: "Appendix A" is the map of the Site.

XVI. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

31. 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 reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that this Consent Decree is inappropriate, improper, or inadequate. Settling Defendants consent to the entry of this Consent Decree without further notice.

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

XVII. SIGNATORIES/SERVICE

33. The Deputy Section Chief, Environmental Enforcement Section of the United States Department of Justice, and each undersigned representative of EPA and a Settling Defendant to this Consent Decree certify that they are authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally such Party to this document.

34. Settling Defendants hereby agree not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree, unless the United States has notified Settling Defendants in writing that it no longer supports entry of the Consent Decree.

35. Settling Defendants 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 behalf of that Party with respect to all matters arising under or relating to this Consent Decree. Settling Defendants hereby agree 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 Defendants need not file an answer to the complaint in this action unless or until the Court expressly declines to enter this Consent Decree.

XVIII. FINAL JUDGMENT

36. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute the final judgment between and among the United States and the Settling Defendants. 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 ____ DAY OF _____, 2006.

_____
United States District Judge

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. United Park City Mines Co., et al., relating to the Richardson Flat Tailings Site.

FOR THE UNITED STATES OF AMERICA:

UNITED STATES DEPARTMENT OF JUSTICE

SUE ELLEN WOOLDRIDGE
Assistant Attorney General
Environment and Natural Resources Division

Date: 7/25/06

W. BENJAMIN FISHEROW
Deputy Section Chief
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

Date: 8/18/06

MARK C. ELMER
Trial Attorney
U.S. Department of Justice
Environmental Enforcement Section
1961 Stout Street, 8th Floor
Denver, CO 80294

UNITED STATES ATTORNEY'S OFFICE
FOR THE DISTRICT OF UTAH

BRETT L. TOLMAN
United States Attorney
District of Utah

Daniel D. Price

Date: Sept. 6, 2006

DANIEL D. PRICE
Assistant United States Attorney
District of Utah
185 South State Street, Suite 400
Salt Lake City, UT 84111

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Carol Rushin

Date: 8/10/06

CAROL RUSHIN
Assistant Regional Administrator, Region 8
Office of Enforcement, Compliance and Environmental Justice
U.S. Environmental Protection Agency
999 Eighteenth Street, Suite 300
Denver, CO 80202

Margaret H. (Peggy) Livingston

Date: July 21, 2006

MARGARET H. (PEGGY) LIVINGSTON
Senior Enforcement Attorney
U.S. Environmental Protection Agency, Region 8
999 Eighteenth Street, Suite 300 (8-ENFL)
Denver, CO 80202

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. United Park City Mines, et al., relating to the Richardson Flat Tailings Site.

FOR DEFENDANT UNITED PARK CITY MINES COMPANY:

Kerry Gee, Vice President

Date: 6-12-06

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Kevin R. Murray
Chapman and Cutler LLP
1000 Kearns Building
136 South Main Street
Salt Lake City, Utah 84104-1645

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. United Park City Mines, et al., relating to the Richardson Flat Tailings Site.

FOR DEFENDANT ATLANTIC RICHFIELD COMPANY:

