
**ALLOCATION AND SETTLEMENT AGREEMENT
AND
MUTUAL RELEASE OF CLAIMS
BY AND BETWEEN
THE CITY AND COUNTY OF BUTTE-SILVER BOW
AND
ATLANTIC RICHFIELD COMPANY**

Effective December 21, 2006

REVISIONS LEGEND:

Addendum No. 1 Revisions (Effective November 16, 2011)--Shown In Red

Addendum No. 2 Revisions (Effective September 12, 2012)--Shown In Yellow

Addendum No. 3 Revisions (Effective September 13, 2012)--Shown In Green

Exhibits Intentionally Omitted from this Working Copy are Highlighted in Blue

NOTE: This Working Copy has been prepared for convenience only. It is not an official copy of the Allocation and Settlement Agreement and Mutual Release of Claims. In the event of any inconsistency or conflict between this Working Copy and the executed Allocation and Settlement Agreement and Mutual Release of Claims or the executed Addenda Nos. 1, 2 and 3 to the Allocation and Settlement Agreement and Mutual Release of Claims, the executed documents shall control.

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ATTACHED EXHIBITS:

- Exhibit "1" Map of BPSOU
- Exhibit "2" Revised Map of Superfund Storm Water Structures
- Exhibit "2.1" List of Superfund Storm Water Structures
- Exhibit "3" Map of GMMIA and Historic Mining Landscape Area
- Exhibit "4" Legal Description of Dedicated Use Properties
[Intentionally Omitted from Working Copy]
- Exhibit "5" Legal Descriptions of Developable Properties
[Intentionally Omitted from Working Copy]
- Exhibit "6" Description of Storm Water Sites
- Exhibit "7" Description of Capital Equipment Purchases
- Exhibit "8" Dedicated Use Properties Quitclaim Deeds
[Intentionally Omitted from Working Copy]
- Exhibit "9" Developable Properties Quitclaim Deeds
[Intentionally Omitted from Working Copy]
- Exhibit "10" Superfund Storm Water Structures Quitclaim Deed
[Intentionally Omitted from Working Copy]
- Exhibit "11" Third Party Quitclaim Deeds
[Intentionally Omitted from Working Copy]
- Exhibit "12" Capital Purchase Repair and Replacement Trust Agreement
- Exhibit "13" Groundwater Treatment System Capital Repair and Replacement Trust Agreement
- Exhibit "14" Superfund Management Trust Agreement
- Exhibit "15" Superfund Programs Trust Agreement
- Exhibit "16" Initial Capital Purchase, Repair and Replacement Budget
- Exhibit "17" Initial Superfund Management Budget
- Exhibit "18" [Deleted pursuant to Addendum No. 3]
- Exhibit "19" LAO Surface Enhancement and Land Use Plan
- Exhibit "20" [Deleted pursuant to Addendum No. 3]
- Exhibit "21" Schedule, Priorities and Objectives for Storm Water System Improvement Plan
- Exhibit "22" Excavation and Dirt Moving Protocols
- Exhibit "23" Criteria for Storm Water Management Ordinance
- Exhibit "24" Controlled Groundwater Areas Submittal Schedule
- Exhibit "25" BSB Memorandum of Coverage
- Exhibit "26" Funding Spreadsheet
- Exhibit "27" BSB Position Paper
- Exhibit "28" [Deleted pursuant to Addendum No. 3]
- Exhibit "29" Map of AR and BSB Kelley Mine Yard Properties
- Exhibit "30" Map of Rail Road Properties and Rights-of-Way
- Exhibit "31" Potential After Acquired Properties Legal Description
- Exhibit "32" MOU 119 Scope of Work
- Exhibit "33" [Deleted pursuant to Addendum No. 3]
- Exhibit "34" Map of BSB Sewage Treatment Effluent Line Extension
- Exhibit "35" Multi-Pathway Program Trust Agreement
- Exhibit "36" [Deleted pursuant to Addendum No. 3]
- Exhibit "37" Description of Hydrodynamic Devices
[Intentionally Omitted from Working Copy]
- Exhibit "38" Form of Bill of Sale for Conveyance of Hydrodynamic Devices
[Intentionally Omitted from Working Copy]
- Exhibit "39" Description of Installation Work for Hydrodynamic Devices
[Intentionally Omitted from Working Copy]
- Exhibit "40" Compensation Schedule for Installation of Hydrodynamic Devices

	[Intentionally Omitted from Working Copy]
Exhibit "41"	Hydrodynamic Device Maintenance Inspector Form
	[Intentionally Omitted from Working Copy]
Exhibit "42"	Revised Multi-Pathway Program Budget
Exhibit "43"	Revised Superfund Programs Budget
Exhibit "44"	Supplemental Funding Spreadsheet
Exhibit "45"	Dedicated Use Properties Quitclaim Deed for Mine Waste Repository Expansion
	[Intentionally Omitted from Working Copy]
Exhibit "46"	List of Group 1 Additional Source Control Sites

**ALLOCATION AND SETTLEMENT AGREEMENT
AND MUTUAL RELEASE OF CLAIMS**

THIS ALLOCATION AND SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF CLAIMS (as hereinafter defined, "Agreement"), is entered into by and between the City and County of Butte-Silver Bow (hereinafter defined, "BSB") and Atlantic Richfield Company (as hereinafter defined, "AR") as of the effective date (as hereinafter defined, the "Effective Date") to set forth agreements, allocations of responsibility, and releases relating to the Butte Priority Soils Operable Unit (as hereinafter defined, "BPSOU") of the Silver Bow Creek/Butte Area NPL Site (as hereinafter defined, the "Site").

W I T N E S S E T H:

WHEREAS, the United States Environmental Protection Agency (as hereinafter defined, "EPA") and the State of Montana (as hereinafter defined, the "State") have initiated actions pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601, et seq., as amended (as hereinafter defined, "CERCLA"), to address contamination arising from historic mining and mineral processing activities within the Site; and

WHEREAS, a portion of the Site has been designated by EPA as the BPSOU; and

WHEREAS, AR and BSB have both been identified by EPA as potentially responsible parties under CERCLA for certain response actions and response costs arising in the BPSOU and the Parties anticipate that EPA will require financial assurance for the performance of the actions required pursuant to the Consent Decree for the BPSOU (as hereinafter defined, "Consent Decree"); and

WHEREAS, EPA issued a Record of Decision in September of 2006 selecting a remedy for the BPSOU, but important details regarding the components of the selected remedy are anticipated to be further refined in the Consent Decree and various work plans and other implementing documents;

WHEREAS, in order to allocate their potential responsibilities, expedite certain actions and thereby avoid the significant cost and expense associated with prolonged and complicated litigation over the same, AR and BSB desire to enter into this Agreement in order to provide a full statement of their respective rights and responsibilities; and

WHEREAS, in consideration of the funds to be provided by AR to BSB pursuant to the terms and conditions of this Agreement, BSB has, subject to the funding limitations set forth in Sections 18.1, 18.2 and 18.3 hereof, agreed to perform specified actions required by the ROD as described in this Agreement that would otherwise be the responsibility of AR or others;

NOW THEREFORE, in consideration of the mutual covenants and promises contained in this Agreement, the sufficiency of which is acknowledged, it is hereby understood and agreed as follows:

ARTICLE I.

DEFINITIONS

Section 1.1. Definitions. Unless otherwise expressly provided herein, terms used in this Agreement 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 Agreement or in the exhibits attached hereto and incorporated hereunder, the following definitions shall apply:

1. “**AERL**” shall mean ARCO Environmental Remediation, L.L.C., a Delaware limited liability company, together with all of its predecessors, successors (merged, acquired or otherwise), subsidiaries and assigns.

2. “**Agreement**” shall mean this Allocation and Settlement Agreement and Mutual Release of Claims and all documents referenced herein and all Exhibits attached hereto.

3. “**Anaconda Sampling Works**” shall mean the area depicted on the map attached as Exhibit “1” hereto as the as the “Anaconda Sampling Works.”

4. “**Applicable Laws**” shall mean and include all Environmental Laws, and all other statutes, regulations, ordinances, decrees, orders, judgments, or rules of Governmental Entities, as the same may change from time to time.

5. “**AR**” shall mean Atlantic Richfield Company, a Delaware corporation, together with all of its predecessors, successors (merged, acquired or otherwise), subsidiaries and assigns, including, but not limited to, AERL.

6. “**AR Kelley Mine Yard Properties**” shall mean the portions of the parcels of real property separately and particularly described in Exhibits “4.5.1”, “4.5.2”, “5.4.1” and “5.4.2” hereto that are depicted as the “Kelley Mine Yard Properties” on the map attached as Exhibit “29” hereto.

7. “**ARARs**” shall mean all Applicable and Relevant and Appropriate Requirements identified by EPA with respect to the BPSOU in accordance with Section 121 of CERCLA, 42 U.S.C. 9621.

8. “**Area One**” shall mean the area depicted on the map attached as Exhibit “1” hereto as “Area One.”

9. “**Best Management Practices**” shall have the meaning ascribed to the term pursuant to the ROD.

10. “**BPSOU**” shall mean the area depicted on the map attached as Exhibit “1” hereto as the “Butte Priority Soils Operable Unit” and any area added thereto by EPA.

11. “**BRES**” shall mean the Butte Reclamation Evaluation System.

12. “**BRW**” shall mean the portion of LAO depicted on the map attached as Exhibit “1” hereto as the “Butte Reduction Works.”

13. **“BSB”** shall mean the local government of the City and County of Butte-Silver Bow, Montana, and any successors thereto, including all officers, employees, agents, representatives, boards, departments, commissions, programs and authorities thereof. The term shall also include any “governing authority” established by BSB to administer and oversee the performance of this Agreement and to guide the planning and use of the funds in the Redevelopment Trust Account, consistent with the purposes of this Agreement.

14. **“BSB Sewage Treatment Effluent Line Extension”** shall mean the sewage treatment effluent line extension depicted on the map attached as Exhibit “34” hereto.

15. **“BSB Groundwater Criteria”** shall mean the following criteria for BSB’s evaluation of the acceptability of any groundwater treatment option:

1. Meet Montana Water Quality Bureau-Circular 7 standards, thus ensuring long-term protection of Silver Bow Creek and down stream water resources;
2. Provide aesthetics;
3. Allows maximum reuse of the LAO area, including a walking trail, wildlife viewing areas and interpretive displays;
4. Ensures a facility that is practical to maintain and operate; and
5. Includes a trust fund to operate/maintain/monitor/upgrade the facility.

16. **“BSB Memorandum of Coverage”** shall mean the Memorandum of Coverage attached as Exhibit “25” hereto and any such subsequent certificate of insurance of BSB.

17. **“BSB Kelley Mine Yard Properties”** shall mean the parcels and portions of the parcels of real property separately and particularly described in Exhibit “4.5.1”, “4.5.2”, “5.4.1” and “5.4.2” hereto that are depicted as the “Survey Area” on the map attached as Exhibit “29” hereto.

18. **“BSB Position Paper”** shall mean the Butte-Silver Bow Position Paper dated October 5, 2004 which is attached as Exhibit “27” hereto.

19. **“Capital Improvements Accounting Report”** shall mean an accounting report, in a form acceptable to BSB and AR, of all amounts withdrawn by BSB from the Capital Improvements Trust Account during the prior Fiscal Year.

20. **“Capital Improvements Trust Account”** shall mean a segregated and separate account of BSB, with a financial institution acceptable to BSB and AR, that is established pursuant to Section 13.7 hereof.

21. **“Capital Purchase, Repair and Replacement Accounting Report”** shall mean an accounting report, in a form acceptable to BSB and AR, of all amounts withdrawn by BSB from the Capital Purchase, Repair and Replacement Trust Account during the prior Fiscal Year. The term shall include a budget reconciliation report which, separately for each Task Account and each budget amount for each Task Account set forth in the Capital Purchase, Repair and Replacement Budget for the prior Fiscal Year, compares the total amount actually incurred by BSB with the total budgeted amount, and any amounts carried forward by BSB.

22. **“Capital Purchase, Repair and Replacement Budget”** shall mean a budget, in the form of the Initial Capital Purchase, Repair and Replacement Budget, which sets forth all anticipated uses of funds from the Capital Purchase, Repair and Replacement Trust Account by BSB during the next Fiscal Year for Capital Purchase, Repair and Replacement Costs, and which sets forth the amount BSB may request the trustee to pay to BSB from the Capital Purchase, Repair and Replacement Trust Account for each quarter of the next Fiscal Year for Capital Purchase, Repair and Replacement Costs for each Task Account in accordance with the terms and conditions of Section 13.5 hereof and the Capital Purchase, Repair and Replacement Trust Agreement.

23. **“Capital Purchase, Repair and Replacement Costs”** shall mean the charges, expenses, fees and other costs reasonably incurred by BSB to construct and design improvements to the Storm Water System pursuant to Section 5.3 hereof. The term shall also include the expenses incurred by BSB to purchase equipment and vehicles of the general type and at the frequency set forth in the spreadsheet attached as Exhibit “7” hereto.

24. **“Capital Purchase, Repair and Replacement Trust Account”** shall mean a segregated account with Trustee that is established pursuant to Section 13.1 hereof.

25. **“Capital Purchase, Repair and Replacement Trust Agreement”** shall mean the Trust Agreement between AR and BSB attached as Exhibit “12” hereto.

26. **“CECRA”** shall mean the Montana Comprehensive Environmental Cleanup and Responsibility Act, §75-10-701 et seq., MCA, and any amendments thereto.

27. **“CERCLA”** shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601, et seq., and any amendments thereto.

28. **“Clark Tailings Waste Areas”** shall mean the area depicted on the map attached as Exhibit “1” hereto as the Clark Tailings Waste Areas.”

29. **“Colorado Smelter”** shall mean the area depicted on the map attached as Exhibit “1” hereto as the Colorado Smelter.”

30. **“Consent Decree”** shall mean the consent decree required under Section 21.2 hereof.

31. **“Controlled Groundwater Areas”** shall mean those areas within Butte-Silver Bow County that have been established as Controlled Groundwater Areas by MDNRC as of the Effective Date which include the Clark Tailings Controlled Groundwater Area and the Rocker Controlled Groundwater Area, and any amendments or additions thereto. The term shall also include all such additional areas within Butte-Silver Bow County which may be so established on or after the Effective Date pursuant to the terms and conditions of Section 4.6 hereof including, without limitation, the Butte Mine Flooding Controlled Groundwater Area, the BPSOU Alluvial Controlled Groundwater Area, the Montana Pole Plant Controlled Groundwater Area and the WSSOU Controlled Groundwater Area.

32. **“Controlled Groundwater Area Orders”** shall mean all final orders issued by the MDNRC with respect to the Controlled Groundwater Areas and any amendments thereto.

33. **“Controlled Groundwater Areas Submittal Schedule”** shall mean the Controlled Groundwater Areas Submittal Schedule attached as Exhibit “24” hereto.

34. [Deleted pursuant to Addendum No.3]

35. **“Co-Pay Percentage”** shall mean the applicable co-pay percentage under the Insurance Policy.

36. **“Cost Cap Coverage”** shall mean the coverage provided under Section I.G of the Insurance Policy.

37. **“Covenants”** shall have the meaning ascribed to the term in the Dedicated Use Properties Quitclaim Deeds and the Developable Properties Quitclaim Deeds.

38. **“Dedicated Use Properties”** shall mean the parcels of real property separately and particularly described in Exhibits “4.1.1” through “4.1.15”, Exhibits “4.2.1” and “4.2.2”, and Exhibits “4.3.1” through “4.3.6” hereto. The term shall also include the BSB Kelley Mine Yard Properties separately and particularly described in Exhibits “4.5.1” and “4.5.2” hereto. The term shall also include, as of the date of conveyance to BSB, all parcels of real property characterized as Dedicated Use Properties and conveyed to BSB as such pursuant to Sections 9.5 or 9.6 hereof.

39. **“Dedicated Use Properties Quitclaim Deeds”** shall mean the forms of quitclaim deeds attached as Exhibits “8.1.1” through “8.1.15”, Exhibits “8.2.1” and “8.2.2”, Exhibits “8.3.1” through “8.3.6” and Exhibits “8.4.1” and “8.4.2” hereto.

40. **“Developable Properties”** shall mean the parcels of real property separately and particularly described in Exhibits “5.1.1” through “5.1.6”, Exhibit “5.2.1”, and Exhibit “5.3.1” hereto. The term shall also include the BSB Kelley Mine Yard Properties separately and particularly described in Exhibits “5.4.1” and “5.4.2” hereto. The term shall also include, as of the date of conveyance to BSB, all parcels of real property characterized as Developable Properties and conveyed to BSB as such pursuant to Sections 9.5 or 9.6 hereof.

41. **“Developable Properties Quitclaim Deeds”** shall mean the forms of quitclaim deeds attached as Exhibits “9.1.1” through “9.1.6”, Exhibit “9.2.1”, Exhibit “9.3.1” Exhibit “9.4.1” and Exhibit “9.4.2” hereto.

42. **“Effective Date”** shall mean the date on which this Agreement is fully executed by the Parties.

43. **“Emergency Response Actions”** shall mean actions taken by AR and/or BSB to prevent, abate or minimize the actions or occurrences described in Section 20.8 hereof.

44. **“Environmental Conditions”** shall mean and include, without limitation, any condition, circumstance, quality, quantity or other state of the land, subsurface, strata, air, surface water, groundwater, fish, wildlife, or biota arising out of, related to or resulting from the Release or threatened Release, generation, transport, handling, treatment, storage, disposal, management, presence of or exposure to any Mine Waste.

45. “**Environmental Laws**” shall mean any past, present or future federal, state or local laws, regulations, ordinances, permits, approvals or authorizations pertaining to natural resources, Environmental Conditions, protection of human health, welfare or the environment or historic, archeological or cultural preservation, including, without limitation, CERCLA; the Clean Air Act (42 U.S.C. §§ 7401 et seq.); the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.); the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.); the Safe Drinking Water Act (42 U.S.C. §§ 300(f) et seq.); the National Historic Preservation Act (16 U.S.C. § 470);CECRA; the Montana Water Quality Act (M.C.A. §§ 75-5-101 et seq.); the Clean Air Act of Montana (M.C.A. §§ 75-2-101 et seq.); the Natural Streambed and Land Preservation Act (M.C.A. §§ 75-7-101 et seq.); the Montana Hard Rock Mining Act (M.C.A. §§ 82-4-300 et seq.); and the Montana Floodplain and Floodway Management Act (M.C.A. §§ 76-5-101 et seq.); all as amended and as may change from time to time; and any ARARS; and any provisions or theories of common law providing for any cause of action remedy or right of recovery with respect to, arising from or related to Environmental Conditions, as any such provisions or theories may change from time to time.

46. “**EPA**” shall mean the United States Environmental Protection Agency and any successor agency thereto.

47. [Deleted pursuant to Addendum No.3]

48. [Deleted pursuant to Addendum No.3]

49. “**Feasibility Study**” shall mean the EPA’s Feasibility Study for the BPSOU dated March 2004.

50. “**Fiscal Year**” means a year commencing on July 1 and ending on June 30.

51. “**Force Majeure**” shall mean any event arising from causes beyond the control of the Parties, of any entity controlled by the Parties, or of the Parties' contractors, that delays or prevents the performance of any obligation under this Agreement despite the Parties' best efforts to fulfill the obligation. The requirement that the Parties exercise “best efforts to fulfill the obligation” includes using best efforts to anticipate any potential Force Majeure event and best efforts to address the effects of any potential Force Majeure event (1) as it is occurring and (2) following the potential Force Majeure event, such that the delay is minimized to the greatest extent possible. Any event that constitutes a Force Majeure event as defined in any order, decree or directive issued in connection with Environmental Laws shall also constitute a Force Majeure event for purposes of this Agreement, provided, however, that Force Majeure does not include a Party's financial inability to complete its obligations under this Agreement.

52. “**Funding Spreadsheet**” shall mean the spreadsheet attached as Exhibit “26” hereto with a budget projection prepared for illustrative purposes, as amended and modified by the Supplemental Funding Spreadsheet.

53. “**GIS**” shall mean BSB's Geographic Information System and other related computerized and hard copy data tracking and data management systems related to the BPSOU operated by BSB.

54. “**GMMIA**” shall mean the area depicted on the map attached as Exhibit “3” hereto as the “Granite Mountain Memorial Interpretive Area.” The term shall include the Mountain Con, Moose Dumps, Wake up Jim and Green Mountain areas depicted on Exhibit “3” hereto.

55. **“GMMIA Reclamation Plan”** shall mean the plan attached to the Feasibility Study as Appendix E-4. The term shall include the historic mitigation and restoration activities identified in the GMMIA Reclamation Plan (i.e., completion of the memorial, work on the entryway road and interpretive signage and completion of activities at the Mountain Con .

56. **“Gold Smith Dumps”** shall mean the area depicted on the map attached as Exhibit “1” hereto as the as the “Gold Smith Dumps.”

57. **“Governmental Entity”** shall mean any Federal or State government administrative agency or commission, or other governmental authority or instrumentality having jurisdiction over the Parties and the subject matter. For purposes of this Agreement, the term shall not include BSB.

58. **“Groundwater Treatment System”** shall mean the groundwater collection, conveyance and treatment system at LAO described in the LAO Work Plan Addendum that AR has constructed and operates. The term shall include, without limitation, all Groundwater Treatment System Upgrades designed and constructed by AR pursuant to Section 4.2 hereof. The term shall also include, without limitation, all additional Response Actions designed and constructed by AR pursuant to section 4.2 hereof. The term shall also include all collection and conveyance structures and fixtures associated with the treatment of alluvial groundwater from the MSD, West Camp and LAO areas.