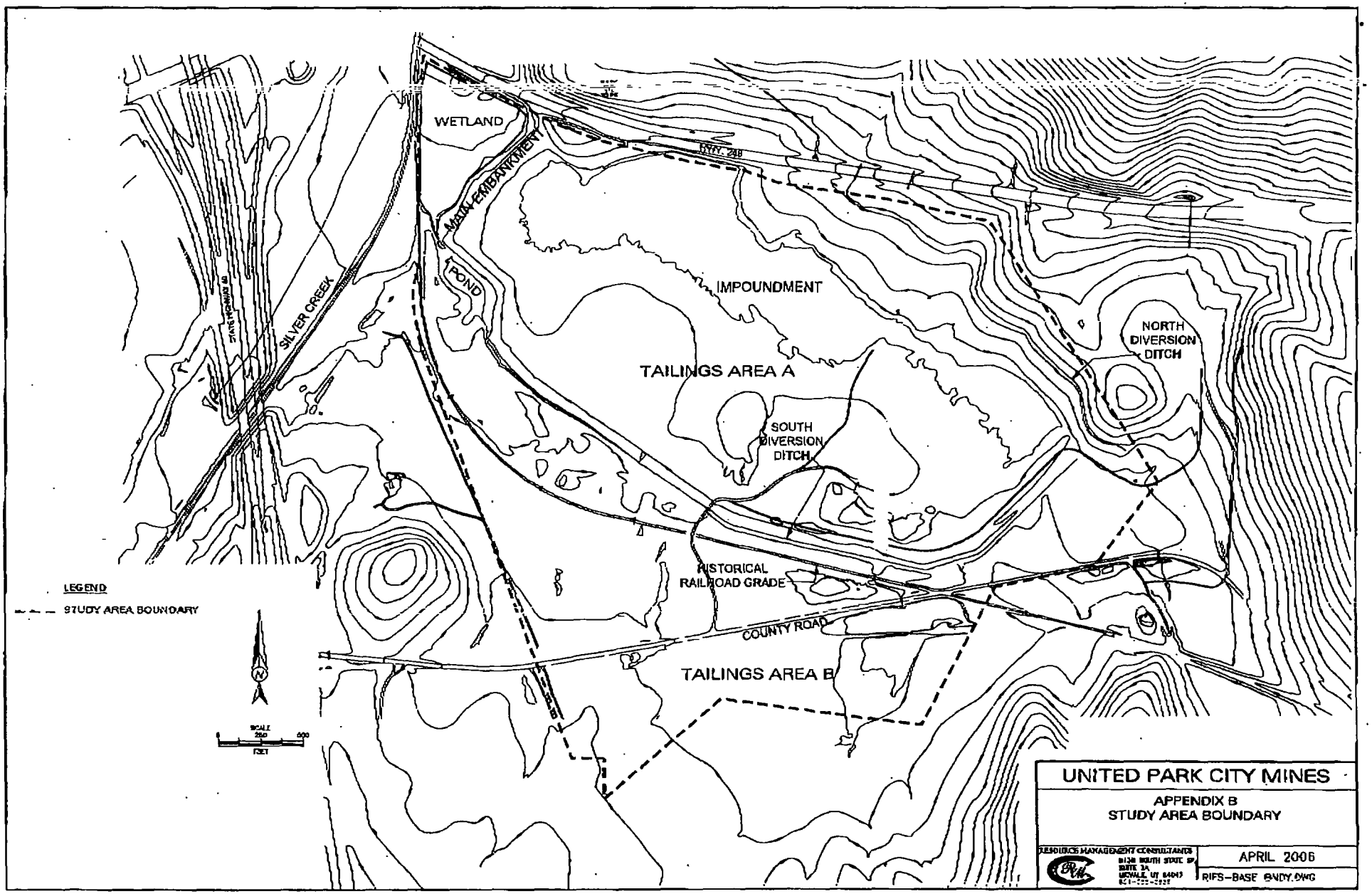
Date: June 6, 2006

Robin Bullock
Atlantic Richfield Company
317 Anaconda Road
Butte, MT 59701

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Sheila D'Cruz
BP America, Inc.
4101 Winfield Road
Mail Code 4 West
Warrenville, IL 60555

Appendix A


WETLAND
MAIN EMBANKMENT
HWY. 248
POND
IMPOUNDMENT
SILVER CREEK
TAILINGS AREA A
NORTH DIVERSION DITCH
SOUTH DIVERSION DITCH
HISTORICAL RAILROAD GRADE
COUNTY ROAD
TAILINGS AREA B
LEGEND
STUDY AREA BOUNDARY
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SCALE
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FEET
UNITED PARK CITY MINES
APPENDIX B
STUDY AREA BOUNDARY
APRIL 2006
RIFS-BASE STUDY.DWG

DANIEL D. PRICE (#2646)
Assistant U.S. Attorney
185 South State Street, Suite 400
Salt Lake City, UT 84111
(801) 325-3234

FILED IN UNITED STATES DISTRICT COURT, DISTRICT OF UTAH
SEP 05 2006
BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

UNITED STATES DISTRICT COURT
District of Utah, Central Division

UNITED STATES OF AMERICA *Plaintiff* v. UNITED PARK CITY MINES CO., *et al.* *Defendants.*	**MOTION FOR PRO HAC VICE ADMISSION AND CONSENT OF LOCAL COUNSEL** Judge Paul G. Cassell DECK TYPE: Civil DATE STAMP: 09/05/2006 @ 15:07:50 CASE NUMBER: 2:06CV00745 PGC

Pursuant to D.U. Civ Rule 83-1.1(d), I move the admission of MARK C. ELMER as pro hac vice counsel for Plaintiff United States of America and consent to serve as local counsel. The application for pro hac vice admission is attached as exhibit A to this motion and the admission fee, if required, has been paid to the court with the submission of this motion.

Dated: ~~August~~ SEPT. 5, 2006

Daniel D. Price

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

APPLICATION FOR ADMISSION PRO HAC VICE

Name of Attorney: MARK C. ELMER Telephone: (303) 844-1352

Business Address: U.S. Department of Justice
Environment and Natural Resources Division
Environmental Enforcement Section
1961 Stout Street, 8th Floor
Denver, CO 80294

Current bar memberships and date of admission:

U.S. District Court, District of Maryland	Admitted on 11/02/98
U.S. Bankruptcy Court, E.D. of Virginia	Admitted on 07/21/00
U.S. District Court, E.D. of Virginia	Admitted on 07/21/00
U.S. Supreme Court	Admitted on 05/24/04

Have you ever been the subject of disciplinary action by any bar to which you have been admitted?
__x_ No ____Yes (provide additional information)

Prior pro hac vice admissions in the District of Utah: one _____ none

Case Name: United States of America v. Magnesium Corporation of America, *et al.*
Case Number: 2:01CV0040B
Admission Date: November 13, 2002

(Attach list of other cases separately if more space is needed.)

Signature

8/18/06
Date

Non resident United States attorneys and attorneys employed by agencies of the federal government are exempt from the pro hac vice fee. All other attorneys must pay a fee of $15.00 concurrent with this application. This application must be filed as an attachment to a motion for admission and consent filed by local counsel.

If you have not previously registered for CM/ECF in the District of Utah, please attach a completed Electronic Case Registration Form with this application to receive your login and password.

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

RECEIVED CLERK
SEP 05 2006
U.S. DISTRICT COURT

UNITED STATES OF AMERICA, *Plaintiff,* v. UNITED PARK CITY MINES CO., *et al.* *Defendants.*	ORDER FOR PRO HAC VICE ADMISSION Judge Paul G. Cassell DECK TYPE: Civil DATE STAMP: 09/05/2006 @ 15:07:50 CASE NUMBER: 2:06CV00745 PGC

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for the admission pro hac vice of Mark C. Elmer in the United States District Court, District of Utah in the subject case is GRANTED.

Dated: this_____day of August, 2006.

U.S. District Judge

FILED IN UNITED STATES DISTRICT COURT, DISTRICT OF UTAH

SEP 05 2006

MARKUS B. ZIMMER, CLERK
BY _____
DEPUTY CLERK

BRETT L. TOLMAN (#8821), United States Attorney
DANIEL D. PRICE (#2646), Assistant United States Attorney
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MARK C. ELMER (*Pro hac vice*)
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United States Department of Justice
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Denver, CO 80294
(303) 844-1352 (PHONE)
(303) 844-1350 (FAX)
mark.elmer@usdoj.gov