59. **“Groundwater Treatment System Capital Repair and Replacement”** shall mean any repair or replacement of a capital component of the Groundwater Treatment System which is comparable in quality and specifications and necessary for the system to remain suitable and efficient for use in substantially the same manner and fashion as originally intended.

60. **“Groundwater Treatment System Capital Repair and Replacement Accounting Report”** shall mean an accounting report, in a form acceptable to BSB and AR, of all amounts withdrawn by BSB from the Groundwater Treatment System Capital Repair and Replacement Trust Account during the prior Fiscal Year. The term shall include a budget reconciliation report which, separately for each budget amount set forth in the Groundwater Treatment System Capital Repair and Replacement Budget for the prior Fiscal Year, compares the total amount actually incurred by BSB with the total budgeted amount, and any amounts re-deposited into the Groundwater Treatment System Capital Repair and Replacement Trust Account by BSB.

61. **“Groundwater Treatment System Capital Repair and Replacement Budget”** shall mean a budget, in a form acceptable to BSB and AR, which sets forth all anticipated uses of funds from the Groundwater Treatment System Capital Repair and Replacement Trust Account for Groundwater Treatment System Capital Repair and Replacement Costs.

62. **“Groundwater Treatment System Capital Repair and Replacement Costs”** shall mean the charges, expenses, fees and other costs reasonably incurred by BSB to make necessary Groundwater Treatment System Capital Repair and Replacement in the event the Parties reach agreement pursuant to Section 4.3 hereof and BSB assumes and performs some or all of the Operation and Maintenance Activities required for the Groundwater Treatment System following the shakedown required pursuant to the ROD.

63. "**Groundwater Treatment System Capital Repair and Replacement Trust Account**" shall mean a segregated account with Trustee that is established pursuant to Section 14.1 hereof.

64. "**Groundwater Treatment System Capital Repair and Replacement Trust Agreement**" shall mean the Trust Agreement between AR and BSB attached as Exhibit "13" hereto.

65. "**Groundwater Treatment System Operation and Maintenance Plan**" shall mean the plan to be approved by EPA which specifies the Operation and Maintenance Activities required for the Groundwater Treatment System and any EPA approved amendments thereto.

66. "**Growth Policy**" shall mean the BSB Growth Policy adopted by resolution of the BSB Council of Commissioners prior to the Effective Date and any amendments thereto.

67. "**Historic Mining Landscape Area**" shall mean the area depicted on the map attached as Exhibit "3" hereto as the "Historic Mining Landscape Area", and any area added thereto by EPA

68. "**Hook-up Ordinance**" shall mean the ordinance set forth at Section 13.20.210 of the Butte-Silver Bow Municipal Code and any amendments thereto adopted pursuant to Section 4.5 hereof.

69. "**Initial Capital Purchase, Repair and Replacement Budget**" shall mean the Capital Purchase, Repair and Replacement Budget attached as Exhibit "16" hereto.

70. [Deleted pursuant to Addendum No.3]

71. "**Initial Superfund Management Budget**" shall mean the Superfund Management Budget attached as Exhibit "17" hereto.

72. [Deleted pursuant to Addendum No.3]

73. "**Insurance Policy**" shall mean the Remediation Expense and Premises Pollution Liability Insurance Policy (Policy No. PRMG22086078 001) procured by AR from Illinois Union Insurance Company and all endorsements, attachments and amendments thereto.

74. "**Insurance Company**" shall mean Illinois Union Insurance Company and any successor insurance company thereto. The term shall also include any insurance company from whom BSB secures a renewal of the Insurance Policy pursuant to Section 17.6 hereof.

75. "**Jenny Dell**" shall mean the area depicted on the map attached as Exhibit "1" hereto as the "Jenny Dell."

76. "**LAO**" shall mean the area depicted on the map attached as Exhibit "1" hereto as the "Lower Area One."

77. "**LAO Surface Enhancement and Land Use Plan**" shall mean the LAO Surface Enhancement and Land Use Plan attached as Exhibit "19" hereto.

78. "**LAO Work Plan Addendum**" shall mean the Work Plan Addendum, Lower Area One/Colorado Tailings Treatment Lagoon Expansion and Modification for MSD Base Flow Addition dated July 2004.

79. "**MBMG**" shall mean the Montana Bureau of Mines and Geology and any successor agency thereto.

80. "**MDEQ**" shall mean the Montana Department of Environmental Quality and any successor agency thereto.

81. "**MDNRC**" shall mean the Montana Department of Natural Resources and Conservation and any successor agency thereto.

82. "**Mine Waste**" shall mean solid, liquid or gaseous waste materials and their constituents resulting from or related to mining, milling, smelting, refining operations, or other mineral extraction, beneficiation or processing and any structures and debris associated with such operations, including, without limitation, the following waste materials and their constituents resulting from or related to the extraction, beneficiation, or processing of ores and minerals: waste rock, overburden, tailings, slag, flue dust, metals, contaminated soils and other hazardous substances for which the Parties are required to take action pursuant to the ROD. The term shall include sludge from the Groundwater Treatment System.

83. "**Mine Waste Source Areas**" shall mean all parcels or portions of parcels of real property within the BPSOU at which Mine Wastes are located as of the Effective Date of this Agreement. The term shall include the GMMIA, the Syndicate Pit, the LAO, the Jenny Dell, the Gold Smith Dumps, the Anaconda Sampling Works, the Unnamed Dump Site, the Colorado Smelter and the Clark Tailings Waste Areas. The term shall also include, without limitation, the Storm Water Sites and the Group 1 Additional Source Control Sites. The term shall not include the MSD Corridor, the Mine Waste Repository or the Rail Road Properties.

84. "**Mine Waste Repository**" shall mean the real property depicted on the map attached as Exhibit "3.1" hereto as the "Original Boundary", the "First Expansion Boundary", the "Proposed West Mine Waste Expansion Boundary", and the "Proposed East Mine Waste Expansion Boundary and any additions thereto or expansions thereof.

85. "**MOU 119**" shall mean that certain Memorandum of Understanding (MOU No. MT-119) between BSB and AR effective March 7, 1995, as amended by the change orders executed by the Parties and as further amended by the Scope of Work for MOU 119.

86. "**MOU 135**" shall mean that certain Memorandum of Understanding (MOU No. MT-135) between BSB and AR, as the assignee of AERL, effective April 1, 2001, as amended by the change orders executed by the Parties and as further amended by the Multi-Pathway Program Protocol.

87. "**MSD Corridor**" shall mean the area depicted on the map attached as Exhibit "1" hereto as the "Metro Storm Drain Corridor."

88. "**MSD Work Plan**" shall mean the Final Horseshoe Bend Effluent Pipeline/Metro Storm Drain Design Report/Work Plan dated September 2003, as implemented prior to the Effective Date.

89. [Deleted pursuant to Addendum No.3]

90. **“Multi-Pathway Program Accounting Report”** shall mean a quarterly accounting report, in a form acceptable to BSB and AR, of all amounts withdrawn by BSB from the Multi-Pathway Program Trust Account during the prior quarter of the Fiscal Year. The term shall include a budget reconciliation report which compares the total amount actually incurred by BSB with the total budgeted amount, and any amounts carried forward by BSB.

91. **“Multi-Pathway Program Budget”** shall mean a budget, in the form of the Revised Multi-Pathway Program Budget, which sets forth all anticipated uses of funds from the Multi-Pathway Program Trust Account by BSB during the next Fiscal Year for Multi-Pathway Program Costs, and which sets forth the amount BSB may request the trustee to pay to BSB from the Multi-Pathway Program Trust Account for each quarter of the next Fiscal Year for Multi-Pathway Program Costs in accordance with the terms and conditions of Section 11.7 and the Multi-Pathway Program Trust Agreement.

92. **“Multi-Pathway Program Costs”** shall mean the charges, expenses, fees and other costs reasonably incurred by BSB to perform its duties and obligations under Section 6.1 hereof.

93. **“Multi-Pathway Program Obligations”** shall mean the obligations that BSB is obligated to perform pursuant to Section 6.1 hereof.

94. **“Multi-Pathway Program Plan”** shall mean the Final Multi-Pathway Residential Metals Abatement Program Plan dated April of 2010 which is referenced in the UAO, and any EPA approved amendments thereto.

95. **“Multi-Pathway Program Trust Account”** shall mean a segregated account with Trustee that is established pursuant to Section 11.1 hereof.

96. **“Multi-Pathway Program Trust Agreement”** shall mean the Trust Agreement between AR and BSB attached as Exhibit “35” hereto.

97. **“Named Insured”** shall have the meaning ascribed to the term in the Insurance Policy.

98. **“NPL Sites”** shall mean the Site, the Montana Pole and Treating Plant NPL Site, the Anaconda Smelter NPL Site and the Milltown Reservoir/Clark Fork River NPL Site and any areas added thereto by EPA.

99. **“Obligations”** shall have the meaning ascribed to the term in the Dedicated Use Properties Quitclaim Deeds and the Developable Properties Quitclaim Deeds.

100. **“Operation and Maintenance Activities”** shall mean all activities of any kind or nature whatsoever which are required pursuant to the ROD: (i) to monitor Environmental Conditions and/or Response Actions; and (ii) to maintain, repair and/or replace any component of any Response Action. The term shall include, without limitation, all related sampling, inspection and reporting requirements. The term shall also include implementation of the Groundwater Treatment System Operation and Maintenance Plan. The term shall also include, without limitation, all activities necessary to maintain an effective vegetative cover and all activities necessary to control noxious weeds, erosion and unauthorized entries. The term shall

also include, without limitation, the removal of garbage and debris. The term shall not include any Groundwater Treatment System Capital Repair and Replacement. Except as provided in Section 4.3 hereof with regard to specific monitoring activities associated with the Groundwater Treatment System and in Section 5.2 hereof with regard to periodic performance tests and other monitoring of Best Management Practices associated with the Superfund Storm Water Structures, the term shall also not include and BSB shall not be required to perform any other Silver Bow Creek surface water or alluvial groundwater monitoring generally within the BPSOU. AR anticipates that the USGS will perform such other Silver Bow Creek surface water quality monitoring pursuant to the terms of a separate agreement between AR and the USGS, and that the MBMG will perform such other alluvial groundwater quality monitoring pursuant to the terms of a separate agreement between AR and MBMG. Notwithstanding any other term or condition of this Agreement, BSB shall not be responsible for such other Silver Bow Creek surface water or alluvial ground water monitoring even if AR is not successful in negotiating such agreements with USGS or MBMG. The term shall also not include any Response Actions.

101. “**Oversight Costs**” shall mean those response costs incurred by EPA or MDEQ (either as the lead agency or support agency) in monitoring and supervising the performance of the work required by the ROD, including costs incurred in reviewing plans, reports and other documents. The term shall not include any costs of direct action by EPA and/or MDEQ at the BPSOU or indirect costs that EPA or MDEQ incurs as a result of: (i) a default by BSB in the performance of any of BSB’s duties and obligations under this Agreement or (ii) a Work Takeover of any Superfund Programs Obligations.

102. “**Parties**” shall mean AR and BSB.

103. “**Person**” shall mean an individual, trust, firm, joint venture, consortium, commercial entity, partnership, association, or corporation. The term shall not include the Parties or any Governmental Entity.

104. [Deleted pursuant to Addendum No. 2]

105. [Deleted pursuant to Addendum No. 2]

106. “**Prioritization Criteria**” shall mean the criteria for prioritizing the design and construction of storm water improvement projects as part of BSB’s engineering evaluation, as described in the Storm Water Improvement Plan and Exhibit “21” hereto.

107. “**Priority Projects**” shall mean those storm water improvement projects that the Parties anticipate will be constructed within ten (10) years following the Effective Date to the extent practicable, as described in the Storm Water Improvement Plan and Exhibit “21” hereto.

108. “**Rail Road Properties**” shall mean the properties and rights-of-way depicted on the map attached as Exhibit “30” hereto.

109. [Deleted pursuant to Addendum No.3]

110. “**Redevelopment Accounting Report**” shall mean an accounting report, in a form acceptable to BSB and AR, of all amounts withdrawn by BSB from the Redevelopment Trust Account during the prior Fiscal Year.

111. "**Redevelopment Trust Account**" shall mean a segregated and separate account of BSB, with a financial institution acceptable to BSB and AR, that is established pursuant to Section 15.1 hereof.

112. "**Regional Historic Preservation Plan**" shall mean the Upper Clark Fork River Basin Regional Historic Preservation Plan and any amendment thereto.

113. "**Release**" shall mean any spilling, leaking, pumping, pouring, emitting, leaching, migration, emptying, discharging, injecting, escaping, dumping, burying, disposal or emanation whatsoever.

114. "**Remediation Plan Endorsement**" shall mean the Remediation Plan Endorsement to the Insurance Policy.

115. "**Response Action**" shall mean any response, removal, or remedial action, within the meaning of those terms under CERCLA and CECRA, regardless of whether such actions are undertaken pursuant to CERCLA or CECRA authority and any reclamation, restoration, or rehabilitation actions or any other actions of any kind or nature whatsoever required under any Applicable Laws to address Environmental Conditions. The term shall not include: (i) any actions taken principally to assess or restore the quality of any natural resources; or (ii) any Operation and Maintenance Activities. To the extent the definition of Response Action used in this Agreement is inconsistent with the definitions set forth in Sections 101(23), (24) and (25) of CERCLA and Section 75-10-701 (19) of CECRA the definition of Response Action in this Agreement shall control.

116. "**ROD**" shall mean the EPA's Record of Decision issued in September of 2006 that selected a final remedy for the BPSOU, together with all attachments or amendments thereto, all implementing documentation prepared pursuant to the ROD, all explanations of significant differences, and all changes thereto mandated by EPA and/or MDEQ. The term shall include the UAO and EPA's Explanation of Significant Differences dated July 18, 2011.

117. "**Scope of Work for MOU 119**" shall mean the scope of work attached hereto as Exhibit 32.

118. "**Second Programmatic Agreement**" shall mean that certain Second Programmatic Agreement between BSB, AR, EPA, the Advisory Council on Historic Preservation, the Montana State Historic Preservation Office, Anaconda/Deer Lodge County, the town of Walkerville, and the Montana Department of Environmental Quality dated September 14, 1994.

119. "**SIR**" shall mean the applicable self-insured retention set forth in Item 6 to the Declarations of the Insurance Policy.

120. "**Site**" shall mean the "Silver Bow Creek/Butte Area NPL Site and any area added thereto by EPA.

121. "**State**" shall mean the State of Montana, all agencies thereof, and any successors thereto.

122. "**Storm Water Management Ordinance**" shall mean an ordinance which is consistent the principles set forth in Exhibit "23" hereto.

123. "**Storm Water Sites**" shall mean the parcels of real property or portions of parcels of real property described in Exhibit "6" hereto.

124. "**Storm Water System**" shall mean all storm water conveyance structures owned or controlled by BSB as of the Effective Date and any such structures designed, procured, constructed or otherwise acquired by BSB after the Effective Date. The term shall include all repairs, replacements and improvements designed and constructed by BSB pursuant to the Storm Water System Improvement Plan. The term shall not include the Superfund Storm Water Structures.

125. "**Storm Water System Improvement Plan**" shall mean the plan to be developed by BSB pursuant to Section 5.3 hereof. Said plan shall be consistent with the schedule, priorities and objectives for the repair, replacement and improvement of components of the Storm Water System that are set forth in Exhibit "21" hereto.

126. "**Substantially Complied With Showing Reliable System Performance**" shall mean compliance with all of the performance criteria applicable to the Operation and Maintenance Activities required for the Groundwater Treatment System, taking into account variances from discharge requirements allowed by EPA pursuant to the ROD during such Operation and Maintenance Activities.

127. "**Superfund Management Accounting Report**" shall mean an accounting report, in a form acceptable to BSB and AR, of all amounts withdrawn by BSB from the Superfund Management Trust Account during the prior Fiscal Year. The term shall include a budget reconciliation report which, separately for each Task Account and each budget amount for each Task Account set forth in the Superfund Management Budget for the prior Fiscal Year, compares the total amount actually incurred by BSB with the total budgeted amount, and any amounts carried forward by BSB.

128. "**Superfund Management Budget**" shall mean a budget, in the form of the Initial Superfund Management Budget, which sets forth all anticipated uses of funds from the Superfund Management Trust Account by BSB during the next Fiscal Year for Superfund Management Costs, and which sets forth the amount BSB may request the trustee to pay to BSB from the Superfund Management Trust Account for each quarter of the next Fiscal Year for Superfund Management Costs for each Task Account in accordance with the terms and conditions of Section 12.5 and the Superfund Management Trust Agreement.

129. "**Superfund Management Costs**" shall mean the charges, expenses, fees and other costs reasonably incurred by BSB to perform its duties and obligations under Sections 4.5, 4.6, 4.7, 5.4, 6.2, 7.4, 8.1, 8.2, 8.3, 9.5, 9.6, 9.7, 9.8, 9.11, and 9.12 hereof.

130. "**Superfund Management Obligations**" shall mean the obligations that BSB is obligated to perform pursuant to Sections 4.5, 4.6, 4.7, 5.4, 6.2, 7.4, 8.1, 8.2, 8.3, 9.5, 9.6, 9.7, 9.8, 9.11, and 9.12 hereof.

131. "**Superfund Management Trust Account**" shall mean a segregated account with Trustee that is established pursuant to Section 12.1 hereof.

132. "**Superfund Management Trust Agreement**" shall mean the Trust Agreement between AR and BSB attached as Exhibit "14" hereto.

133. **“Superfund Programs Accounting Report”** shall mean a quarterly accounting report, in a form acceptable to BSB and AR, of all amounts withdrawn by BSB from the Superfund Programs Trust Account during the prior quarter of the Fiscal Year. The term shall include a budget reconciliation report which, separately for each Task Account and each budget amount for each Task Account set forth in the approved Superfund Programs Budget, compares the total amount actually incurred by BSB with the total budgeted amount, and any amounts carried forward by BSB.

134. **“Superfund Programs Budget”** shall mean a budget, in the form of the Revised Superfund Programs Budget, which sets forth all anticipated uses of funds from the Superfund Programs Trust Account by BSB during the next Fiscal Year for Superfund Programs Costs, and which sets forth the amount BSB may request the trustee to pay to BSB from the Superfund Programs Trust Account for each quarter of the next Fiscal Year for Superfund Programs Costs for each Task Account in accordance with the terms and conditions of Section 10.7 and the Superfund Programs Trust Agreement. From and after the date on which the duties and obligations of BSB to perform Operation and Maintenance Activities commence pursuant to Section 4.3 hereof, the budget shall include the amount BSB may request the trustee to pay to BSB from the Superfund Programs Trust Account for each quarter of the next Fiscal Year for the groundwater treatment Task Account identified in the Revised Superfund Programs Budget.

135. **“Superfund Programs Costs”** shall mean the charges, expenses, fees and other costs reasonably incurred by BSB to perform its duties and obligations under Sections 3.6, 3.7, 5.2, 7.1, and 7.3 hereof. From and after the date on which the duties and obligations to perform joint Operation and Maintenance Activities commence pursuant to Section 4.3 hereof, the term shall also include the charges, expenses, fees and other costs reasonably incurred by BSB to perform the Operation and Maintenance Activities required of BSB pursuant to Section 4.3 hereof. In the event the Parties reach agreement pursuant to Section 7.2 hereof with respect to additional funding to be provided by AR to the Superfund Programs Trust Account for BSB’s assumption and performance of any post-closure reclamation and Operation and Maintenance Activities required for any further expansion of the Mine Waste Repository, the term shall also include the charges, expenses, fees and other costs incurred by BSB to perform such post-closure reclamation and Operation and Maintenance Activities.

136. **“Superfund Programs Obligations”** shall mean the obligations that BSB is obligated to perform pursuant to Sections 3.6, 3.7, 4.3, 5.2, 7.1, 7.2 and 7.3 hereof.

137. **“Superfund Programs Trust Account”** shall mean a segregated account with Trustee that is established pursuant to Section 10.1 hereof.

138. **“Superfund Programs Trust Agreement”** shall mean the Trust Agreement between AR and BSB attached as Exhibit “15” hereto.

139. **“Superfund Storm Water Structures”** shall mean the storm water conveyance structures depicted on the map attached as Exhibit “2” hereto.

140. **“Superfund Storm Water Structures Quitclaim Deed”** shall mean the form of quitclaim deed attached hereto as Exhibit “10.”

141. **“Syndicate Pit”** shall mean the area depicted on the map attached as Exhibit “1” hereto as the “Syndicate Pit.”

142. “**Syndicate Pit Reclamation Plan**” shall mean the plan attached to the Feasibility Study as Appendix E-2A. The term shall include the provision of appropriate means for the release of standing water from the detention basin located at the Syndicate Pit following an appropriate period for the settling of solids.

143. “**Task Account**” shall mean any of the categories of funding identified as a “task account” in the Funding Spreadsheet.

144. “**Third Party Quitclaim Deed**” shall mean the forms of quitclaim deeds attached hereto as Exhibit “11.1” through “11.25”.

145. “**Trustee**” shall mean a financial institution mutually acceptable to the Parties.

146. “**Unnamed Dump Site**” shall mean the area depicted on the map attached as Exhibit “1” hereto as the “Unnamed Dump Site.”