Attorneys for the United States of America

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA, *Plaintiff,* vs. UNITED PARK CITY MINES COMPANY, ATLANTIC RICHFIELD COMPANY, FALCONBRIDGE LIMITED, and NORANDA MINING INC., *Defendants.*	Case No. **COMPLAINT** Judge Paul G. Cassell DECK TYPE: Civil DATE STAMP: 09/05/2006 @ 15:07:50 CASE NUMBER: 2:06CV00745 PGC

The United States of America, by authority of the Attorney General, and at the request of the United States Environmental Protection Agency ("EPA"), states for its complaint:

NATURE OF ACTION

1. This is a civil action under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9607, to recover costs incurred by the United States in response to the release or threatened release of hazardous substances from the Richardson Flat Tailings Site near Park City, Utah (the "Site").

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 9607(a) and 9613(b).

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c) and 42 U.S.C. § 9613(b).

DEFENDANTS

4. Defendant United Park City Mines Company ("UPCM") is a corporation incorporated under the laws of the State of Delaware, with its principal place of business at 900 Main Street, Suite 6107, Park City, Utah 84060.

5. Defendant Atlantic Richfield Company ("ARCO") is a corporation incorporated under the laws of the State of Delaware, with its principal place of business at 28100 Torch Parkway, Warrenville, Illinois 60555.

6. Defendant Falconbridge Limited ("Falconbridge") is a Canadian corporation, with its principal place of business at BCE Place, 181 Bay Street, Suite 200, Toronto, Canada M5J 2T3.

7. Defendant Noranda Mining Inc. ("Noranda") is a corporation incorporated under

the laws of the State of Delaware, with its principal place of business at 801 Crescent Centre Drive, Suite 600, Franklin, Tennessee 37067.

GENERAL ALLEGATIONS

A. The Site

8. The Richardson Flat Tailings Site consists of approximately 160 acres outside Park City, Utah immediately southeast of the junction of U.S. Highway 40 and Utah Highway 248.

9. From the late 1800s through approximately 1982, the Site was actively used as a mine tailings impoundment.

10. Defendant United Park City Mines Company ("UPCM") has owned the Site since its incorporation in 1953.

11. In 1970, UPCM leased the Site along with other mining-related properties to Park City Ventures, a Utah general partnership between the Anaconda Company (now part of Defendant Atlantic Richfield Company ("ARCO")) and ASARCO, Inc.

12. On a portion of the property leased from UPCM, Park City Ventures constructed and operated a mill, known as the Ontario Mill. Between June 1975 and January 1978, the Ontario Mill generated tailings that were deposited at the Richardson Flat Tailings Site.

13. In August 1979, Park City Ventures transferred its lease with UPCM (including the Ontario Mill and the Richardson Flat Tailings Site) to Noranda Exploration Inc., who in turn sold it to Noranda Mining Inc. ("Noranda"). Noranda operated the Ontario Mill from August 1980 through August 1981 generating tailings that were deposited at the Site. UPCM terminated

the lease in April 1982.

14. There are currently approximately 7 million tons of mine tailings at the Site.

B. EPA Response Actions

15. In the mid-1980s, EPA conducted an initial investigation of the Site, which revealed that the Site (including the tailings and surface and groundwater) was contaminated with hazardous substances, including heavy metals such as arsenic, cadmium, lead, and zinc.

16. On June 24, 1988, EPA proposed to add the Site to the National Priorities List ("NPL"). This initial proposal was withdrawn, and on February 7, 1992, EPA re-proposed adding the Site to the NPL. No final action has been taken with respect to this proposed listing.

17. On September 28, 2000, EPA and UPCM entered into an Administrative Order on Consent ("AOC"). The AOC required UPCM to conduct a remedial investigation and feasibility study ("RI/FS") at the Site.

18. In September 2004, UPCM completed both the remedial investigation and feasibility study.

19. EPA published its proposed remedial action plan on September 5, 2004. Following public comment, EPA issued a record of decision ("ROD") for the Site on July 6, 2005, which describes EPA's selected remedy.