147. “**USGS**” shall mean the United States Geologic Survey and any successor agency thereto.

148. “**West Camp**” shall mean the Travona / West Camp System as described in the Record of Decision for the Mine Flooding Operable Unit issued by EPA (September 1994).

149. “**West Camp Operations and Maintenance Activities**” shall mean the activities set forth in the Groundwater Treatment System Operation and Maintenance Plan, and any EPA approved amendments thereto, which shall incorporate the EPA approved Operation and Maintenance Manual, West Camp Pumping System (December 2001).

150. “**Work Takeover**” shall mean the assumption of some or all of the Superfund Programs Obligations by EPA or MDEQ without AR’s written approval.

151. “**WSSOU**” shall mean the area within the Site hereafter delineated by EPA as the “West Side Soils Operable Unit” and any area added thereto by EPA.

152. “**Zoning Ordinance**” shall mean BSB’s Zoning Ordinance set forth at Title XVII of the Butte-Silver Bow Municipal Code and any amendments thereto.

153. “**Adjacent Area**” shall mean the area depicted as such on the map attached as Appendix B to the Multi-Pathway Program Plan.

154. “**Attic Abatement Area**” shall mean the area depicted as such on the map attached as Appendix B to the Multi-Pathway Program Plan.

155. “**Excavation and Dirt-Moving Protocols Ordinance**” shall mean an ordinance which is with consistent the Excavation and Dirt-Moving Protocols set forth in Exhibit “22” hereto.

156. “**Groundwater Treatment System Upgrades Plan**” shall mean the Final Butte Treatment Lagoons (BTL) and West Camp Pump Station (WCP-1) Upgrades Design Report/Work Plan approved by EPA on May 12, 2011 and any EPA-approved amendments thereto.

157. **“Group 1 Additional Source Control Sites”** shall mean the seventeen (17) sites separately and more particularly described in Exhibit “46” hereto and referenced in the UAO as the “Group 1 Additional Source Control Sites”.

158. **“Main Street Uptown Butte”** shall mean Main Street Uptown Butte, Inc., a Montana nonprofit, public benefit corporation with members.

159. **“MSD Removal Costs”** shall mean any charges, expenses, fees or other costs reasonably incurred by AR pursuant to the requirements of the ROD for the excavation or removal of any Mine Waste from the portion of the MSD Corridor commonly known and referred to as the “Parrott Tailings”.

160. **“New and Mahoney and 800 North Main Storm Water Sites”** shall mean the two (2) Storm Water Sites described in Exhibit 6 to the Agreement as “New and Mahoney Street – corner of Curtis Street” and “800 North Main – Main and Buffalo Street”.

161. **“Revised Multi-Pathway Program Budget”** shall mean the Revised Multi-Pathway Program Budget attached as Exhibit “42” hereto.

162. **“Revised Superfund Programs Budget”** shall mean the Revised Superfund Programs Budget attached as Exhibit “43” hereto.

163. **“SLWS”** shall have the meaning ascribed to such term in Section 1.1.34 of the Water Service Agreement.

164. **“SLWS Capital Improvement Account”** shall mean the account established by BSB pursuant to Section 8.7 of the Water Service Agreement.

165. **“Supplemental Funding Spreadsheet”** shall mean the spreadsheet attached as Exhibit “44” hereto with a budget projection prepared for illustrative purposes.

166. **“UAO”** shall mean EPA’s Administrative Order for Partial Remedial Action Implementation and Certain Operation and Maintenance at the Butte Priority Soils Operable Unit 1 / Butte Site EPA Docket No. CERCLA 08-2011-0011 issued in July of 2011, the Exhibits attached to the UAO and any amendments thereto.

167. **“Water Service Agreement”** shall mean that certain Water Service Agreement between AR and BSB effective November 25, 2006, as amended and modified by that certain Addendum No. 1 to Water Service Agreement effective June 5, 1997 and as further amended and modified by that certain Addendum No. 2 to Water Service Agreement effective May 17, 2001.

ARTICLE II

REPRESENTATIONS AND COVENANTS

Section 2.1. Representations and Covenants of BSB. BSB represents and covenants as follows:

1. This Agreement has been duly authorized, executed and delivered by BSB and, upon the valid execution and delivery hereof by AR, is a valid and binding obligation of BSB, enforceable in accordance with its terms.

2. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby and the fulfillment of the terms hereof will not conflict with, or constitute on the part of BSB a breach of, or a default under, any (i) law, or (ii) the Charter of BSB or any provisions or any other legislative act or other proceeding establishing or relating to the establishment of BSB or its affairs or its ordinances and resolutions, or (iii) agreement, indenture, mortgage, lease or other instrument to which BSB is a party or by which it or its property is bound.

3. No officer of BSB who is authorized to take part in any manner in making this Agreement or any contract contemplated hereby has a personal financial interest in or has personally and financially benefited from the Agreement or any such contract.

4. Except for the ROD and Consent Decree as provided in Sections 20.11 and 21.2 hereof, to the best knowledge of the officers of BSB, there is no pending or threatened suit, action or proceeding against or affecting BSB before or by any court, arbitrator, administrative agency or other governmental authority which may materially and adversely affect the validity of this Agreement, any of BSB's obligations under this Agreement, or any of the transactions contemplated hereby.

Section 2.2. Representations and Covenants of AR. AR represents and covenants as follows:

1. This Agreement has been duly authorized, executed and delivered by AR and, upon the valid execution and delivery hereof by BSB is a valid and binding obligation of AR, enforceable in accordance with its terms.

2. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby and the fulfillment of the terms hereof will not conflict with, or constitute on the part of AR a breach of, or a default under its Articles of Incorporation, Bylaws or any agreement, indenture, mortgage, lease or other instrument to which AR is a party or by which it or its property is bound.

3. No officer of AR who is authorized to take part in any manner in making this Agreement or any contract contemplated hereby has a personal financial interest in or has personally and financially benefited from the Agreement or any such contract.

4. Except for the ROD and Consent Decree as provided in Sections 20.11 and 21.2 hereof, to the best knowledge of the officers of AR, there is no pending or threatened suit, action or proceeding against or affecting AR before or by any court, arbitrator, administrative agency or other governmental authority which may materially and adversely affects the validity of this Agreement, any of AR's obligations under this Agreement, or any of the transactions contemplated hereby.

ARTICLE III.

MINE WASTE SOURCE AREAS

Section 3.1. Reclamation of the GMMIA. The Parties anticipate that the Consent Decree will require reclamation of the GMMIA consistent with the GMMIA Reclamation Plan. AR shall perform all reclamation and other Response Actions which may be required pursuant to the GMMIA Reclamation Plan or the ROD for the GMMIA. The Parties anticipate that the Consent Decree will not require reclamation of the Historic Mining Landscape Area. All reclamation and other Response Actions required for the GMMIA pursuant to the GMMIA Reclamation Plan or the ROD, including the historic mitigation activities identified in the GMMIA Reclamation Plan, shall be performed by AR in accordance with the ROD and in accordance with schedules approved by EPA. AR shall provide BSB with advance notice of the final EPA inspection of the GMMIA and BSB shall have the right to have its personnel attend the final EPA inspection. AR shall correct any deficiencies noted in EPA's inspection and submit a construction completion report for the GMMIA to EPA, with a copy to BSB. BSB's duties and obligations under Section 3.7 hereof shall commence upon EPA's concurrence that AR has corrected all deficiencies noted in the final EPA inspection. In the event and to the extent that Response Actions are required by EPA for the GMMIA following EPA's assessment of the construction completion report, such Response Actions (excluding Response Actions required to correct deficient Operation and Maintenance Activities performed by BSB) shall be performed by AR in accordance with the ROD and in accordance with schedules approved by EPA.

Section 3.2. Reclamation of the Syndicate Pit. The Parties anticipate that the Consent Decree will require reclamation of the Syndicate Pit consistent with the Syndicate Pit Reclamation Plan. AR shall perform all reclamation and other Response Actions which may be required pursuant to the Syndicate Pit Reclamation Plan or the ROD for the Syndicate Pit. All reclamation and other Response Actions required for the Syndicate Pit pursuant to the Syndicate Pit Reclamation Plan or the ROD shall be performed by AR in accordance with the ROD and in accordance with schedules approved by EPA. AR shall provide BSB with advance notice of the final EPA inspection of the Syndicate Pit and BSB shall have the right to have its personnel attend the final inspection. AR shall correct any deficiencies noted in EPA's inspection and submit a construction completion report for the Syndicate Pit to EPA, with a copy to BSB. BSB's duties and obligations under Section 3.7 hereof shall commence upon EPA's concurrence that AR has corrected all deficiencies noted in the final EPA inspection. In the event and to the extent that Response Actions are required by EPA for the Syndicate Pit following EPA's assessment of the construction completion report, such Response Actions (excluding Response Actions required to correct deficient Operation and Maintenance Activities performed by BSB) shall be performed by AR in accordance with the ROD and in accordance with schedules approved by EPA.

Section 3.3. Reclamation of LAO and Implementation of the LAO Surface Enhancement and Land Use Plan by BSB. The Parties anticipate that the Consent Decree will require reclamation of LAO consistent with the LAO Work Plan Addendum. AR shall perform all Response Actions which may be required pursuant to the LAO Work Plan Addendum or the ROD for LAO in accordance with the ROD and in accordance with schedules approved by EPA. The Parties further agree that BSB shall implement tasks assigned to BSB that are shown on the LAO Surface Enhancement and Land Use Plan within ten (10) years of the Effective Date. In the event any tasks assigned to BSB as shown on the LAO Surface Enhancement and Land Use Plan are required under the ROD, BSB shall perform such tasks in accordance with the LAO Surface Enhancement and Land Use Plan and the ROD and in

accordance with schedules approved by EPA. AR shall provide BSB with advance notice of the final EPA inspection of LAO and BSB shall have the right to have its personnel attend the final inspection. AR shall correct any deficiencies noted in EPA's inspection and submit a construction completion report for LAO to EPA, with a copy to BSB. BSB's duties and obligations under Section 3.7 hereof shall commence upon EPA's concurrence that AR has corrected all deficiencies noted in the final EPA inspection. In the event and to the extent that Response Actions are required by EPA for LAO following EPA's assessment of the construction completion report, such Response Actions (excluding Response Actions required to correct deficient Operation and Maintenance Activities or deficient LAO Surface Enhancement and Land Use Plan activities performed by BSB) shall be performed by AR in accordance with the ROD and in accordance with schedules approved by EPA.

Section 3.4. Reclamation of Other Mine Waste Source Areas by AR. The Parties anticipate that the Consent Decree will require reclamation of the Mine Waste Source Areas known as the Anaconda Sampling Works, the Clark Tailings Waste Areas, the Gold Smith Dumps, the Jenny Dell, the Unnamed Dump Site, the Group 1 Additional Source Control Sites, and the New and Mahoney and 800 North Main Storm Water Sites consistent with the standards and specifications for land reclamation in the BPSOU. The Parties do not anticipate that the Consent Decree will require additional Response Actions at the Mine Waste Source Area known as the Colorado Smelter. AR shall perform all reclamation and other Response Actions which may be required pursuant to the ROD for the Mine Waste Source Areas known as the Anaconda Sampling Works, the Clark Tailings Waste Areas, the Gold Smith Dumps, the Jenny Dell, the Unnamed Dump Site, the Colorado Smelter, the Group 1 Additional Source Control Sites, and the New and Mahoney and 800 North Main Storm Water Sites. All reclamation and other Response Actions required for the Mine Waste Source Areas reclaimed pursuant to this Section 3.4 shall be performed by AR in accordance with the ROD and in accordance with schedules approved by EPA. AR shall provide BSB with advance notice of the final EPA inspection of each of the Mine Waste Source Areas reclaimed pursuant to this Section 3.4 and BSB shall have the right to have its personnel attend the final inspection. AR shall correct any deficiencies noted in EPA's inspection and submit a construction completion report to EPA for that Mine Waste Source Area, with a copy to BSB. BSB's duties and obligations under Section 3.7 hereof for each Mine Waste Source Area reclaimed pursuant to this Section 3.4 shall commence upon EPA's concurrence that AR has corrected all deficiencies noted in the final EPA inspection. In the event and to the extent that Response Actions are required by EPA for a Mine Waste Source Area reclaimed under this Section 3.4 following EPA's assessment of the construction completion report for that Mine Waste Source Area, such Response Actions (excluding Response Actions required to correct deficient Operation and Maintenance Activities performed by BSB) shall be performed by AR in accordance with the ROD and in accordance with schedules approved by EPA.

Section 3.5. Reclamation of the MSD. AR opposes excavation and removal of any Mine Waste located within the MSD Corridor. BSB's position regarding excavation and removal of Mine Waste located within the MSD Corridor is set forth at page 26 of the BSB Position Paper. If excavation and removal of Mine Waste located within the MSD Corridor is not required, the Parties anticipate that the Consent Decree will require Response Actions that are consistent with the reclamation completed prior to the Effective Date pursuant to the MSD Work Plan. If excavation and removal of any Mine Waste located within the MSD Corridor is required by EPA pursuant to the ROD, the MSD Removal Costs incurred by AR shall be offset on a dollar for dollar basis against the total amount of the principal and interest that would otherwise be payable to BSB pursuant to and in accordance with the terms and conditions of Section 15.2.4 hereof. Additionally, AR shall have the right to terminate this Agreement pursuant to

Section 20.11 hereof. Any other Response Actions within the MSD Corridor that are addressed pursuant to the LAO Surface Enhancement and Land Use Plan shall be the responsibility of BSB pursuant to Section 3.3 hereof.

Section 3.6. Reclamation of Mine Waste Source Areas by BSB. Except as expressly provided in Sections 3.1, 3.2, 3.3, and 3.4 hereof, BSB shall perform all reclamation and other Response Actions which may be required pursuant to the ROD for the Mine Waste Source Areas including, without limitation, all Mine Waste Source Areas first reclaimed prior to the Effective Date and all Storm Water Sites. All reclamation and other Response Actions required pursuant to this Section 3.6 shall be performed by BSB in accordance with the ROD and in accordance with schedules approved by EPA. BSB shall provide AR with advance notice of the final inspection of each of the Mine Waste Source Areas reclaimed pursuant to this Section 3.6 and AR shall have the right to have its personnel attend the final inspection. BSB shall correct any deficiencies noted in EPA's inspection and submit a construction completion report to EPA for that Mine Waste Source Area, with a copy to AR. BSB's duties and obligations under Section 3.7 hereof for each Mine Waste Source Area reclaimed pursuant to this Section 3.6 shall commence upon EPA's concurrence that BSB has corrected all deficiencies noted in the final EPA inspection. In the event and to the extent that Response Actions are required by EPA for a Mine Waste Source Area reclaimed under this Section 3.6 following EPA's assessment of the construction completion report for that Mine Waste Source Area, such Response Actions shall be performed by BSB in accordance with the ROD and in accordance with schedules approved by EPA.

Section 3.7. Operation and Maintenance Activities for Mine Waste Source Areas. The Parties anticipate that the Consent Decree will require the performance of Operation and Maintenance Activities for all reclaimed Mine Waste Source Areas including, without limitation, all Mine Waste Source Areas first reclaimed prior to the Effective Date and all Mine Waste Source Areas reclaimed pursuant to Sections 3.1, 3.2, 3.3, 3.4 and 3.6 hereof. BSB shall perform all Operation and Maintenance Activities which may be required pursuant to the ROD for the Mine Waste Source Areas, including, without limitation, all Mine Waste Source Areas reclaimed prior to the Effective Date and all Mine Waste Source Areas reclaimed pursuant to Sections 3.1, 3.2, 3.3, 3.4 and 3.6 hereof. BSB shall also perform all Operation and Maintenance Activities that arise from BSB's implementation of the LAO Surface Enhancement and Land Use Plan. BSB's duties and obligations under this Section 3.7 for each Mine Waste Source Area reclaimed by AR pursuant to Sections 3.1, 3.2, 3.3 and 3.4 hereof shall commence upon EPA's concurrence that AR has corrected all deficiencies noted in the final EPA inspection for that Mine Waste Source Area. BSB's duties and obligations under this Section 3.7 for each Mine Waste Source Area reclaimed pursuant to Sections 3.6 hereof shall commence upon BSB's completion of any reclamation or other Response Action for which Operation and Maintenance Activities are required pursuant to the ROD. BSB's duties and obligations under this Section 3.7 for all other Mine Waste Source Areas reclaimed prior to the Effective Date shall commence at such time(s) as any requirements to perform Operation and Maintenance Activities with respect to such Mine Waste Source Areas becomes effective pursuant to the ROD or BSB is otherwise obligated to perform such requirements pursuant to Section 10.3 hereof. All Operation and Maintenance Activities required pursuant to this Section 3.7 shall be performed by BSB in accordance with the ROD and in accordance with schedules approved by EPA, except to the extent that the obligations relate to property owned by parties other than BSB or AR and BSB is denied access to such properties after making reasonably diligent efforts to procure access pursuant to the Consent Decree or other administrative orders. BSB's duties and obligations under this Section 3.7 shall not include the general surface water and groundwater monitoring excluded under Section 1.1.100 hereof.

Section 3.8. Consideration for Implementation of the LAO Surface Enhancement and Land Use Plan. AR shall provide funding to BSB for BSB's payment of charges, expenses, fees and other costs reasonably incurred by BSB in implementing the LAO Surface Enhancement and Land Use Plan pursuant to Section 3.3 hereof, for designing and constructing any necessary improvements to the BSB Sewage Treatment Effluent Line Extension, for the negotiation of a Consent Decree pursuant to Section 21.2 hereof, and for operator training, HAZWOPER training, consulting services, short-term irrigation of vegetation and purchase of service vehicles at LAO over multiple years in the total principal amount of Eight Hundred Fifty One Thousand Seven Hundred ninety-four and No/100ths Dollars (\$851,794.00) within sixty (60) days of the Effective Date. Said funds have been paid to BSB, receipt of which is hereby acknowledged. The LAO Surface Enhancement and Land Use Plan currently contemplates that a pedestrian trail to be known as the Sam Worchester Memorial Trail will be constructed on the north side of Silver Bow Creek with AR having the responsibility for construction of the trail base and BSB, through the funding provided by AR to BSB pursuant to this Section 3.8. or other sources of funding, having all other responsibility for the construction of the trail including, without limitation, responsibility for asphalt paving of the trail base and construction of pedestrian bridges. The Parties acknowledge that modification of the LAO Surface Enhancement and Land Use Plan may be appropriate, including a mutual decision of the Parties to relocate the pedestrian trail to a new course on the south side of Silver Bow Creek or adjustment of the trail course on the north side of Silver Bow Creek to ensure security of the Groundwater Treatment System. In the event and to the extent that the Parties are able to reach mutual agreement with respect to modification of the LAO Surface Enhancement and Land Use Plan which relocates the pedestrian trail to a new course on the south side of Silver Bow Creek, and the new course crosses any parcel or any portion of any parcel of real property owned by AERL, AR shall: (i) cause AERL to provide BSB an appropriate easement or other mutually agreed upon real property interest which serves to allow the pedestrian trail to cross any parcel or any portion of any parcel of real property owned by AERL on the south side of Silver Bow Creek; and (ii) cause the base of the relocated pedestrian trail to be constructed, provided that BSB provides AR with appropriate access for such construction activities on any portions of the new course which are located on any parcels or any portion of any parcel of real property owned by any other Person or Governmental Entity. Nothing in this Agreement or the LAO Surface Enhancement and Land Use Plan, in its current form or as it may be amended by the Parties pursuant to this Section 3.8, shall require AR to: (i) acquire or provide BSB with any real property interest for the relocated pedestrian trail other than the appropriate easement or other real property interest expressly contemplated hereunder; (ii) provide or construct any pedestrian bridges or other improvements or amenities which may be desired or required for the relocated pedestrian trail other than construction of the trail base as expressly provided herein; or (3) provide any funding to BSB for the relocated pedestrian trail other than the funding already provided by AR to BSB pursuant to this Section 3.8.

ARTICLE IV.

GROUNDWATER

Section 4.1. Groundwater Treatment Technology Options and Positions. AR believes that collection, conveyance and treatment of alluvial groundwater from the MSD, West Camp and LAO areas through the Groundwater Treatment System will satisfy the requirements for groundwater treatment under the ROD. BSB has adopted the BSB Groundwater Criteria to assess any groundwater treatment technology for alluvial groundwater from the MSD and LAO

areas. BSB acknowledges that the Groundwater Treatment System may satisfy the BSB Groundwater Criteria. If additional data collected by AR demonstrates that the Groundwater Treatment System meets the BSB Groundwater Criteria and the performance criteria in the ROD, the Groundwater Treatment System shall be acceptable to BSB as a permanent groundwater treatment technology for the BPSOU. Criteria 1 and 4 of the BSB Groundwater Criteria relating to water quality standards and operations and maintenance shall be deemed satisfied upon BSB's concurrence that criteria 1 and 4 of the BSB Groundwater Criteria and the applicable performance criteria required under the ROD have been Substantially Complied with Showing Reliable System Performance. AR's contribution towards satisfaction of Criteria 2 and 3 of the BSB Groundwater Criteria relating to aesthetics and land reuse was deemed satisfied by AR's payment of funds to BSB for BSB's implementation of the LAO Surface Enhancement and Land Use Plan as contemplated under Section 3.8 hereof. Criteria 5 of the BSB Groundwater Criteria relating to funding shall be further addressed by the Parties during the meeting and conference required pursuant to Section 4.3 hereof

Section 4.2. Design and Construction of Groundwater Treatment System

Upgrades. All of the upgrades required for the Groundwater Treatment System pursuant to the Groundwater Treatment System Upgrades Plan shall be designed and constructed by AR in accordance with the ROD and in accordance with schedules approved by EPA. In the event that EPA requires any additional Response Actions for the Groundwater Treatment System pursuant to the ROD, AR shall also design and construct any such additional Response Actions in accordance with the ROD and in accordance with schedules approved by EPA. AR shall provide BSB with advance notice of the final EPA inspection of the upgrades to the Groundwater Treatment System required pursuant to the Groundwater Treatment System Upgrades Plan and BSB shall have the right to have its personnel attend the final EPA inspection. AR shall correct any deficiencies noted in EPA's inspection and submit a construction completion report for the upgrades to the Groundwater Treatment System to EPA, with a copy to BSB. In the event and to the extent that Response Actions are required by EPA for the Groundwater Treatment System following EPA's assessment of the construction completion report, such Response Actions shall be performed by AR in accordance with the ROD and in accordance with schedules approved by EPA.

Section 4.3. Operation and Maintenance Activities for Groundwater Treatment

System. Prior to AR's submission of a construction completion report to EPA for the upgrades to the Groundwater Treatment System pursuant to Section 4.2 hereof, the Parties shall meet and confer. During such meeting and conference, the Parties shall attempt to reach agreement with respect to the terms and conditions under which AR and BSB would jointly perform some or all of the Operation and Maintenance activities for the Groundwater Treatment System. In the event and to the extent that the Parties are able to reach agreement, then, commencing thirty (30) days after a construction completion report for the upgrades to the Groundwater Treatment System is submitted to EPA pursuant to Section 4.2 hereof and continuing until completion of the shakedown required pursuant to the ROD or five (5) years after submission of the construction completion report, whichever occurs first, AR and BSB shall jointly perform all agreed upon Operation and Maintenance Activities for the Groundwater Treatment System. All joint Operation and Maintenance Activities required pursuant to this Section 4.3 shall be performed by AR and BSB in accordance with the ROD and the Groundwater Treatment Operation and Maintenance Plan and in accordance with schedules approved by EPA. During the shakedown required pursuant to the ROD, BSB shall not be required to make any necessary Groundwater Treatment System Capital Repair and Replacement. Prior to the

completion of the shakedown required pursuant to the ROD, but in no event more than five (5) years after submission of the construction completion report, the Parties shall again meet and confer. During such meeting and conference, the Parties shall attempt to reach agreement with respect to the terms and conditions under which BSB would assume responsibility for the performance of some or all of the Operation and Maintenance Activities for the Groundwater Treatment System, as described in the Groundwater Treatment System Operation and Maintenance Plan. In the event that the Parties are able to reach agreement, BSB shall assume the Operation and Maintenance Activities required pursuant to the ROD for the Groundwater Treatment System on the terms and conditions so agreed upon at that time. In the event that the Parties are unable to reach agreement, BSB's duties and obligations under this Section 4.3 shall cease sixty (60) days following receipt of written notice from either Party. Upon receipt of said notice, all of the remaining funds in the Superfund Programs Trust Account originally deposited therein for BSB's performance of the Operation and Maintenance Activities required for the Groundwater Treatment System and all funds in the Groundwater Treatment System Capital Repair and Replacement Account, including all accrued interest and income earned on such funds, shall be returned to AR. In consideration of the mutual covenants and promises contained in this Section 4.3, BSB agrees not to oppose the location and construction of drying beds at LAO or their use in the sludge management function of the Operation and Maintenance Activities for the Groundwater Treatment System.

Section 4.4. West Camp Obligations. Nothing in this Agreement requires BSB to take any actions for West Camp, other than those actions that are mutually agreed upon by AR and BSB pursuant Section 4.3 to carry out joint Operations and Maintenance Activities for the Groundwater Treatment System. Failure to perform, or negligent performance of, such West Camp Operation and Maintenance Activities shall be subject to the remedies, rights and reservations provided under this Allocation Agreement. Performance of such West Camp Operation and Maintenance Activities shall not impose liability upon BSB for any Environmental Condition in the Butte Mine Flooding Operable Unit of the Site. BSB and AR shall cooperate and use their best efforts to obtain the approval of each Governmental Entity required to allow emergency treatment of groundwater from the Travona pump station at the BSB Municipal Treatment Plant when groundwater withdrawals and treatment of same in the Groundwater Treatment System cannot be accomplished by operation of the West Camp System. In performing West Camp Operation and Maintenance Activities as part of the Operation and Maintenance Activities for the Groundwater Treatment System, BSB shall not be obligated to accept groundwater from the Travona pump station if acceptance of groundwater from the Travona pump station for treatment at the BSB Municipal Treatment Plant would cause a compliance violation of any applicable permit condition for discharges from the BSB Municipal Treatment Plant to Silver Bow Creek.

Section 4.5. Enforcement of Hook-up Ordinance within Controlled Groundwater Areas. The Parties anticipate that the Hook-up Ordinance as it applies to Controlled Groundwater Areas including, without limitation, any buffer zone identified in the Controlled Groundwater Area Orders, shall be part of an institutional control plan prepared pursuant to the ROD. BSB shall perform any duties under the ROD or any EPA decision document for the Site pertaining to compliance with and enforcement of the provisions of the Hook-up Ordinance within the Controlled Groundwater Areas including, without limitation, any buffer zone identified in the Controlled Groundwater Area Orders. BSB may propose amendments, as may be necessary from time to time, to the Hook-up Ordinance that are consistent with this Agreement and the ROD. BSB shall promptly provide AR, EPA and the State with a copy of all proposed amendments to the Hook-up Ordinance pertaining to the Controlled Groundwater Areas and shall provide AR, EPA and the State an opportunity to review and comment on all proposed

amendments to the Hook-up Ordinance. BSB shall also promptly provide AR, EPA and the State with a copy of all adopted amendments to the Hook-up Ordinance.

Section 4.6. Establishment of Controlled Groundwater Areas. BSB shall take such actions as may be required pursuant to the ROD or any EPA decision document for the Site and as may be otherwise reasonably requested for the WSSOU by AR to establish Controlled Groundwater Areas within Silver Bow County. All actions required pursuant to this Section 4.6 shall be performed by BSB in accordance with the Controlled Groundwater Areas Submittal Schedule.

Section 4.7. Controlled Groundwater Area Orders. BSB shall comply with the provisions of all Controlled Groundwater Area Orders. BSB may petition for or otherwise seek amendments, as may be necessary from time to time, to any Controlled Groundwater Area Orders which are consistent with this Agreement, the ROD and any other EPA decision document for the NPL Sites. BSB shall promptly provide AR, EPA and the State with a copy of all proposed amendments to any Controlled Groundwater Area Orders and shall provide AR, EPA and the State an opportunity to review and comment on all proposed amendments to any Controlled Groundwater Area Orders. BSB shall also promptly provide AR, EPA and the State with a copy of all adopted amendments to any Controlled Groundwater Area Orders.

ARTICLE V.

STORM WATER AND SURFACE WATER

Section 5.1. Reclamation of Silver Bow Creek. The Parties anticipate that the Consent Decree may require reclamation of the bed and banks of Silver Bow Creek between Silver Bow Creek's confluence with the MSD and the previously reclaimed bed and banks of Silver Bow Creek at LAO. AR shall perform all reclamation and other Response Actions which may be required pursuant to the ROD for the bed and banks of Silver Bow Creek between Silver Bow Creek's confluence with the MSD and LAO. All reclamation and other Response Actions required pursuant to this Section 5.1 shall be performed by AR in accordance with the ROD and in accordance with schedules approved by EPA.

Section 5.2. Operation and Maintenance Activities for Superfund Storm Water Structures. The Parties anticipate that the Consent Decree will not require any conventional treatment of storm water within the BPSOU. The Parties further anticipate that EPA will select a final remedy in the ROD that will require the use of Best Management Practices to manage storm water and other affected media within the BPSOU. BSB shall perform all Operation and Maintenance Activities which may be required pursuant to the ROD for the Superfund Storm Water Structures including, without limitation, the use, implementation, periodic performance testing and other monitoring of any Best Management Practices which may be required pursuant to the ROD for the Superfund Storm Water Structures. All Operation and Maintenance Activities required pursuant to this Section 5.2 shall be performed by BSB in accordance with the ROD and in accordance with schedules approved by EPA.

Section 5.3. Improvements to the Storm Water System. No later than twelve (12) months following the Effective Date, BSB shall prepare a draft Storm Water System Improvement Plan that is consistent with the schedule, priorities and objectives for the Storm Water Improvement Plan as set forth in Exhibit "21". BSB shall provide the draft Storm Water System Improvement Plan to AR for its review and AR may provide comments, if any, for BSB's

consideration. No later than eighteen (18) months following the Effective Date, BSB shall provide a final Plan to AR for AR's review and concurrence, which concurrence shall not be unreasonably withheld. Prior to calendar year 2028, BSB shall design and construct improvements to the Storm Water System pursuant to the Storm Water System Improvement Plan to the extent funds are available to BSB from the Capital Purchase, Repair and Replacement Trust Account. All improvements to the Storm Water System shall be designed and constructed by BSB in accordance with the Storm Water System Improvement Plan and Applicable Laws. BSB with the concurrence of AR, which concurrence shall not be unreasonably withheld, may amend the Storm Water System Improvement Plan from time to time consistent with the schedule, priorities and objectives for the Storm Water Improvement Plan as set forth in Exhibit "21". Nothing in this Agreement shall be construed to require BSB to complete all of the improvements identified in the Storm Water System Improvement Plan if there are insufficient funds in the Capital Purchase, Repair and Replacement Account to do so.

Section 5.4. Enforcement of Storm Water Management Ordinance. The Parties anticipate that the Storm Water Management Ordinance shall be part of an institutional control plan prepared pursuant to the ROD. Within sixty (60) days of the effective date of the Consent Decree, BSB shall propose and support the adoption of the Storm Water Management Ordinance. BSB shall perform any duties under the ROD or any EPA decision document for the Site pertaining to compliance with and enforcement of the provisions of the Storm Water Management Ordinance. BSB may propose amendments, as may be necessary from time to time, to the Storm Water Management Ordinance which are consistent with this Agreement and the ROD. BSB shall promptly provide AR, EPA and the State with a copy of all proposed amendments to the Storm Water Management Ordinance and shall provide AR, EPA and the State an opportunity to review and comment on all proposed amendments to the Storm Water Management Ordinance. BSB shall also promptly provide AR, EPA and the State with a copy of all adopted amendments to the Storm Water Management Ordinance.

ARTICLE VI.

MULTI-PATHWAY PROGRAM

Section 6.1. Implementation of Multi-Pathway Program Plan. BSB shall perform all actions which may be required to implement the Multi-Pathway Program Plan. BSB's duties and obligations under this Section 6.1 shall commence at such time(s) as any requirements to implement the Multi-Pathway Program Plan become effective pursuant to the ROD or BSB is otherwise obligated to perform such requirements pursuant to Section 11.3 hereof. All actions required of BSB pursuant to this Section 6.1 shall be performed by BSB in accordance with the ROD and the Multi-Pathway Program Plan and in accordance with schedules approved by EPA.

Section 6.2. [Deleted pursuant to Addendum No.3]

ARTICLE VII.

MINE WASTE REPOSITORY

Section 7.1. Reclamation of Mine Waste Repository. The Parties anticipate that the Consent Decree will require post-closure reclamation of the Mine Waste Repository. BSB shall perform all post-closure reclamation and other Response Actions which may be required

pursuant to the ROD for the Mine Waste Repository. All reclamation and other Response Actions required pursuant to this Section 7.1 shall be performed by BSB in accordance with the ROD and other Applicable Laws and in accordance with an appropriate schedule approved by EPA.

Section 7.2. Reclamation of Expanded Mine Waste Repository. On or before October 31, 2012, AR shall cause AERL to convey all of AERL's rights, title and interests to BSB in and to the parcels of real property described in Exhibit 3.1 hereto as the "Proposed West Mine Waste Expansion Boundary" and the "Proposed East Mine Waste Expansion Boundary". In order to effectuate the conveyance contemplated pursuant to this Section 7.2, AERL and BSB shall each execute the Dedicated Use Properties Quitclaim Deed attached as Exhibit "45" hereto and an appropriate realty transfer certificate. BSB's use and development of the Dedicated Use Properties conveyed by AERL to BSB pursuant to this Section 7.2 shall comply with the applicable Covenants and Obligations set forth and/or referenced in the Dedicated Use Properties Quitclaim Deed attached as Exhibit "45" hereto. In the event and to the extent that the Mine Waste Repository (as defined for this Agreement) is expanded beyond the approximately thirty one (31) acres depicted on Exhibit "3.1" hereto, the Parties shall meet and confer. During such meeting and conference, the Parties shall attempt to reach agreement with respect to an amount of additional funding to be provided by AR to the Superfund Programs Trust Account for BSB's performance of post-closure reclamation and Operation and Maintenance Activities of any expansion of the Mine Waste Repository beyond the boundaries depicted on Exhibit "3.1". If the Parties reach agreement with respect to an amount of additional funding, BSB shall also perform all post-closure reclamation and Operation and Maintenance Activities which may be required pursuant to the ROD for the expansions of the Mine Waste Repository. All reclamation and Operation and Maintenance Activities required pursuant to this Section 7.2 shall be performed by BSB in accordance with the ROD and other Applicable Laws and in accordance with an appropriate schedule approved by EPA. If the Parties are unable to reach agreement with respect to an amount of additional funding, BSB shall not be required to perform any reclamation or Operation and Maintenance Activities with respect to any expansion of the Mine Waste Repository beyond the boundaries depicted on Exhibit "3.1". BSB shall not expand the boundaries of the Mine Waste Repository beyond the boundaries depicted on Exhibit "3.1" without the concurrence of AR, which concurrence shall not be unreasonably withheld.

Section 7.3. Operation and Maintenance Activities for Mine Waste Repository. The Parties anticipate that the Consent Decree will require the performance of pre- and post-closure Operation and Maintenance Activities for the Mine Waste Repository. BSB shall perform all pre- and post- closure Operation and Maintenance Activities which may be required pursuant to the ROD for the Mine Waste Repository. All Operation and Maintenance Activities required pursuant to this Section 7.3 shall be performed by BSB in accordance with the ROD and in accordance with schedules approved by EPA.

Section 7.4. Authorized Disposal of Mine Waste. Except as otherwise provided in Section 7.5 hereof, BSB shall accept for disposal all Mine Waste from within the BPSOU or the WSSOU delivered to BSB by AR or its designee, EPA or the State at the Mine Waste Repository and BSB shall not charge AR or its designee, EPA or the State for any such deliveries. BSB's performance of its duties under this Article VII shall not impose on BSB any liability related to the WSSOU.

Section 7.5. Unauthorized Disposal of Mine Waste. BSB shall not accept any Mine Waste or other materials or debris for disposal at the Mine Waste Repository if the Mine Waste

or other materials or debris was generated at locations outside the geographic boundaries of the Site or if the Mine Waste was generated after December 31, 1983 within the Site by a Person or Governmental Entity engaged in the exploration for or mining of minerals or if the Mine Waste was generated from a research, demonstration, treatability or education program which is not approved by AR, EPA and the State.

ARTICLE VIII.

GIS

Section 8.1. Operation and Maintenance of GIS. The Parties anticipate that the Consent Decree will require institutional controls for property management within the BPSOU. The Parties agree that such requirements shall be implemented through BSB's operation and maintenance of the GIS with enhancements to also include all documents which are filed in BSB's real property records that relate to the performance of Response Actions and Operation and Maintenance Activities within Butte-Silver Bow County. BSB shall operate and maintain the GIS and shall regularly update the following data and information in the GIS:

1. All data and other information obtained in connection with Response Actions and/or Operation and Maintenance Activities performed within the Site by AR or BSB or any other Person or Governmental Entity;
2. All data and other information obtained in connection with the implementation of the Multi-Pathway Program by AR or BSB;
3. All data and information relating to applicable requirements under the Growth Policy and/or Zoning Ordinance;
4. All data and information relating to Controlled Groundwater Areas;
5. All data and information relating to applicable real property use restrictions, covenants and obligations; and
6. All other data and information that BSB is required to maintain pursuant to the ROD.

Section 8.2. Provision of GIS Services and Maps. BSB shall provide available GIS services and maps to AR, EPA, and the State and their employees, agents, representatives and contractors upon request at no additional charge or expense; provided however, BSB may charge for GIS services and maps requested for any litigation purpose by any person or Governmental Entity that is not a Party, including their employees, attorneys, agents, representatives and contractors. BSB shall also provide readily available GIS information, including maps, to the City and County of Anaconda-Deer Lodge upon request at no additional charge or expense.

Section 8.3. Reclamation Database and Data. BSB hereby acknowledges that AR provided BSB with an up-to-date and functioning reclamation database prior to the Effective Date. Following the Effective Date, on an annual basis, AR shall provide BSB with information obtained by AR in connection with AR's performance of Response Actions and Operation and

Maintenance Activities pursuant to this Agreement and BSB shall update the database to include such information in addition to the updates described in Section 8.1 hereof.

ARTICLE IX.

DEVELOPABLE AND DEDICATED USE PROPERTIES

Section 9.1. Conveyance and Use of Developable Properties. AR shall cause AERL to convey all of AERL's rights, title and interest in and to the Developable Properties to BSB in accordance with the following terms and conditions:

1. **General.** Within sixty (60) days of the effective date of the Consent Decree, AR shall cause AERL to convey all of AERL's rights, title and interests in and to the Developable Properties described in Exhibit "5.1.1" through "5.1.6" hereto to BSB. In order to effectuate the conveyance contemplated pursuant to this Section 9.1.1, AERL and BSB shall each execute the Developable Properties Quitclaim Deeds attached as Exhibits "9.1.1" through "9.1.6" hereto and appropriate realty transfer certificates. BSB's use and development of the Developable Properties conveyed by AERL to BSB pursuant to this Section 9.1.1 shall comply with the applicable Covenants and Obligations set forth and/or referenced in the Developable Properties Quitclaim Deeds attached as Exhibits "9.1.1" through "9.1.6" hereto.

2. **Gold Smith Dumps.** Within sixty (60) days of the later of the date on which a construction completion reports is submitted to EPA pursuant to Sections 3.1 or 3.4 hereof or the effective date of the Consent Decree, AR shall cause AERL to convey all of AERL's rights, title and interests to BSB in and to the Developable Properties described in Exhibit "5.2.1" hereto to which the initial construction completion report relates. In order to effectuate the conveyance contemplated pursuant to this Section 9.1.2, AERL and BSB shall each execute the Developable Properties Quitclaim Deed attached as Exhibit "9.2.1" hereto and an appropriate realty transfer certificate. BSB's use and development of the Developable Properties conveyed by AERL to BSB pursuant to this Section 9.1.2 shall comply with the applicable Covenants and Obligations set forth and/or referenced in the Developable Properties Quitclaim Deed attached as Exhibit "9.2.1" hereto.

3. **LAO.** In the event the Parties reach agreement pursuant to Section 4.3 hereof and BSB assumes and performs all Operation and Maintenance Activities required for the Groundwater Treatment System pursuant to the Groundwater Treatment System Operation and Maintenance Plan, AR shall cause AERL to convey all of AERL's rights, title and interests in and to the Developable Properties described in Exhibit "5.3.1" hereto to BSB on or before the date on which the duties and obligations are assumed. In order to effectuate the conveyance contemplated pursuant to this Section 9.1.3, AERL and BSB shall each execute the Developable Properties Quitclaim Deeds attached as Exhibit "9.3.1" hereto and appropriate realty transfer certificates. BSB's use and development of the Developable Properties conveyed by AERL to BSB pursuant to this Section 9.1.3 shall comply with the applicable Covenants and Obligations set forth and/or referenced in the Developable Properties Quitclaim Deeds attached as Exhibit "9.3.1" hereto.

Section 9.2. Conveyance and Use of Dedicated Use Properties. AR shall cause AERL to convey all of AERL's rights, title and interest in and to the Dedicated Properties to BSB in accordance with the following terms and conditions:

1. General. Within sixty (60) days of the effective date of the Consent Decree, AR shall cause AERL to convey all of AERL's rights, title and interests in and to the Dedicated Use Properties described in Exhibits "4.1.1" through "4.1.15" hereto to BSB. In order to effectuate the conveyance contemplated pursuant to this Section 9.2.1, AERL and BSB shall each execute the Dedicated Use Properties Quitclaim Deeds attached as Exhibits "8.1.1" through "8.1.15" hereto and appropriate realty transfer certificates. BSB's use and development of the Dedicated Use Properties conveyed by AERL to BSB pursuant to this Section 9.2.1 shall comply with the applicable Covenants and Obligations set forth and/or referenced in the Dedicated Use Properties Quitclaim Deeds attached as Exhibits "8.1.1" through "8.1.15" hereto.

2. GMMIA. Within sixty (60) days of the later of the date on which a construction completion reports is submitted to EPA pursuant to Section 3.1 hereof or the effective date of the Consent Decree, AR shall cause AERL to convey all of AERL's rights, title and interests to BSB in and to the Dedicated Use Properties described in Exhibits "4.2.1" and "4.2.2" hereto to which the initial construction completion report relates. In order to effectuate the conveyance contemplated pursuant to this Section 9.2.2, AERL and BSB shall each execute the Dedicated Use Properties Quitclaim Deeds attached as Exhibits "8.2.1" and "8.2.2" hereto and appropriate realty transfer certificates. BSB's use and development of the Dedicated Use Properties conveyed by AERL to BSB pursuant to this Section 9.2.2 shall comply with the applicable Covenants and Obligations set forth and/or referenced in the Dedicated Use Properties Quitclaim Deeds attached as Exhibit "8.2.1" and "8.2.2" hereto.