CERCLA LIABILITY

20. The Site is a "facility" within the meaning of Sections 101(9) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(9) and 9607(a).

21. The substances contaminating soils and waters at the Site are "hazardous

substances," within the meaning of Sections 101(14), 104(a), and 107(a) of CERCLA, 42 U.S.C. §§ 9601(14), 9604(a), and 9607(a).

22. There was a "release" or "threatened release" of hazardous substances into the "environment" at and from the Site, within the meaning of Sections 101(8), 101(14), 101(22), 104(a), and 107(a) of CERCLA, 42 U.S.C. §§ 9601(8), 9601(14), 9601(22), 9604(a), and 9607(a).

23. Hazardous substances were "disposed" of at the Site, within the meaning of Sections 101(14), 101(29), and 107(a) of CERCLA, 42 U.S.C. §§ 9601(14), 9601(29), and 9607(a), on numerous occasions from the late 1800s until at least 1982.

24. Each Defendant is a "person" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

25. Defendant UPCM is the current "owner or operator" of the Site within the meaning of Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and is therefore liable for all costs incurred by the United States as a result of the response action at the Site pursuant to CERCLA Section 107(a)(1).

26. Defendant UPCM was an "owner or operator" of the Site within the meaning of Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), at the time of disposal of hazardous substances at the Site and is therefore liable for all costs incurred by the United States as a result of the response action at the Site pursuant to CERCLA Section 107(a)(2).

27. Defendant ARCO (through Park City Ventures) was an "owner or operator" of the Site within the meaning of Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), at the time of

disposal of hazardous substances at the Site and is therefore liable for all costs incurred by the United States as a result of the response action at the Site pursuant to CERCLA Section 107(a)(2).

28. Defendant Noranda was an "owner or operator" of the Site within the meaning of Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), at the time of disposal of hazardous substances at the Site and is therefore liable for all costs incurred by the United States as a result of the response action at the Site pursuant to CERCLA Section 107(a)(2).

29. On information and belief, Defendant Falconbridge is a successor-in-interest to Noranda and, therefore, succeeds to Noranda's liability under Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2), as the owner and operator of the Site at a time when hazardous substances were disposed of therein.

CLAIM FOR RELIEF
CERCLA COST RECOVERY

30. The allegations of the foregoing paragraphs are incorporated herein by reference.

31. The United States has incurred more than $600,000 in response costs, as defined in Section 101(25) of CERCLA, 42 U.S.C. § 9601(25), plus associated interest, as a result of the release or threatened release of hazardous substances at the Site.

32. The response costs were incurred by the United States in a manner not inconsistent with the National Contingency Plan, 40 C.F.R. Part 300.

33. Defendants are jointly and severally liable to the United States for the payment of all costs incurred by the United States as a result of the response actions taken at the Site

the Site pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

PRAYER FOR RELIEF

WHEREFORE, the United States respectfully requests that this Court enter judgment against Defendants as follows:

A. Ordering Defendants to pay all costs incurred by the United States in response to the release or threatened release of hazardous substances at or from the Site;

B. Awarding the United States its costs and disbursements in this action; and

C. Granting the United States such other and further relief as the Court deems just and proper.

Respectfully submitted,

SUE ELLEN WOOLDRIDGE
Assistant Attorney General
Environment and Natural Resources Division

W. BENJAMIN FISHEROW
Deputy Chief
Environmental Enforcement Section

MARK C. ELMER, Trial Attorney
Environmental Enforcement Section
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BRETT L. TOLMAN
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District of Utah

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District of Utah
185 South State Street, Suite 400
Salt Lake City, UT 84111

OF COUNSEL:

MARGARET ("PEGGY") J. LIVINGSTON
Senior Enforcement Attorney
U.S. Environmental Protection Agency, Region 8
999 Eighteenth Street, Suite 300 (8-ENFL)
Denver, CO 80202-2466

Attorneys for the United States