3. LAO. In the event the Parties reach agreement pursuant to Section 4.3 hereof and BSB assumes and performs all Operation and Maintenance Activities required for the Groundwater Treatment System pursuant to the Groundwater Treatment System Operation and Maintenance Plan, AR shall cause AERL to convey all of AERL's rights, title and interests in and to the Dedicated Use Properties described in Exhibits "4.3.1" through "4.3.6" hereto to BSB on or before the date on which the duties and obligations are assumed. In order to effectuate the conveyance contemplated pursuant to this Section 9.2.3, AERL and BSB shall each execute the Dedicated Use Properties Quitclaim Deeds attached as Exhibits "8.3.1" through "8.3.6" hereto and appropriate realty transfer certificates. BSB's use and development of the Dedicated Use Properties conveyed by AERL to BSB pursuant to this Section 9.2.3 shall comply with the applicable Covenants and Obligations set forth and/or referenced in the Dedicated Use Properties Quitclaim Deeds attached as Exhibits "8.3.1" through "8.3.6" hereto.

4. Modification of Covenants. In the event BSB causes any survey to be prepared and recorded in the BSB real property records that serves to separate any of the portions of the parcels of the Dedicated Use Properties described in Exhibit "4.4.1" hereof from the remainder portion of any of those parcels of Dedicated Use Properties, AR and BSB shall execute and record in the BSB real property records an appropriate modification of covenants applicable to the portion of any parcel of the Dedicated Use Properties described in Exhibit "4.4.1" which is so surveyed and separated. The modification of covenants shall serve to substitute and replace the covenants applicable to properties characterized as Developable Properties pursuant to this Agreement for and in place of the covenants applicable to properties characterized as Dedicated Use Properties pursuant to this Agreement.

Section 9.3. Survey and Conveyance of BSB Kelley Mine Yard Properties. Within one (1) year of the Effective Date, AR shall cause AERL to prepare and record in the BSB real property records a survey of the AR Kelley Mine Yard Properties. Within sixty (60) days of the later of the date on which such survey is recorded or the effective date of the Consent Decree, AR shall cause AERL to convey all of AERL's rights, title and interests in and to the BSB Kelley

Mine Yard Properties to BSB. In order to effectuate the conveyance contemplated pursuant to this Section 9.3, AERL and BSB shall each execute the Dedicated Use Properties Quitclaim Deeds attached as Exhibits "8.4.1" and "8.4.2" hereto and the Developable Properties Quitclaim Deed attached as Exhibits "9.4.1" and "9.4.2" hereto and an appropriate realty transfer certificate. BSB's use and development of the BSB Kelley Mine Yard Properties conveyed by AERL to BSB pursuant to this Section 9.3 shall comply with the applicable Covenants and Obligations set forth and/or referenced in the Dedicated Use Properties Quitclaim Deeds attached as Exhibits "8.4.1" and "8.4.2" hereto and the Developable Properties Quitclaim Deed attached as Exhibit "9.4.1" and "9.4.2" hereto.

Section 9.4. Conveyance of Superfund Storm Water Structures. Within sixty (60) days of the effective date of the Consent Decree, AR Shall convey all of AR's rights, title and interests, and shall cause AERL to convey all of AERL's rights, title and interests, in and to the Superfund Storm Water Structures to BSB. In order to effectuate the conveyance contemplated pursuant to this Section 9.4, AR, AERL and BSB shall each execute the Superfund Storm Water Structures Quitclaim Deed attached as Exhibit 10 hereto.

Section 9.5. Additional Conveyances of Developable and Dedicated Use Properties to BSB. The Parties hereby acknowledge that they have attempted to identify and characterize, as Developable Properties or Dedicated Use Properties, all parcels of real property within the BPSOU, other than the AR Kelley Mine Yard Properties, with respect to which AR and/or AERL possess any rights, title or interests as of the Effective Date. The Parties further acknowledge that there may be parcels of real property within the BPSOU that were not identified or so characterized with respect to which AR and/or AERL possess rights, title or interests as of the Effective Date. If any such parcel or real property is identified by either Party following the Effective Date, the Party will notify the other Party and, within thirty (30) days of such notice, representatives of the Parties shall meet and, in good faith, determine whether the parcel of real property should be properly characterized as a Developable Property or a Dedicated Use Property. If any parcels of real property are characterized as Developable Properties pursuant to this Section 9.5, AR shall promptly convey and/or cause AERL to promptly convey, as the case may be, all of their rights, title and interests in and to such parcels of real property to BSB. In order to effectuate any conveyance of any parcels of real property characterized as Developable Properties pursuant to this Section 9.5, AR and/or AERL, as the case may be, and BSB shall each execute an appropriate Developable Properties Quitclaim Deed and an appropriate realty transfer certificate. If any parcels of real property are characterized as Dedicated Use Properties pursuant to this Section 9.5, AR shall promptly convey and/or cause AERL to promptly convey, as the case may be, all of their rights, title and interests in and to such parcels of real property to BSB. In order to effectuate any conveyance of any parcels of real property characterized as Dedicated Use Properties pursuant to this Section 9.5, AR and/or AERL, as the case may be, and BSB shall each execute an appropriate Dedicated Use Properties Quitclaim Deed and an appropriate realty transfer certificate.

Section 9.6. Conveyances of After Acquired Properties to BSB. The Parties hereby acknowledge that AR or AERL may acquire rights, title and interests in and to the parcels of real property within the BPSOU that are described in Exhibit "31" hereto following the Effective Date. If any such parcel or real property is acquired by AR or AERL following the Effective Date and AR desires to transfer any such parcel to BSB, AR will notify BSB and, within thirty (30) days of such notice, representatives of the Parties shall meet and, in good faith, determine whether the parcel of real property should be properly characterized as a Developable Property or a Dedicated Use Property. If any parcels of real property are characterized as Developable Properties pursuant to this Section 9.6, AR shall promptly convey

or cause AERL to promptly convey all rights, title and interests in and to such parcels of real property to BSB. In order to effectuate any conveyance of any parcels of real property characterized as Developable Properties pursuant to this Section 9.6, AR or AERL, as the case may be, and BSB shall each execute an appropriate Developable Properties Quitclaim Deed and an appropriate realty transfer certificate. If any parcels of real property are characterized as Dedicated Use Properties pursuant to this Section 9.6, AR shall promptly convey or cause AERL to promptly convey all rights, title and interests in and to such parcels of real property to BSB. In order to effectuate any conveyance of any parcels of real property characterized as Dedicated Use Properties pursuant to this Section 9.6, AR or AERL, as the case may be, and BSB shall each execute an appropriate Dedicated Use Properties Quitclaim Deed and an appropriate realty transfer certificate.

Section 9.7. Conveyance of Developable and Dedicated Use Properties to Third Parties. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Developable Properties or the Dedicated Use Properties to any Person or Governmental Entity, BSB shall comply with the following terms and conditions:

1. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Dedicated Use Properties described in Exhibits 4.1.1, 4.2.1, 4.3.1, or 4.5.1 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.1 hereto.

2. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Dedicated Use Properties described in Exhibits 4.1.2 or 4.2.2 hereto or any parcel or any portion of any parcel of real property described in Exhibit 30 hereto which is characterized as a Dedicated Use Property pursuant to Section 9.6 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.2 hereto.

3. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Dedicated Use Properties described in Exhibits 4.1.3 or 4.5.2 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.3 hereto.

4. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Dedicated Use Properties described in Exhibits 4.1.4 or 4.3.2 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.4 hereto.

5. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Dedicated Use Properties described in Exhibit 4.1.5 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.5 hereto.

6. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Dedicated Use Properties described in Exhibit 4.1.6 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.6 hereto.

7. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Dedicated Use Properties described in Exhibit 4.1.7 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.7 hereto.

8. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Dedicated Use Properties described in Exhibit 4.1.8 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.8 hereto.

9. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Dedicated Use Properties described in Exhibit 4.1.9 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.9 hereto.

10. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Dedicated Use Properties described in Exhibit 4.1.10 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.10 hereto.

11. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Dedicated Use Properties described in Exhibit 4.1.11 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.11 hereto.

12. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Dedicated Use Properties described in Exhibit 4.1.12 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.12 hereto.

13. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Dedicated Use Properties described in Exhibit 4.1.13 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.13 hereto.

14. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Dedicated Use Properties described in Exhibit 4.1.14 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.14 hereto.

15. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Dedicated Use Properties described in Exhibit 4.1.15 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.15 hereto.

16. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Dedicated Use Properties described in Exhibit 4.3.3 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.16 hereto.

17. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Dedicated Use Properties described in Exhibit 4.3.4 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.17 hereto.

18. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Dedicated Use Properties described in Exhibit 4.3.5 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.18 hereto.

19. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Dedicated Use Properties described in Exhibit 4.3.6 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.19 hereto.

20. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Developable Properties described in Exhibits 5.1.1 or 5.4.1 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.20 hereto.

21. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Developable Properties described in Exhibits 5.1.2 or 5.2.1 hereto or any parcel or any portion of any parcel of real property described in Exhibit 30 hereto which is characterized as a Developable Property pursuant to Section 9.6 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.21 hereto.

22. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Developable Properties described in Exhibits 5.1.3 or 5.4.2 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.22 hereto.

23. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Developable Properties described in Exhibits 5.1.4 or 5.3.1 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.23 hereto.

24. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Developable Properties described in Exhibit 5.1.5 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.24 hereto.

25. In order to effectuate any conveyance or other disposition of any right, title or interest of BSB in and to any parcel or any portion of any parcel of the Developable Properties described in Exhibit 5.1.6 hereto, BSB shall use the Third Party Quitclaim Deed attached as Exhibit 11.25 hereto.

BSB shall perform any duties under the ROD or any EPA decision document for the Site pertaining to compliance with and enforcement of the Covenants and Obligations referenced in the Third Party Quitclaim Deeds. BSB shall provide written notice to AR, EPA and the State within thirty (30) days following the execution of any Third Party Quitclaim Deed. The written

notice to AR, EPA and the State shall include the name and address of each grantee and the precise legal description of the real property or interest in real property being granted, sold, transferred, conveyed, exchanged or disposed of. BSB shall promptly record all Third Party Quitclaim Deeds in BSB's real property records and shall promptly provide AR, EPA and the State with a copy of the recorded Third Party Quitclaim Deed.

Section 9.8. Restrictions in Easements, Leases, Licenses and Other Agreements Relating to Subject Properties. BSB shall include all of the applicable Covenants and Obligations and the indemnity and release and covenant not to sue provisions set forth in the applicable Dedicated Use Properties Quitclaim Deed or Developable Properties Quitclaim Deed in any easement, lease or license of or any other agreement, instrument or document relating to any interest in any parcel of the Developable Properties and Dedicated Use Properties. BSB shall perform any duties under the ROD or any EPA decision document for the Site pertaining to compliance with and enforcement of the Covenants and Obligations with respect to the Developable Properties and Dedicated Use Properties.

Section 9.9. Effect of Conveyance or Lease of Developable or Dedicated Use Properties. As between the Parties, BSB's grant, sale, transfer, conveyance, exchange, lease or other disposition of any rights, title or interest in any parcel or any portion of any parcel of the Developable Properties or the Dedicated Use Properties by deed, lease, easement, license or any other agreement, instrument or document shall not in any way alter or diminish BSB's duties and obligations under this Agreement with respect to any such parcel or portion of any parcel of the Developable Properties or the Dedicated Use Properties.

Section 9.10. Access to Developable, Dedicated Use and Other Properties. BSB shall provide AR, EPA and their respective agents, employees, representatives and contractors, at no additional charge or expense, access at all reasonable times to the Developable Properties, the Dedicated Use Properties and any other property of any kind or nature which is owned or controlled by BSB for the purposes of conducting any activity related directly or indirectly to this Agreement including, without limitation, the following:

1. Conducting investigations relating to Environmental Conditions;
2. Assessing the need for, planning, implementing, performing or monitoring any Response Actions or Operation and Maintenance Activities;
3. Verifying any data or information submitted to AR and/or EPA;
4. Obtaining samples;
5. Verifying any access or institutional control requirements pursuant to the ROD;
6. Verifying BSB's compliance with the terms and conditions of this Agreement;
7. Remedying any default by BSB pursuant to Section 20.7 hereof; and
8. Performing any Emergency Response Action pursuant to Section 20.8 hereof.

In exercising its rights under this Section 9.10, AR shall provide BSB and the occupant of the property with reasonable prior notice of its intent to access the property and AR shall make reasonable efforts to minimize any inconvenience to BSB and the occupant of the property while

conducting any such activity. AR shall promptly provide BSB with copies of any sampling results or other physical investigations on properties accessed pursuant to this Section 9.10.

Section 9.11. Re-conveyance of Developable and Dedicated Use Properties.

Except as otherwise provided in this Section 9.11 with respect to Dedicated Use Properties or Developable Properties which are physically improved by BSB, in the event this Agreement is terminated pursuant to Sections 20.11 or 20.12 hereof, BSB shall convey to AR or its designee and AR or its designee shall accept, by appropriate quitclaim deed, all of the Dedicated Use Properties or Developable Properties which are then owned by BSB within sixty (60) days of the termination of this Agreement pursuant to Sections 20.11 or 20.12. In the event BSB has physically improved any of the Dedicated Use Properties or Developable Properties that BSB is otherwise required to convey to AR pursuant to this Section 9.11, BSB may retain such Dedicated Use Properties or Developable Properties, or BSB may convey such dedicated Use Properties or Developable Properties to AR or its designee and AR or its designee shall accept, by appropriate quitclaim deed, such Dedicated Use Properties or Developable Properties. BSB shall continue to perform any Response Actions or other Obligations that BSB was obligated to perform under this Agreement with respect to any Dedicated Use Properties or Developable Properties BSB retains under this Section 9.11.

Section 9.12. Adoption and Enforcement of Excavation and Dirt-Moving Protocols Ordinance. The Parties anticipate that the Excavation and Dirt-Moving Protocols Ordinance shall be part of an institutional control plan prepared pursuant to the ROD. On or before December 31, 2012, BSB shall propose and support the adoption of the Excavation and Dirt-Moving Protocols Ordinance. BSB shall perform any duties under the ROD or any EPA decision document for the Site pertaining to compliance with and enforcement of the provisions of the Excavation and Dirt-Moving Protocols Ordinance. BSB may propose amendments, as may be necessary from time to time, to the Excavation and Dirt-Moving Protocols Ordinance which are consistent with this Agreement and the ROD. BSB shall promptly provide AR, EPA and the State with a copy of all proposed amendments to the Excavation and Dirt-Moving Protocols Ordinance and shall provide AR, EPA and the State with an opportunity to review and comment on all proposed amendments to the Excavation and Dirt-Moving Protocols Ordinance. BSB shall also promptly provide AR, EPA and the State with a copy of all adopted amendments to the Excavation and Dirt-Moving Protocols Ordinance.

Section 9.13. Enforcement of Zoning Ordinance and Compliance with Growth Policy. The Parties anticipate that portions of the Growth Policy and Zoning Ordinance related to development associated with Mine Waste in the BPSOU and matters addressed by this Agreement shall be part of an institutional control plan prepared pursuant to of the ROD. BSB shall perform any duties under the ROD or any EPA decision document for the Site pertaining to compliance with compliance with the provisions of the Growth Policy and compliance with and enforcement of the provisions of the Zoning Ordinance related to development associated with Mine Waste in the BPSOU and matters addressed by this Agreement. BSB may propose modifications to the Growth Policy and amendments to the Zoning Ordinance, as may be necessary from time to time, which are consistent with this Agreement and the ROD. BSB shall promptly provide AR, EPA and the State with a copy of all proposed modifications to the provisions of the Growth Policy and all proposed amendments to the Zoning Ordinance associated with Mine Waste in the BPSOU and matters addressed by this Agreement and shall provide AR, EPA and the State with an opportunity to review and comment on all such proposed modifications to the Growth Policy and amendments to the Zoning Ordinance. BSB shall also promptly provide AR, EPA and the State with a copy of all adopted modifications to the Growth Policy and amendments to the Zoning Ordinance.

ARTICLE X.

SUPERFUND PROGRAMS TRUST ACCOUNT

Section 10.1. Establishment of Superfund Programs Trust Account and Execution of Superfund Programs Trust Agreement. Within thirty (30) days of the Effective Date, AR and BSB shall establish the Superfund Programs Trust Account with the Trustee and shall execute the Superfund Programs Trust Agreement.

Section 10.2. Funding of Superfund Programs Trust Accounts. Subject to the terms and conditions of this Section 10.2, as described in the Funding Spreadsheet, AR shall provide funding to the Superfund Programs Trust Account in the total principal amount of Ten Million Eight Hundred Ninety Thousand Three Hundred Seventy Three and No/100ths Dollars (\$10,890,373.00), as follows:

1. AR shall provide initial funding to the Superfund Programs Trust Account by depositing the amount of One Hundred Twenty Five Thousand and No/100ths Dollars (\$125,000.00) into the Superfund Programs Trust Account within sixty (60) days of the Effective Date.

2. AR shall provide additional minimum funding to the Superfund Programs Trust Account as follows:

(a) AR shall deposit the amount of Two Hundred Fifty Thousand and No/100ths Dollars (\$250,000.00) into the Superfund Programs Trust Account on or before July 1, 2007;

(b) AR shall deposit the amount of Four Hundred Fifty Thousand and No/100ths Dollars (\$450,000.00) into the Superfund Programs Trust Account on or before July 1, 2008; and

(c) AR shall deposit the amount of Six Hundred Fifty Thousand and No/100ths Dollars (\$650,000.00) into the Superfund Programs Trust Account on or before July 1, 2009.

The remaining principal balance of the funds consisting of Nine Million Four Hundred Fifteen Thousand Three Hundred Seventy Three and No/100ths Dollars (\$9,415,373.00), together with accrued interest thereon, shall be deposited by AR into the Superfund Programs Trust Account between the Effective Date and July 1, 2010. The funds to be deposited into the Superfund Programs Trust Account pursuant to this Section 10.2.2 shall accrue interest at the rate of 7% per annum from the Effective Date until paid. All interest under this Section 10.2.2 shall be calculated on the basis of a year of 365 days. Notwithstanding any other term or condition of this Section 10.2, the funds to be deposited into the Superfund Programs Trust Account pursuant to this Section 10.2.2 may at any time be prepaid by AR at AR's election by deposit to said account, either in whole or in part, without premium or penalty, at any time prior to July 1, 2010 on the condition that AR shall pay all accrued interest calculated from the date of the last deposit to the Superfund Programs Trust Account through and including the date of any prepayment on the amount of the remaining principal balance of the funds outstanding at the time of each prepayment. AR's payment of interest so calculated shall be in addition to any prepayment of principal made by AR.

3. BSB's failure to perform any of BSB's duties or obligations because of AR's failure to deposit funds as required by this Section 10.2, or because the Superfund Programs Trust Account has not yet been fully funded pursuant to Section 10.2 and the amount then on deposit does not provide sufficient funds, shall not be a default by BSB under this Agreement.

4. Within seven (7) days of any deposit of funds into the Superfund Programs Trust Account pursuant to this Section 10.2, AR shall notify BSB of the date and the amount of the deposit.

5. The total principal amount of the funding to be provided to the Superfund Programs Trust Account pursuant this Section 10.2, the amounts of the additional minimum funding required under Sections 10.2.2(b) and 10.2.2(c) and the amount of the remaining principal balance were all calculated using the assumptions reflected in the Funding Spreadsheet which included the assumption that BSB would assume the duties and obligations to perform Operation and Maintenance Activities pursuant to Sections 4.2 and/or 4.3 hereof on July 1, 2008. In the event that BSB does not assume the duties and obligations to perform Operation and Maintenance Activities pursuant to Sections 4.2 and/or 4.3 hereof until after July 1, 2008 for any reason, the total principal amount of the funding to be provided to the Superfund Programs Trust Account pursuant to this Section 10.2, the amounts of the additional minimum funding required under Sections 10.2.2(b) and 10.2.2(c) and the amount of the remaining principal balance shall be recalculated using the actual date that BSB will assume such duties and obligations and all other assumptions reflected in the Funding Spreadsheet remaining the same. Following such recalculation, the total principal amount of the funding to be provided to the Superfund Programs Trust Account pursuant to this Section 10.2, the amounts of the additional minimum funding required under Sections 10.2.2(b) and 10.2.2(c) and the amount of the remaining principal balance shall be deemed reduced to the recalculated amounts. In the event BSB's assumption of its duties and obligations occurs at any time between July 1, 2008 and June 30, 2009, the amount of the minimum funding to be provided to BSB for the groundwater treatment Task Account that Fiscal year shall be prorated to the date on which BSB assumes its duties and obligations and said amount shall be deposited into the Superfund Programs Trust Account by AR within sixty (60) days of BSB's assumption of its duties and obligations. In the event BSB's assumption of its duties and obligations occurs at any time between July 1, 2009 and June 30, 2010, the amount of the minimum funding to be provided to BSB for the groundwater treatment Task Account that Fiscal year shall be prorated to the date on which BSB assumes its duties and obligations and said amount shall be deposited into the Superfund Programs Trust Account by AR within sixty (60) days of BSB's assumption of its duties and obligations. Nothing contained in this Section 10.2.5 shall cause the amount of the initial funding required under Section 10.2.1 or the amount of the additional minimal funding required under Section 10.2.2(a) to be reduced.

Section 10.3. Coordination with MOU 119. BSB has performed certain duties and obligations under MOU 119 from July 1, 2006 through the Effective Date. Following the Effective Date, BSB shall continue to perform each of its duties and obligations under MOU 119 until such time as such duties and obligations are superseded by the requirements of the ROD. In order to secure funding for the performance of BSB's duties and obligations under MOU 119 from and after July 1, 2006, BSB may, as appropriate, draw upon funds deposited in the Superfund Programs Trust Account in accordance with the terms and conditions of this Agreement and the Superfund Programs Trust Agreement. BSB may, as appropriate, also draw upon funds deposited in the Superfund Management Trust Account in accordance with the terms and conditions of this Agreement and the Superfund Management Trust Agreement and in the Capital Purchase, Repair and Replacement Trust Account in accordance with the terms

and conditions of this Agreement and the Capital Purchase, Repair and Replacement Trust Agreement. Section 21.14 hereof sets forth the terms of this Agreement that shall apply retroactively to all work that BSB performs under MOU 119 pursuant to this Section 10.3, and to any payment for that work out of the Superfund Programs Trust Account, Superfund Management Trust Account and/or the Capital Purchase Repair and Replacement Trust Account. If and to the extent that any terms and conditions of MOU 119 conflict with the provisions of this Agreement, the provisions of this Agreement shall control.

Section 10.4. Authorized Uses of Superfund Programs Trust Funds by AR. The funding provided by AR to the Superfund Programs Trust Account pursuant to Sections 10.2 and 10.10 hereof, plus all accrued interest and income earned thereon, may be drawn upon by AR in accordance with Sections 20.7 and 20.8 of this Agreement and the Superfund Programs Trust Agreement.

Section 10.5. Authorized Uses of Superfund Programs Trust Funds by BSB. The funding provided by AR to the Superfund Programs Trust Account pursuant to Sections 10.2 and 10.10 hereof, plus all accrued interest and income earned thereon, may be drawn upon by BSB in accordance with this Agreement and the Superfund Programs Trust Agreement to pay Superfund Programs Costs and BSB's costs for Emergency Response Actions.

Section 10.6. Books and Accounts; Financial Statements; Inspection and Audit. The Parties will each keep, or cause to be kept, proper books of record and accounts separate from all other records and accounts, in which complete and correct entries shall be made of their respective transactions relating to the Superfund Programs Trust Account. Such books of record and accounts shall be at all times during business hours subject to the inspection and audit, at the expense of the Party seeking the inspection or audit.

Section 10.7. Superfund Programs Budgets. On or before May 1 of each Fiscal Year for so long as this Agreement is in effect, BSB shall prepare and provide a Superfund Programs Budget to AR. Each Superfund Programs Budget shall specify the dollar amount for each quarterly distribution to be made by the Trustee to BSB during that Fiscal Year. The Revised Superfund Programs Budget, including all Task Accounts and the approved budget amount for each Task Account, is hereby concurred in by BSB and AR. In order to account for inflation, BSB may increase the approved annual budget amount set forth in the Revised Superfund Programs Budget for each Task Account by 2% or less annually without the concurrence of AR, as illustrated in the Revised Superfund Programs Budget. All other proposed increases to the Revised Superfund Programs Budget shall be concurred in by AR, which concurrence shall not be unreasonably withheld, and shall be accompanied by a narrative explanation of the reasons for each such proposed increase. Except for costs incurred for Emergency Response Actions, BSB shall not incur any charges, expenses, fees or other costs during a Fiscal Year in excess of or in addition to the total budget amount for a Task Account set forth in the Superfund Programs Budget then in effect without the concurrence of AR, which concurrence shall not be unreasonably withheld.

Section 10.8. Superfund Programs Accounting Reports. Within forty five (45) days of the end of each quarter of each year for so long as this Agreement is in effect, BSB shall prepare and provide a Superfund Programs Accounting Report to AR. All funds received by BSB during a Fiscal Year from the Superfund Programs Trust Account which are not expended by BSB during that Fiscal Year for the payment of Superfund Programs Costs shall be carried over and expended by BSB to pay Superfund Programs Costs during such next Fiscal Year in

accordance with the terms and conditions of this Agreement and the Superfund Programs Trust Agreement.

Section 10.9. Financial Assurances. It is understood that the funds in the Superfund Programs Trust Account, plus all accrued interest and income earned thereon, may be pledged to satisfy financial assurance requirements pursuant to the Consent Decree or any administrative order issued by EPA for the BPSOU. AR shall provide BSB with advance notice of meetings with EPA and copies of draft documents for submittal to EPA that are related to pledging the funds in the Superfund Programs Trust Account pursuant to the Consent Decree. BSB shall have the right to have its personnel attend such meetings.

Section 10.10. Supplemental Funding of Superfund Programs Trust Accounts. Subject to the terms and conditions of this Section 10.10, as described in the Supplemental Funding Spreadsheet, AR shall provide supplemental funding to the Superfund Programs Trust Account in the total principal amount of Six Hundred Twenty Three Thousand Seven Hundred Thirty Three and No/100ths Dollars (\$623,733.00), on or before March 31, 2013. BSB's failure to perform any of BSB's duties or obligations because of AR's failure to deposit funds as required by this Section 10.10, or because the Superfund Programs Trust Account has not yet been fully funded pursuant to Section 10.10 and the amount then on deposit does not provide sufficient funds, shall not be a default by BSB under this Agreement. Within seven (7) days of any deposit of funds into the Superfund Programs Trust Account pursuant to this Section 10.10, AR shall notify BSB of the date and the amount of the deposit.

ARTICLE XI.

MULTI-PATHWAY PROGRAM TRUST ACCOUNT

Section 11.1. Establishment of Multi-Pathway Program Trust Account and Execution of Multi-Pathway Program Trust Agreement. Within thirty (30) days of the Effective Date, AR and BSB shall establish the Multi-Pathway Program Trust Account with the Trustee and shall execute the Multi-Pathway Program Trust Agreement.

Section 11.2. Funding of Multi-Pathway Program Trust Accounts. Subject to the terms and conditions of Sections 6.1 and this Section 11.2, as described in the Funding Spreadsheet, AR shall provide funding to the Multi-Pathway Program Trust Account in the total principal amount of Six Million Eight Hundred Eighty Thousand Five Hundred Two and No/100ths Dollars (\$6,880,502.00), as follows:

1. AR shall provide initial funding to the Multi-Pathway Program Trust Account by depositing the amount of Two Hundred Twenty Thousand and No/100ths Dollars (\$220,000.00) into the Multi-Pathway Program Trust Account within sixty (60) days of the Effective Date.

2. AR shall provide additional minimum funding to the Multi-Pathway Program Trust Account as follows:

(a) AR shall deposit the amount of Four Hundred Fifty One Thousand and No/100ths Dollars (\$451,000.00) into the Multi-Pathway Program Trust Account on or before July 1, 2007;

(b) AR shall deposit the amount of Five Hundred Five Thousand and No/100ths Dollars (\$505,000.00) into the Multi-Pathway Program Trust Account on or before July 1, 2008; and

(c) AR shall deposit the amount of Five Hundred Fifteen Thousand and No/100ths Dollars (\$515,000.00) into the Multi-Pathway Program Trust Account on or before July 1, 2009.

The remaining principal balance of the funds consisting of Five Million One Hundred Eighty Nine Thousand Five Hundred Two and No/100ths Dollars (\$5,189,502.00), together with accrued interest thereon, shall be deposited by AR into the Multi-Pathway Program Trust Account between the Effective Date and July 1, 2010. The funds to be deposited into the Multi-Pathway Program Trust Account pursuant to this Section 11.2.2 shall accrue interest at the rate of 7% per annum from the Effective Date until paid. All interest under this Section 11.2.2 shall be calculated on the basis of a year of 365 days. Notwithstanding any other term or condition of this Section 11.2, the funds to be deposited into the Multi-Pathway Program Trust Account pursuant to this Section 11.2.2 may at any time be prepaid by AR at AR's election by deposit to said account, either in whole or in part, without premium or penalty, at any time prior to July 1, 2010 on the condition that AR shall pay all accrued interest calculated from the date of the last deposit to the Multi-Pathway Program Trust Account through and including the date of any prepayment on the amount of the remaining principal balance of the funds outstanding at the time of each prepayment. AR's payment of interest so calculated shall be in addition to any prepayment of principal made by AR.

3. BSB's failure to perform any of BSB's duties or obligations because of AR's failure to deposit funds as required by this Section 11.2, or because the Multi-Pathway Program Trust Account has not yet been fully funded pursuant to Section 11.2 and the amount then on deposit does not provide sufficient funds, shall not be a default by BSB under this Agreement.

4. Within seven (7) days of any deposit of funds into the Multi-Pathway Program Trust Account pursuant to this Section 11.2, AR shall notify BSB of the date and the amount of the deposit.

Section 11.3. Coordination with MOU 135. BSB has performed certain duties and obligations under MOU 135 from July 1, 2006 through the Effective Date. Following the Effective Date, BSB shall continue to perform each of its duties and obligations under MOU 135 until such time as such duties and obligations are superseded by the requirements of the ROD. In order to secure funding for the performance of BSB's duties and obligations under MOU 135 from and after July 1, 2006, BSB may, as appropriate, draw upon funds deposited in the Multi-Pathway Program Trust Account in accordance with the terms and conditions of this Agreement and the Multi-Pathway Program Trust Agreement. BSB may, as appropriate, also draw upon funds deposited in the Capital Purchase, Repair and Replacement Trust Account in accordance with the terms and conditions of this Agreement and the Capital Purchase, Repair and Replacement Trust Agreement. Section 21.14 hereof sets forth the terms of this Agreement that shall apply retroactively to all work that BSB performs under MOU 135 pursuant to this Section 11.3, and to any payment for that work out of the Multi-Pathway Program Trust Account and/or the Capital Purchase Repair and Replacement Trust Account. If and to the extent that any terms and conditions of MOU 135 conflict with the provisions of this Agreement, the provisions of this Agreement shall control.

Section 11.4. Authorized Uses of Multi-Pathway Program Trust Funds by AR. The funding and supplemental funding provided by AR to the Multi-Pathway Program Trust Account pursuant to Sections 11.2 and 11.10 hereof, plus all accrued interest and income earned thereon, may be drawn upon by AR in accordance with Sections 20.7 and 20.8 of this Agreement and the Multi-Pathway Program Trust Agreement.

Section 11.5. Authorized Uses of Multi-Pathway Program Trust Funds by BSB. The funding and supplemental funding provided by AR to the Multi-Pathway Program Trust Account pursuant to Sections 11.2 and 11.10 hereof, plus all accrued interest and income earned thereon, may be drawn upon by BSB in accordance with this Agreement and the Multi-Pathway Program Trust Agreement to pay Multi-Pathway Program Costs and BSB's costs for Emergency Response Actions.

Section 11.6. Books and Accounts; Financial Statements; Inspection and Audit. The Parties will each keep, or cause to be kept, proper books of record and accounts separate from all other records and accounts, in which complete and correct entries shall be made of their respective transactions relating to the Multi-Pathway Program Trust Account. Such books of record and accounts shall be at all times during business hours subject to the inspection and audit, at the expense of the Party seeking the inspection or audit.

Section 11.7. Multi-Pathway Program Budgets. On or before May 1 of each Fiscal Year for so long as this Agreement is in effect, BSB shall prepare and provide a Multi-Pathway Program Budget to AR. Each Multi-Pathway Program Budget shall specify the dollar amount for each quarterly distribution to be made by the Trustee to BSB during that Fiscal Year. The Revised Multi-Pathway Program Budget is hereby concurred in by BSB and AR. In order to account for inflation, BSB may increase the approved annual budget amount set forth in the Revised Multi-Pathway Program Budget for each Task Account by 2% or less annually without the concurrence of AR, as illustrated in the Revised Multi-Pathway Program Budget. All other proposed increases to the Revised Multi-Pathway Program Budget shall be concurred in by AR, which concurrence shall not be unreasonably withheld, and shall be accompanied by a narrative explanation of the reasons for each such proposed increase. Except for costs incurred for Emergency Response Actions, BSB shall not incur any charges, expenses, fees or other costs during a Fiscal Year in excess of or in addition to the total budget amount set forth in the Multi-Pathway Program Budget then in effect without the concurrence of AR, which concurrence shall not be unreasonably withheld.

Section 11.8. Multi Pathway Program Accounting Reports. Within forty five (45) days of the end of each quarter of each year for so long as this Agreement is in effect, BSB shall prepare and provide a Multi-Pathway Program Accounting Report to AR. All funds received by BSB during a Fiscal Year from the Multi-Pathway Program Trust Account which are not expended by BSB during that Fiscal Year for the payment of Multi-Pathway Program Costs shall be carried over and expended by BSB to pay Multi-Pathway Program Costs during such next Fiscal Year in accordance with the terms and conditions of this Agreement and the Multi-Pathway Program Trust Agreement.

Section 11.9. Financial Assurances. It is understood that the funds in the Multi-Pathway Program Trust Account, plus all accrued interest and income earned thereon, may be pledged to satisfy financial assurance requirements pursuant to the Consent Decree or any administrative order issued by EPA for the BPSOU. AR shall provide BSB with advance notice of meetings with EPA and copies of draft documents for submittal to EPA that are related to

pledging the funds in the Multi-Pathway Program Trust Account pursuant to the Consent Decree. BSB shall have the right to have its personnel attend such meetings.

Section 11.10. Supplemental Funding of Multi-Pathway Program Trust Account. Subject to the terms and conditions of this Section 11.10, as described in the Supplemental Funding Spreadsheet, AR shall provide supplemental funding to the Multi-Pathway Program Trust Account in the total principal amount of Five Million Two Hundred Eleven Thousand Nine Hundred Forty Four and No/100ths Dollars (\$5,211,944.00), on or before March 31, 2013. BSB's failure to perform any of BSB's duties or obligations because of AR's failure to deposit supplemental funds as required by this Section 11.10, or because the Multi-Pathway Program Trust Account has not yet been fully funded pursuant to this Section 11.10 and the amount then on deposit does not provide sufficient funds, shall not be a default by BSB under this Agreement. Within seven (7) days of any deposit of supplemental funds into the Multi-Pathway Program Trust Account pursuant to this Section 11.10, AR shall notify BSB of the date and the amount of the deposit.

Section 11.11 Additional Supplemental Funding. Schedule C-2 to the UAO requires that all required soil sampling of residential properties located within the BPSOU and the Adjacent Area will be completed by approximately December 31, 2019 and that all required soil remediation of residential properties located within the BPSOU and the Adjacent Area shall be completed by approximately December 31, 2029. The Multi-Pathway Program Plan also requires implementation of a residential attic dust sampling and abatement program, a tracking and data management program, and an education and outreach program within the BPSOU, the Adjacent Area and the Attic Abatement Area for a ninety-nine (99) year period until December 31, 2108. The Multi-Pathway Program Plan also requires a medical monitoring program within the BPSOU for a ninety-nine (99) year period until December 31, 2108. The Parties hereby acknowledge that the funding and supplemental funding provided by AR to the Multi-Pathway Program Trust Account pursuant to Sections 11.2 and 11.10 hereof is intended to provide BSB with sufficient funds to pay the Multi-Pathway Program Costs that may be incurred by BSB in the performance of its Multi-Pathway Program Obligations until approximately December 31, 2035. On or before December 31, 2033, the Parties shall meet and confer to determine the amount of additional supplemental funding to the Multi-Pathway Program Trust Account that would be needed to pay the Multi-Pathway Program Costs that may be incurred by BSB in the performance of its Multi-Pathway Program Obligations within the BPSOU, the Adjacent Area and the Attic Abatement Area after December 31, 2035. If AR elects not to provide additional supplemental funding to the Multi-Pathway Program Trust Account: (i) BSB's shall have no further responsibility for performance of Multi-Pathway Program Obligations under this Agreement after December 31, 2035; (ii) the Parties shall confer with respect to the transition of the Multi-Pathway Program Obligations from BSB to AR; and (iii) all funds remaining in the Multi-Pathway Program Trust Account after December 31, 2035, including all accrued interest and income earned thereon, shall be returned to AR or, at the option of AR, be available solely to AR or its designee to perform Response Actions and/or Operation and Maintenance Activities within the BPSOU, the Adjacent Area and the Attic Abatement Area, at the option of AR. The rights and obligations of the Parties pursuant to this Section 11.11 are in addition to, and not in any way in lieu of, the rights and obligations of the Parties under Article XVIII hereof.

ARTICLE XII.

SUPERFUND MANAGEMENT TRUST ACCOUNT

Section 12.1. Establishment of Superfund Management Trust Account and Execution of Superfund Management Trust Agreement. Within thirty (30) days of the Effective Date, AR and BSB shall establish with Trustee the Superfund Management Trust Account and shall execute the Superfund Management Trust Agreement.

Section 12.2. Funding of Superfund Management Trust Account. Subject to the terms and conditions of this Section 12.2, as described in the Funding Spreadsheet, AR shall provide funding to the Superfund Management Trust Account in the total principal amount of Three Million Four Hundred Ninety Four Thousand Seven Hundred Seven and No/100ths Dollars (\$3,494,707.00), as follows:

1. AR shall provide initial funding to the Superfund Management Trust Account by depositing the amount of One Hundred Forty Seven Thousand Five Hundred and No/100ths Dollars (\$147,500.00) into the Superfund Management Trust Account within sixty (60) days of the Effective Date.

2. AR shall provide additional minimum funding to the Superfund Management Trust Account as follows:

(a) AR shall deposit the amount of One Hundred Seventy Five Thousand and No/100ths Dollars (\$175,000.00) into the Superfund Management Trust Account on or before July 1, 2007;

(b) AR shall deposit the amount of One Hundred Eighty Thousand and No/100ths Dollars (\$180,000.00) into the Superfund Management Trust Account on or before July 1, 2008; and

(c) AR shall deposit the amount of One Hundred Eighty Five Thousand and No/100ths Dollars (\$185,000.00) into the Superfund Management Trust Account on or before July 1, 2009.

The remaining principal balance of the funds consisting of Two Million Eight Hundred Seven Thousand Two Hundred Seven and No/100ths Dollars (\$2,807,207.00), together with accrued interest thereon, shall be deposited by AR into the Superfund Management Trust Account between the Effective Date and July 1, 2010. The funds to be deposited into the Superfund Management Trust Account pursuant to this Section 12.2.2 shall accrue interest at the rate of 7% per annum from the Effective Date until paid. All interest under this Section 12.2.2 shall be calculated on the basis of a year of 365 days. Notwithstanding any other term or condition of this Section 12.2, the funds to be deposited into the Superfund Management Trust Account pursuant to this Section 12.2.2 may at any time be prepaid by AR at AR's election by deposit to said account, either in whole or in part, without premium or penalty, at any time prior to July 1, 2010 on the condition that AR shall pay all accrued interest calculated from the date of the last deposit to the Superfund Management Trust Account through and including the date of any prepayment on the amount of the remaining principal balance of the funds outstanding at the time of each prepayment. AR's payment of interest so calculated shall be in addition to any prepayment of principal made by AR.

3. BSB's failure to perform any of BSB's duties or obligations because of AR's failure to deposit funds as required by this Section 12.2, or because the Superfund Management Trust Account has not yet been fully funded pursuant to Section 12.2 and the amount then on deposit does not provide sufficient funds, shall not be a default by BSB under this Agreement.

4. Within seven (7) days of any deposit of funds into the Superfund Management Trust Account pursuant to this Section 12.2, AR shall notify BSB of the date and the amount of the deposit.

Section 12.3. Authorized Uses of Superfund Management Trust Funds. The funding provided by AR to the Superfund Management Trust Account pursuant to Section 12.2 hereof, plus all accrued interest and income earned thereon, may be drawn upon by BSB in accordance with this Agreement and the Superfund Management Trust Agreement to pay Superfund Management Costs.

Section 12.4. Books and Accounts; Financial Statements; Inspection and Audit. BSB will keep, or cause to be kept, proper books of record and accounts separate from all other records and accounts of BSB, in which complete and correct entries shall be made of all of BSB's transactions relating to the Superfund Management Trust Account. Such books of record and accounts shall be at all times during business hours subject to the inspection and audit of AR, at its expense.

Section 12.5. Superfund Management Budgets. On or before May 1 of each Fiscal Year for so long as this Agreement is in effect, BSB shall prepare and provide a Superfund Management Budget to AR. Each Superfund Management Budget shall specify the dollar amount for each quarterly distribution to be made by the Trustee to BSB during that Fiscal Year. The Initial Superfund Management Budget, including all Task Accounts and the approved budget amount for each Task Account, is hereby concurred in by AR. In order to account for inflation, BSB may increase the approved budget amount set forth in the Initial Superfund Management Budget for each Task Account by 2% or less annually without the concurrence of AR, as illustrated in the Initial Superfund Management Budget. All other proposed increases to the Initial Superfund Management Budget shall be concurred in by AR, which concurrence shall not be unreasonably withheld, and shall be accompanied by a narrative explanation of the reasons for each proposed increase. BSB shall not incur any charges, expenses, fees or other costs during a Fiscal Year in excess of or in addition to the total budget amount for a Task Account set forth in the Superfund Management Budget then in effect without the concurrence of AR, which concurrence shall not be unreasonably withheld.

Section 12.6. Superfund Management Accounting Reports. Within forty five (45) days of the end of each quarter of each year for so long as this Agreement is in effect, BSB shall prepare and provide a Superfund Management Accounting Report to AR. All funds received by BSB during a Fiscal Year from the Superfund Management Trust Account which are not expended by BSB during that Fiscal Year for the payment of Superfund Management Costs shall be carried over and expended by BSB to pay Superfund Management Costs during such next Fiscal Year in accordance with the terms and conditions of this Agreement and the Superfund Management Trust Agreement.

Section 12.7. Financial Assurances. It is understood that the funds in the Superfund Management Trust Account pursuant to Section 12.2 hereof, plus all accrued interest and income earned thereon, may be pledged to satisfy financial assurance requirements pursuant to the Consent Decree or any administrative order issued by EPA for the BPSOU. AR

shall provide BSB with advance notice of meetings with EPA and copies of draft documents for submittal to EPA that are related to pledging the funds in the Superfund Management Trust Account pursuant to the Consent Decree. BSB shall have the right to have its personnel attend such meetings.

ARTICLE XIII.

CAPITAL PURCHASE, REPAIR AND REPLACEMENT TRUST ACCOUNT AND CAPITAL IMPROVEMENTS TRUST ACCOUNT

Section 13.1. Establishment of Capital Purchase, Repair and Replacement Trust Account and Execution of Capital Purchase, Repair and Replacement Trust Agreement. Within thirty (30) days of the Effective Date, AR and BSB shall establish with Trustee the Capital Purchase, Repair and Replacement Trust Account and shall execute the Capital Purchase, Repair and Replacement Trust Agreement.

Section 13.2. Funding of Capital Purchase, Repair and Replacement Trust Account. Subject to the terms and conditions of this Section 13.2, as described in the Funding Spreadsheet, AR shall provide funding to the Capital Purchase, Repair and Replacement Trust Account in the total principal amount of Ten Million Five Hundred Fifty Eight Thousand Three Hundred Ninety Four and No/100ths Dollars (\$10,558,394.00), as follows:

1. AR shall provide initial funding to the Capital Purchase, Repair and Replacement Trust Account by depositing the amount of Five Hundred Twenty Thousand and No/100ths Dollars (\$520,000.00) into the Capital Purchase, Repair and Replacement Trust Account within sixty (60) days of the Effective Date.

2. AR shall provide additional minimum funding to the Capital Purchase, Repair and Replacement Trust Account as follows:

(a) AR shall deposit the amount of One Hundred Fifty Four Thousand Five Hundred Twenty Two and No/100ths Dollars (\$154,522.00) into the Capital Purchase, Repair and Replacement Trust Account on or before July 1, 2007;

(b) AR shall deposit the amount of Eight Hundred Ten Thousand and No/100ths Dollars (\$810,000.00) into the Capital Purchase, Repair and Replacement Trust Account on or before July 1, 2008; and

(c) AR shall deposit the amount of Eight Hundred Twenty Thousand Four Hundred Seventy Five and No/100ths Dollars (\$820,475.00) into the Capital Purchase, Repair and Replacement Trust Account on or before July 1, 2009.

The remaining principal balance of the funds consisting of Eight Million Two Hundred Fifty Three Thousand Three Hundred Ninety Seven Dollars (\$8,253,397.00), together with accrued interest thereon, shall be deposited by AR into the Capital Purchase, Repair and Replacement Trust Account between the Effective Date and July 1, 2010. The funds to be deposited into the Capital Purchase, Repair and Replacement Trust Account pursuant to this Section 13.2.2 shall accrue interest at the rate of 7% per annum from the Effective Date until paid. All interest under this Section 13.2.2 shall be calculated on the basis of a year of 365 days. Notwithstanding any other term or condition of this Section 13.2, the funds to be deposited into the Capital Purchase,

Repair and Replacement Trust Account pursuant to this Section 13.2.2 may at any time be prepaid by AR at AR's election by deposit to said account, either in whole or in part, without premium or penalty, at any time prior to July 1, 2010 on the condition that AR shall pay all accrued interest calculated from the date of the last deposit to the Capital Purchase Repair and Replacement Trust Account through and including the date of any prepayment on the amount of the remaining principal balance of the funds outstanding at the time of each prepayment. AR's payment of interest so calculated shall be in addition to any prepayment of principal made by AR.

3. BSB's failure to perform any of BSB's duties or obligations because of AR's failure to deposit funds as required by this Section 13.2, or because the Capital Purchase, Repair and Replacement Trust Account has not yet been fully funded pursuant to Section 13.2 and the amount then on deposit does not provide sufficient funds, shall not be a default by BSB under this Agreement.

4. Within seven (7) days of any deposit of funds into the Capital Purchase, Repair and Replacement Trust Account pursuant to this Section 13.2, AR shall notify BSB of the date and the amount of the deposit.

Section 13.3. Authorized Uses of Capital Purchase, Repair and Replacement Trust Funds. The funding provided by AR to the Capital Purchase, Repair and Replacement Trust Account pursuant to Section 13.2 hereof, plus all accrued interest and income earned thereon, may be drawn upon by BSB in accordance with this Agreement and the Capital Purchase, Repair and Replacement Trust Agreement to pay Capital Purchase, Repair and Replacement Costs.

Section 13.4. Books and Accounts; Financial Statements; Inspection and Audit. BSB will keep, or cause to be kept, proper books of record and accounts separate from all other records and accounts of BSB, in which complete and correct entries shall be made of all of BSB's transactions relating to the Capital Purchase, Repair and Replacement Trust Account. Such books of record and accounts shall be at all times during business hours subject to the inspection and audit of AR, at its expense.

Section 13.5. Capital Purchase, Repair and Replacement Budgets. On or before May 1 of each Fiscal Year for so long as this Agreement is in effect and there are funds remaining in the Capital Purchase, Repair and Replace Trust Account, BSB shall prepare and provide a Capital Purchase, Repair and Replacement Budget to AR for AR's concurrence, which concurrence shall not be unreasonably withheld. All Capital Purchase, Repair and Replacement Budgets submitted to AR by BSB pursuant to this Section 13.5 shall be consistent with the terms and conditions of the Storm Water System Improvement Plan and this Agreement. Each Capital Purchase, Repair and Replacement Budget shall specify the dollar amount for each quarterly distribution to be made by the Trustee to BSB during that Fiscal Year. The Initial Capital Purchase, Repair and Replacement Budget, including all Task Accounts and the approved budget amount for each Task Account, is hereby concurred in by AR. BSB shall not incur any charges, expenses, fees or other costs during a Fiscal Year in excess of or in addition to the total budget amount for a Task Account set forth in the Capital Purchase, Repair and Replacement Budget then in effect without the concurrence of AR, which concurrence shall not be unreasonably withheld.

Section 13.6. Capital Purchase, Repair and Replacement Accounting Reports. On or before September 1 of each year for so long as this Agreement is in effect, BSB shall prepare

and provide a Capital Purchase, Repair and Replacement Accounting Report to AR. All funds received by BSB during a Fiscal Year from the Capital Purchase, Repair and Replacement Trust Account which are not expended by BSB during that Fiscal Year for the payment of Capital Purchase, Repair and Replacement Costs shall be carried over and expended by BSB to pay Capital Purchase, Repair and Replacement Costs during such next Fiscal Year in accordance with the terms and conditions of this Agreement and the Capital Purchase, Repair and Replacement Trust Agreement.

Section 13.7 Establishment of Capital Improvements Trust Account. Upon completion of the Priority Projects identified by the Parties pursuant to the Prioritization Criteria identified in the Storm Water System Improvement Plan, the funds then remaining in the Capital Purchase, Repair and Replacement Trust Account shall, upon the written direction of the Parties to Trustee, be transferred to the Capital Improvements Trust Account established by BSB, as provided in the Capital Purchase, Repair and Replacement Trust Agreement.

Section 13.8. Authorized Uses of Capital Improvements Trust Funds. All funds deposited to the Capital Improvements Trust Account pursuant to Section 13.7 hereof, together with accrued interest and earnings thereon, shall be held in trust by BSB and may be drawn upon by BSB (without any requirement thereafter to provide budgets to or obtain pre-approval from AR pursuant to Section 13.5 hereof) for payment of Capital Purchase, Repair and Replacement Costs.

Section 13.9. Capital Improvements Accounting Reports. BSB's obligation to provide annual accounting reports to AR pursuant to Section 13.6 hereof shall survive the transfer of funds to the Capital Improvements Trust Account pursuant to Section 13.7. On or before September 1 of each year following the transfer of funds to the Capital Improvements Trust Account pursuant to Section 13.7, BSB shall prepare and provide a Capital Improvements Accounting Report to AR.

ARTICLE XIV.

GROUNDWATER TREATMENT SYSTEM CAPITAL REPAIR AND REPLACEMENT TRUST ACCOUNT

Section 14.1. Establishment of Groundwater Treatment System Capital Repair and Replacement Trust Account and Execution of Groundwater Treatment System Capital Repair and Replacement Trust Agreement. Within thirty (30) days of the Effective Date, AR and BSB shall establish with Trustee the Groundwater Treatment System Capital Repair and Replacement Trust Account and shall execute the Groundwater Treatment System Capital Repair and Replacement Trust Agreement.

Section 14.2. Funding of Groundwater Treatment System Capital Repair and Replacement Trust Account. As described in the Funding Spreadsheet, AR shall provide funding to the Groundwater Treatment System Capital Repair and Replacement Trust Account in the total principal amount of One Million Three Hundred Eighty Three Thousand Four Hundred Forty Nine and No/100ths Dollars (\$1,383,449.00) by depositing said amount into the Groundwater Treatment System Capital Repair and Replacement Trust Account within sixty (60) days of the Effective Date.

Section 14.3. Authorized Uses of Groundwater Treatment System Capital Repair and Replacement Trust Funds. The funding provided by AR to the Groundwater Treatment System Capital Repair and Replacement Trust Account pursuant to Section 14.2 hereof, plus all accrued interest and income earned thereon, may be drawn upon by BSB in accordance with this Agreement and the Groundwater Treatment System Capital Repair and Replacement Trust Agreement to pay Groundwater Treatment System Capital Repair and Replacement Costs.

Section 14.4. Books and Accounts; Financial Statements; Inspection and Audit. BSB will keep, or cause to be kept, proper books of record and accounts separate from all other records and accounts of BSB, in which complete and correct entries shall be made of all of BSB's transactions relating to the Groundwater Treatment System Capital Repair and Replacement Trust Account. Such books of record and accounts shall be at all times during business hours subject to the inspection and audit of AR, at its expense.

Section 14.5. Groundwater Treatment System Capital Repair and Replacement Budgets. In the event BSB determines that any Groundwater Treatment System Capital Repair and Replacement are necessary, BSB shall prepare and provide a Groundwater Treatment System Capital Repair and Replacement Budget to AR for AR's concurrence, which concurrence shall not be unreasonably withheld. All Groundwater Treatment System Capital Repair and Replacement Budgets submitted to AR by BSB pursuant to this Section 14.5 shall be consistent with the terms and conditions of this Agreement. Each Groundwater Treatment System Capital Repair and Replacement Budget shall specify the dollar amount for each quarterly distribution to be made by the Trustee to BSB during that Fiscal Year. BSB shall not incur any charges, expenses, fees or other costs in excess of or in addition to the total budget amount for any Groundwater Treatment System Capital Repair and Replacement set forth in an approved Groundwater Treatment System Capital Repair and Replacement Budget without the concurrence of AR, which concurrence shall not be unreasonably withheld.

Section 14.6. Groundwater Treatment System Capital Repair and Replacement Accounting Reports. On or before September 1 of each year following any Fiscal Year in which BSB draws upon funds in the Groundwater Treatment System Capital Repair and Replacement Trust Account, BSB shall prepare and provide an Groundwater Treatment System Capital Repair and Replacement Accounting Report to AR. All funds received by BSB from the Groundwater Treatment System Capital Repair and Replacement Trust Account which are not expended by BSB to make necessary Groundwater Treatment System Capital Repair and Replacement shall be promptly re-deposited into the Groundwater Treatment System Capital Repair and Replacement Trust Account by BSB.

Section 14.7. Financial Assurances. It is understood that the funds in the Groundwater Treatment System_Capital Repair and Replacement Trust Account pursuant to Section 14.2 hereof, plus all accrued interest and income earned thereon, may be pledged to satisfy financial assurance requirements pursuant to the Consent Decree or any administrative order issued by EPA for the BPSOU. AR shall provide BSB with advance notice of meetings with EPA and copies of draft documents for submittal to EPA that are related to pledging the funds in the Groundwater Treatment System_Capital Repair and Replacement Trust Account to the Consent Decree. BSB shall have the right to have its personnel attend such meetings.

ARTICLE XV.

REDEVELOPMENT TRUST ACCOUNT

Section 15.1. Establishment of Redevelopment Trust Account. Within thirty (30) days of the Effective Date, BSB shall establish the Redevelopment Trust Account.

Section 15.2. Funding of Redevelopment Trust Accounts. Subject to the terms and conditions of this Section 15.2, as described in the Funding Spreadsheet, AR shall provide funding to BSB for deposit to the Redevelopment Trust Account in the total principal amount of Fifteen Million and No/100ths Dollars (\$15,000,000.00). The total principal amount shall be provided as follows:

1. AR shall provide initial funding to BSB for deposit into the Redevelopment Trust Account in the amount of Two Million Five Hundred Thousand and No/100ths Dollars (\$2,500,000.00) within sixty (60) days of the Effective Date. Said funds have been paid to BSB, receipt of which is hereby acknowledged.

2. AR shall provide additional funding to BSB for deposit into the Redevelopment Trust Account in the amount of Two Million Five Hundred Thousand and No/100ths Dollars (\$2,500,000.00) within sixty (60) days following issuance of the ROD or within sixty (60) days of the Effective Date, whichever occurs later. Said funds have been paid to BSB, receipt of which is hereby acknowledged.

3. On or before March 31, 2013, AR shall provide additional funding to BSB for deposit into the Redevelopment Trust Account in the amount of Five Million and No/100ths Dollars (\$5,000,000.00), together with accrued interest on the amount of Ten Million and No/100ths Dollars (\$10,000,000.00) calculated at the rate of 7% per annum from the Effective Date until the deposit required under this 15.2.3 is made. All interest under this Section 15.2.3 shall be calculated on the basis of a year of 365 days.

4. Subject to the terms and conditions of Section 3.5 hereof, the remaining principal balance of the funds consisting of Five Million and No/100ths Dollars (\$5,000,000.00), together with accrued interest thereon, shall be deposited by AR into the Redevelopment Trust Account within sixty (60) days following the date on which the Consent Decree is effective as a final court order. The funds to be deposited into the Redevelopment Trust Account pursuant to this Section 15.2.4 shall accrue interest at the rate of 3.5% per annum from the date the deposit required under 15.2.3 hereof is made until the date the deposit required under this Section 15.2.4 is made. All interest under this Section 15.2.4 shall be calculated on the basis of a year of 365 days. Notwithstanding any other term or condition of this Section 15.2, the funds to be deposited into the Redevelopment Trust Account pursuant to this Section 15.2.4 may, at any time, be prepaid by AR at AR's election by deposit to said account, either in whole or in part, without premium or penalty, on the condition that AR shall pay all accrued interest calculated from the date of the last deposit to the Redevelopment Trust Account through and including the date of any prepayment on the amount of the remaining principal balance of the funds outstanding at the time of each prepayment. AR's payment of interest so calculated shall be in addition to any prepayment of principal made by AR.

5. BSB's failure to perform any of BSB's duties or obligations because of AR's failure to deposit funds as required by this Section 15.2 shall not be a default by BSB under this Agreement.

6. Within forty eight (48) hours of any deposit of funds into the Redevelopment Trust Account pursuant to this Section 15.2, AR shall notify BSB of the date and the amount of the deposit.

Section 15.3. Designated Uses of Redevelopment Trust Funds. All funds deposited into the Redevelopment Trust Account, together with accrued interest and income earned thereon, shall be held in trust by BSB and may be drawn upon by BSB (without any requirement to obtain pre-approval from AR) in the amounts and for the purposes designated by BSB under this Section 15.3.

1. Development of Mine Waste Source Areas. From the total amounts deposited into the Redevelopment Trust Account, BSB shall set aside, manage and use over a period of years a minimum of Two Million and No/100ths Dollars (\$2,000,000.00), with additional funding available subject to the review and approval of the Governing Authority, for soils testing, excavation and hauling, and related time and materials costs, associated with constructing foundations and/or installing/upgrading utilities to support the development of any Mine Waste Source Area and related properties within the Site, particularly where mining wastes have been left in place and capped.

2. Historic Preservation. From the total amounts deposited into the Redevelopment Trust Account, BSB shall set aside, manage and use over a period of years a minimum of One Million and No/100ths Dollars (\$1,000,000.00), with additional funding available subject to the review and approval of the Governing Authority, for implementation of the Regional Historic Preservation Plan, and amendments thereto, including, without limitation, improvements to and restoration of buildings and other historic structures in the Butte Hill area and the installation of recreational and historical interpretive features at LAO, the GMMIA and other historic mining locations.

3. Open Space and Recreational Areas. From the total amounts deposited into the Redevelopment Trust Account, BSB shall set aside, manage and use over a period of years a minimum of One Million and No/100ths Dollars (\$1,000,000.00), with additional funding available subject to the review and approval of the Governing Authority, for payment of operations and maintenance expenses associated with the recreational and open spaces that have been developed by BSB and AR in concert with reclamation and remedial activities, including, without limitation, the Missoula Ballfields, Foreman's Park, the Copper Mountain Recreational Complex, the Visitors Center, and the trails system within BPSOU.

4. Health Initiatives. From the total amounts deposited into the Redevelopment Trust Account, BSB shall set aside, manage and use over a period of years a minimum of One Million and No/100ths Dollars (\$1,000,000.00), with additional funding available subject to the review and approval of the Governing Authority and with oversight and annual funding administration through the BSB Health Board, for implementation of healthy lifestyle initiatives including, without limitation, education and a low-income subsidy program for the replacement of wood burning heating equipment and the purchase and installation of insulation for attics following remediation/abatement under the Multi-Pathway Program.

5. Festivals. From the total amounts deposited into the Redevelopment Trust Account, BSB shall set aside, manage and use over a period of years:

(a) a minimum of Five Hundred Thousand and No/100ths Dollars (\$500,000.00), with additional funding available subject to the review and approval of the Governing Authority and with annual funding administration through Main Street Uptown Butte, Inc., a Montana nonprofit, public benefit corporation, to promote and sustain the Montana Folk Festival as an event free to the public;

(b) a minimum of Two Hundred and Fifty Thousand and No/100ths Dollars (\$250,000.00), with additional funding available subject to the review and approval of the Governing Authority and with annual funding administration through Evel Knievel Week, a Montana nonprofit, public benefit corporation, to promote and sustain Evel Knievel Days as an event free to the public; and

(c) a minimum of Two Hundred and Fifty Thousand and No/100ths Dollars (\$250,000.00), with additional funding available subject to the review and approval of the Governing Authority and with annual funding administration through the Butte Events Team to promote and sustain St. Patrick's Day events, the 4th of July parade, the An Ri Ra Irish Festival, Oktoberfest, the Christmas Stroll and decorations, the County Fair, rodeo's and high school and college sports tournaments at BSB's Civic Center and other venues in Butte-Silver Bow County and other events deemed appropriate by the Butte Events Team.

6. SLWS Improvements. From the total amounts deposited into the Redevelopment Trust Account, BSB shall set aside, manage and use the amount of One Million and No/100ths Dollars (\$1,000,000.00) to provide funding and support to BSB's Public Works Department for charges, expenses, fees and other costs incurred with respect to the SLWS.

7. Community and Economic Development. Subject to the terms of Sections 15.3.1 through 15.3.6 hereof, BSB shall manage and use the balance of the funds deposited in the Redevelopment Trust Account for:

(a) the implementation of community and economic development projects, as approved through the Governing Authority, which serve to promote the overall welfare and prosperity of Butte residents, and provide a legacy of sustainable development; and

(b) the payment of the operating expenses of the Governing Authority to administer and guide the planning and use of the funds in the Redevelopment Trust Account, consistent with this Section 15.3 and Section III.B of the BSB Position Paper.

Subject to AR's prior written approval, AR will be given appropriate public recognition of the funding provided for the purposes specified under this Section 15.3. Such recognition may include, as appropriate, public recognition as a major corporate sponsor, name placement in event or program publications or venues or other appropriate recognition consistent with the amount of the funding provided pursuant to this Section 15.3 in any given year. BSB shall establish the Governing Authority contemplated under Section 15.3.7(b) hereof promptly following the deposit of funds into the Redevelopment Account pursuant to Section 15.2.3 hereof. It is understood and agreed that AR shall have the right, but not the obligation, to designate an individual to serve as a member of the Governing Authority on AR's behalf. AR shall notify BSB of the name and address of the individual originally designated by AR to serve on the Governing Authority and of any change in that designation. The individual designated by AR shall have the right to fully participate in the meetings and deliberations of the Governing Authority as a non-voting member. It is the intention of the Parties that funding through the Redevelopment Trust Account shall be appropriated on an annual basis, subject to application,

reporting and accounting requirements and guidelines developed and adopted by the Governing Authority, and that funding strategies shall be designed to be long-term and sustainable.

Section 15.4. Books and Accounts; Financial Statements; Inspection and Audit. BSB shall keep, or cause to be kept, proper books of record and accounts separate from all other records and accounts of BSB, in which complete and correct entries shall be made of all transactions relating to the Redevelopment Trust Account. Such books of record and accounts shall be at all times during business hours subject to the inspection and audit of AR, at its expense.

Section 15.5. Accounting Reports. On or before September 1 of each year for so long as this Agreement is in effect, BSB shall prepare and provide a Redevelopment Accounting Report to AR. Each Redevelopment Accounting Report shall include a narrative description of the public recognition given to AR pursuant to Sections 15.3 hereof.

ARTICLE XVI.

OVERSIGHT COSTS

Section 16.1. Responsibility for Oversight Costs. Subject to the reservation of rights set forth in Section 16.2 hereof, as between the Parties, AR shall be responsible for and shall indemnify, defend and hold BSB harmless from and against any and all claims or demands by EPA or the State for the payment of Oversight Costs.

Section 16.2. AR's Reservation of Rights for Oversight Costs. Notwithstanding any other term or condition of this Agreement, AR hereby reserves the right to dispute and contest any and all Oversight Costs claimed by EPA or the State in accordance with Applicable Laws.

ARTICLE XVII.

INSURANCE

Section 17.1. [Deleted pursuant to Addendum No. 2]

Section 17.2. [Deleted pursuant to Addendum No. 2]

Section 17.3. [Deleted pursuant to Addendum No. 2]

Section 17.4. [Deleted pursuant to Addendum No. 2]

Section 17.5. [Deleted pursuant to Addendum No. 2]

Section 17.6. [Deleted pursuant to Addendum No. 2]

Section 17.7. [Deleted pursuant to Addendum No. 2]

Section 17.8. [Deleted pursuant to Addendum No. 2]

Section 17.9. [Deleted pursuant to Addendum No. 2]

Section 17.10. BSB Assignment of Rights, Benefits and Responsibilities under Insurance Policy to AR. The Parties hereby acknowledge that BSB is a Named Insured for all coverage(s) provided under Sections I. A through F of the Insurance Policy and is also a Named Insured and an “Approved Contractor” for Tasks 1 – 4 of the Remedial Plan Endorsement to the Insurance Policy. Except as specifically provided in this Section 17.10, BSB hereby transfers and assigns to AR, and AR hereby accepts the transfer and assignment from BSB of, any and all rights, benefits and responsibilities BSB may have, after the effective date of this Addendum No. 2 , by or through its status as a Named Insured under the Insurance Policy. BSB hereby acknowledges that, as a result of the transfer and assignment, AR, in its sole discretion, shall have the exclusive right to make or compromise any and all claims under the Insurance Policy and that the compromise of such claims may involve an agreement between AR and the Insurance Company to modify or terminate the Insurance Policy in its entirety. BSB hereby further acknowledges that, as a result of the transfer and assignment, AR, in its sole discretion, shall have the exclusive right to receive and retain for its own purposes any and all proceeds from the Insurance Policy. AR shall be solely responsible for the payment of any applicable SIR and/or Co-Pay Percentage. BSB shall retain all of its rights, benefits and responsibilities as an Approved Contractor for Tasks 1 – 4 of the Remedial Plan Endorsement to the Insurance Policy.

Section 17.11. BSB Duty to Cooperate. BSB shall reasonably cooperate with AR to provide relevant information that may be requested by AR: (i) to prepare or support a claim; (ii) to provide any relevant information requested by the Insurance Company during its evaluation of a claim; and (iii) to execute such documents as may be required by the Insurance Company to modify or terminate the Insurance Policy in its entirety.

ARTICLE XVIII.

LIMITATION ON OBLIGATIONS

Section 18.1. Limitation on Superfund Programs Obligations. If the combined amount of the funds deposited into the Superfund Programs Trust Account pursuant to Sections 10.2 and 10.10 hereof, plus all accrued interest and income earned thereon, are not sufficient to pay Superfund Programs Costs, then BSB’s responsibility for performance of Superfund Programs Obligations under this Agreement shall cease provided that BSB performed the obligation or obligations which lead to the depletion of the funds with due care and in accordance with the material terms and conditions of this Agreement. If BSB fails to exercise due care or fails to comply with the material terms of this Agreement in the performance of any Superfund Programs Obligations and such failure results in increased costs for the performance of any such obligation, BSB shall expend for any such obligation, from sources separate and independent of funds provided by AR to BSB pursuant this Agreement, an amount equal to the increased costs associated with any such failure, and BSB’s responsibility for performance of Superfund Programs Obligations under this Agreement would thereafter cease. BSB’s satisfaction of BSB’s financial obligation to pay such increased costs shall not limit any remedy that is otherwise available to AR pursuant to Article XX hereof.

Section 18.2. Limitation on Multi-Pathway Programs Obligations. If the amount of the funds deposited into the Multi-Pathway Program Trust Account pursuant to Sections 11.2 and 11.10 hereof, plus all accrued interest and income earned thereon, are not sufficient to pay

Multi Pathway Program Costs, then BSB's responsibility for performance of Multi-Pathway Program Obligations under this Agreement shall cease provided that BSB performed the obligation or obligations which lead to the depletion of the funds with due care and in accordance with the material terms and conditions of this Agreement. If BSB fails to exercise due care or fails to comply with the material terms of this Agreement in the performance of any Multi-Pathway Obligations and such failure results in increased costs for the performance of any such obligation, BSB shall expend for any such obligation, from sources separate and independent of funds provided by AR to BSB pursuant this Agreement, an amount equal to the increased costs associated with any such failure, and BSB's responsibility for performance of Multi-Pathway Obligations under this Agreement would thereafter cease. BSB's satisfaction of BSB's financial obligation to pay such increased costs shall not limit any remedy that is otherwise available to AR pursuant to Article XX hereof.

Section 18.3. Limitation on Superfund Management Obligations. If the five percent (5%) net discount rate used to calculate the total principal amount of the funds to be deposited into the Superfund Management Trust Account, as described in Section 18.4 hereof, proves to be inaccurate due to (i) the failure of the funds to accrue interest at the average rate of seven percent (7%) per annum over a period of 100 years, and/or (ii) an inflation rate that exceeds an average rate of two percent (2%) per annum over a period of 100 years, and, as a result, the amount of the funds deposited into the Superfund Management Account pursuant to Section 12.2 hereof, plus all accrued interest and income earned thereon, is not sufficient to pay Superfund Management Costs, then BSB's responsibility for performance of Superfund Management Obligations under this Agreement shall cease provided that BSB performed the obligation or obligations which lead to the depletion of the funds with due care and in accordance with the material terms and conditions of this Agreement. If BSB fails to exercise due care or fails to comply with the material terms of this Agreement in the performance of any Superfund Management Obligations and such failure results in increased costs for the performance of any such obligation, BSB shall expend for any such obligation, from sources separate and independent of funds provided by AR to BSB pursuant this Agreement, an amount equal to the increased costs associated with any such failure, and BSB's responsibility for performance of Superfund Management Obligations under this Agreement would thereafter cease. BSB's satisfaction of BSB's financial obligation to pay such increased costs shall not limit any remedy that is otherwise available to AR pursuant to Article XX hereof.

Section 18.4. Exercise of Due Care. The total principal amounts of the funds to be deposited into the Superfund Programs Trust Account, the Multi-Pathway Program Account and Superfund Management Account were calculated using a net discount rate of five percent (5%) per annum. The net discount rate of five percent (5%) was based on the following assumptions: (i) such funds will earn interest at the average rate of seven percent (7%) per annum over a period of 100 years, and (ii) such funds will be subject to inflation at the average rate of two percent (2%) per annum over a period of 100 years. Neither (i) the failure of the funds to accrue interest at the average rate of seven percent (7%) per annum over a period of 100 years, or (ii) an inflation rate that exceeds an average rate of two percent (2%) per annum over a period of 100 years shall constitute a failure by BSB to exercise due care or failure to comply with the material terms of this Agreement pursuant to Sections 18.1, 18.2 or 18.3 hereof.

Section 18.5. Failure to Exercise Due Care. In the event that AR asserts a claim that BSB has failed to exercise due care in performing any of its obligations or to comply with the material terms of this Agreement pursuant to Sections 18.1, 18.2 or 18.3 hereof, BSB shall have the right to invoke mediation and if necessary, arbitration pursuant to Sections 20.9 and 20.10 hereof.

Section 18.6. Limitation of Assertion of Failure to Exercise Due Care. AR shall not assert any claim that BSB failed to exercise due care in performing its obligations or to comply with the material terms of this Agreement pursuant to Sections 18.1, 18.2 or 18.3 hereof more than two (2) years following AR's discovery of the event giving rise to the alleged failure to exercise due care. For purposes of this Section 18.6, the term "discovery" shall mean the date on which AR knew or through the exercise of reasonable diligence should have known of the event.

Section 18.7. Coordination of Obligations. In the event the Parties determine that BSB may be released from the Superfund Programs Obligations pursuant to Section 18.1 hereof, the Parties shall promptly meet and confer to determine if AR will provide additional funds to the Superfund Programs Trust Account. If AR elects not to provide additional funds to the Superfund Programs Trust Account, the Parties shall establish schedules for the transition of the Superfund Programs Obligations from BSB to AR and shall confer with respect to all such other matters and issues which may be appropriate under the circumstance. If AR elects not to provide additional funds to the Superfund Programs Trust Account, all funds remaining in the Superfund Programs Trust Account and in the Groundwater Treatment System Capital Repair and Replacement Account, including all accrued interest and income earned thereon, following the transition of the Superfund Programs Obligations from BSB to AR shall be returned to AR or, at the option of AR, be available solely to AR or its designee to perform Response Actions and/or Operation and Maintenance Activities within the BPSOU, at the option of AR. In the event the Parties determine that BSB may be released from the Multi-Pathway Program Obligations pursuant to Section 18.2 hereof, the Parties shall promptly meet and confer to determine if AR will provide additional funds to the Multi-Pathway Program Trust Account. If AR elects not to provide additional funds to the Multi-Pathway Program Trust Account, the Parties shall establish schedules for the transition of the Multi-Pathway Program Obligations from BSB to AR and shall confer with respect to all such other matters and issues which may be appropriate under the circumstance. If AR elects not to provide additional funds to the Multi-Pathway Program Trust Account, all funds remaining in the Multi-Pathway Program Trust Account, including all accrued interest and income earned thereon, following the transition of the Multi-Pathway Program Obligations from BSB to AR shall be returned to AR or, at the option of AR, be available solely to AR or its designee to perform Response Actions and/or Operation and Maintenance Activities within the BPSOU, at the option of AR. In the event the Parties determine that BSB may be released from the Superfund Management Obligations pursuant to Section 18.3 hereof, the Parties shall promptly meet and confer to determine if AR will provide additional funds to the Superfund Management Trust Account. If AR elects not to provide additional funds to the Superfund Management Trust Account, the Parties shall establish procedures for the transition of responsibilities for Superfund Management Obligations as appropriate under the terms of the Consent Decree.

Section 18.8. General Limitation on Obligations. Except as specifically provided in Sections 4.5, 4.6, 4.7, 5.4, 6.1, 7.3 and 8.2, nothing in this Agreement shall be construed to obligate BSB to perform any actions outside of the BPSOU or to otherwise assume any responsibilities for wastes or properties located outside the BPSOU.

ARTICLE XIX.

RELEASES AND COVENANTS NOT TO SUE AND DISCHARGE OF HISTORIC PRESERVATION OBLIGATIONS

Section 19.1. Release and Covenant Not to Sue of BSB. Subject to BSB's rights and remedies and to otherwise proceed in accordance with Article XX hereof and BSB's reservation of rights set forth in this Section 19.1, for and in consideration of the mutual covenants and promises contained herein, BSB agrees to unconditionally, fully and forever release and discharge, and covenant not to sue AR and AR's shareholders, directors, officers, employees, attorneys, affiliates, parents and agents from and for any and all known or unknown, present and future, claims, demands, losses, damages (including, without limitation, compensatory damages, attorneys' fees, costs and punitive damages) and any and all actions and rights of action of any kind or nature arising out of or relating to: (i) Environmental Conditions within the BPSOU as of the Effective Date; and (ii) all matters addressed in this Agreement. Nothing in this Section 19.1 shall release, or discharge AR or its contractors, from any claims, demands, losses, damages (including, without limitation, compensatory damages, attorneys' fees, costs and punitive damages) or any actions or rights of action of any kind or nature which may arise after the Effective Date as a result of (i) the negligent performance by AR or its contractors of any of AR's duties or obligations under this Agreement; (ii) any exacerbation of any Environmental Conditions within the BPSOU by AR or its contractors; (iii) any act or omission by AR or its contractors which destroys, damages, or impairs any final remedy selected by EPA for the BPSOU; or (iv) costs associated with the treatment of storm water within the BPSOU or, except as other wise expressly provided in Section 5.2 hereof with respect to the Superfund Storm Water Structures, or costs associated with the implementation of Best Management Practices within the BPSOU.

Section 19.2. Release and Covenant Not to Sue of AR. Subject to AR's rights and remedies and to otherwise proceed in accordance with Article XX hereof and AR's reservation of rights set forth in this Section 19.2, for and in consideration of the mutual covenants and promises contained herein, AR agrees to unconditionally, fully and forever release and discharge, and covenant not to sue BSB from and for any and all known or unknown, present and future, claims, demands, losses, damages (including, without limitation, compensatory damages, attorneys' fees, costs and punitive damages) and any and all actions and rights of action of any kind or nature arising out of or relating to: (i) Environmental Conditions within the BPSOU as of the Effective Date; and (ii) all matters addressed in this Agreement. Nothing in this Section 19.2 shall release, or discharge BSB or its contractors, from any claims, demands, losses, damages (including, without limitation, compensatory damages, attorneys' fees, costs and punitive damages) or any actions or rights of action of any kind or nature which may arise after the Effective Date as a result of (i) the negligent performance by BSB of or its contractors of any of BSB's duties or obligations under this Agreement; (ii) any exacerbation of any Environmental Conditions within the BPSOU by BSB or its contractors; (iii) any act or omission by BSB or its contractors which destroys, damages, or impairs any final remedy selected by EPA for the BPSOU; or (iv) costs associated with the treatment of storm water within the BPSOU or, except as other wise expressly provided in Section 5.2 hereof with respect to the Superfund Storm Water Structures, or costs associated with the implementation of Best Management Practices within the BPSOU.

Section 19.3. Discharge of AR's Historic Preservation Obligations. BSB hereby acknowledges and agrees that, subject only to AR's performance of its duties and obligations under Sections 3.1, 3.2 and 4.1 hereof, AR will have completed all on-site mitigation, off-site

mitigation and other obligations of AR to BSB for the NPL Sites that may arise under Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470(f), the Upper Clark Fork River Basin Historic Preservation Plan and the Second Programmatic Agreement and BSB will, by written instrument, fully and forever discharge and release AR from any past, present and future claims for such obligations. Following AR's performance of its duties and obligations under Sections 3.1, 3.2 and 4.1 hereof, the Parties shall jointly and promptly seek written acknowledgement and concurrence from the other signatories to the Second Programmatic Agreement that the obligations referenced in this Section 19.3 have been fully and forever discharged and satisfied. Such written acknowledgement and concurrence shall be obtained through execution of an appropriate amendment to the Second Programmatic Agreement executed by all of the signatories to the Second Programmatic Agreement.

ARTICLE XX.

EVENTS OF DEFAULT AND REMEDIES

Section 20.1. Events of Default Defined. The following shall be "events of default" under this Agreement and the terms "events of default" and "default" shall mean, whenever they are used in this Agreement, any one or more of the following events:

1. Failure by AR to perform any material duty or obligation under this Agreement for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to AR by BSB, unless BSB shall agree in writing to an extension of time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, such cure period shall be extended if corrective action is instituted by AR within the thirty (30) day period and diligently pursued until the default is corrected.

2. Failure by BSB to perform any material duty or obligation under this Agreement for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to BSB by AR, unless AR shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, such cure period shall be extended if corrective action is instituted by BSB within the thirty (30) day period and diligently pursued until the default is corrected.

3. The provisions of this Article are subject to the following limitation: if by reason of Force Majeure a Party is unable in whole or in part to carry out its material duties or obligations under this Agreement, such Party shall not be deemed in default during the continuance of such inability; provided that (i) such Party's inability to perform is of no greater scope and of no greater duration than is required by the Force Majeure, (ii) such Party uses its best efforts to remedy its inability to carry out all or any part of its obligations and keeps the other Party fully informed as to such efforts, and (iii) the Force Majeure was not caused or aggravated by any negligent or intentional acts, errors or omissions of such Party or any failure by such Party to comply with any Applicable Laws.

Section 20.2. BSB Remedies on Default. Whenever BSB provides notice under Section 20.1.1 hereof that any default or event of default has happened, BSB, at its election, shall have the right to proceed with mediation and, if necessary, arbitration in accordance with

Sections 20.9 and 20.10 hereof. BSB shall provide AR with written notice of any election made by BSB pursuant to this Section 20.2.

Section 20.3. AR Remedies on Default. Whenever AR provides notice under Section 20.1.2 hereof that any default or event of default has happened, AR, at its election, shall have the right to remedy the default in accordance with Section 20.7 hereof or the right to proceed with mediation and, if necessary, arbitration in accordance with Sections 20.9 and 20.10 hereof. AR shall provide BSB with written notice of any election made by AR pursuant to this Section 20.3.

Section 20.4. Delay; Notice. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle any Party to exercise any remedy reserved to it in this Agreement it shall not be necessary to give any notice, other than such notice as may be required in this Agreement or by law.

Section 20.5. Agreement To Pay Fees and Expenses. In the event either Party to this Agreement should default under any of the provisions hereof and the non-defaulting Party should employ attorneys, experts, or other professionals or incur other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting Party herein contained, the defaulting Party agrees that it will on demand therefore pay, after the Parties have exercised their dispute resolution options under this Article XX, to the non-defaulting Party the reasonable fees of such attorneys, experts, or other professionals and such other costs and expenses reasonably so incurred by the non-defaulting Party. Except as otherwise provided in Section 20.7 hereof, the Parties may not draw upon any of the trust accounts established pursuant to this Agreement to pay any such fees of such attorneys, experts, or other professionals or any such other costs and expenses.

Section 20.6. No Additional Waiver Implied by One Waiver. In the event any default is waived by a Party, such waiver shall be limited to the particular default so waived and shall not be deemed to waive any other default hereunder.

Section 20.7. AR Option to Remedy Default. In the event of a default by BSB under Section 20.1.2 hereof, AR shall have the right, but not the obligation, to take such actions and incur such costs, expenses and fees (including attorneys' fees, expert fees and other professional fees) as may be necessary to remedy such default. In the event AR exercises its right to remedy a default pursuant to this Section 20.7, AR shall submit a demand to BSB for reimbursement of the full amount of all charges, expenses, fees (including attorneys' fees, expert fees and other professional fees) and other costs incurred by AR in remedying the default. The charges, expenses, fees and other costs reasonably incurred by AR to remedy a default shall accrue interest at the rate of 7% per annum from the date the charges, expenses, fees and other costs were incurred until paid. Within thirty (30) days of BSB's receipt of a demand pursuant to this Section 20.7, BSB shall either (i) pay AR the full amount of the demand, together with interest at the rate of 7% per annum from the date of AR's incurrence of such charges, expenses, fees and other costs or (ii) notify AR that BSB disputes the demand and wishes to submit the dispute to mediation and, if necessary, arbitration in accordance with the terms and conditions of Sections 20.9 and 20.10 hereof. If and to the extent that AR is the prevailing party in any arbitration commenced pursuant to this Section 20.7, BSB shall be obligated to repay AR the total amount awarded by the arbitrator, on demand, together with interest at the rate of 7% per annum from the date of AR's incurrence of the charges, expenses,

fees and other costs awarded. In the event BSB fails to repay AR, on demand, AR shall have the right to withdraw the full amount owed by BSB from the Superfund Programs Trust Account to the extent the actions relate to duties and obligations that are funded by the Superfund Programs Account. AR's right to take actions and secure repayment pursuant to this Section 20.7 shall be in addition to, and not in any way in lieu of, any other right of AR under this Agreement, including AR's right to terminate this Agreement in accordance with Section 20.11 hereof and AR's right to proceed with mediation and, if necessary, arbitration in accordance with Sections 20.9 and 20.10 hereof.

Section 20.8. Emergency Response Actions. In the event any action or occurrence related to or arising out of any Superfund Programs Obligations causes or threatens to cause a Release of Mine Waste that may result in a violation of the Consent Decree, AR and/or BSB shall immediately take appropriate Emergency Response Actions and shall use its best efforts to provide twenty four (24) hours advance notice of such actions to the other Party and to EPA and the State, as may be required under the Consent Decree. Either Party may respond and perform Emergency Response Actions for any action or occurrence under this Section 20.8 whether or not such action or occurrence arises from an obligation for which that Party is responsible under this Agreement. The charges, expenses, fees and other costs reasonably incurred by a Party to perform Emergency Response Actions shall be recoverable by the Party from the Superfund Programs Trust Account in accordance with the Superfund Programs Trust Agreement and this Section 20.8.

Section 20.9. Mediation. In the event either Party elects to proceed with mediation and, if necessary, arbitration pursuant to Sections 20.2 or 19.3 hereof, or in the event BSB elects to proceed with mediation and, if necessary, arbitration pursuant to Section 20.7 hereof, then, within thirty (30) days of the effective date of any notice provided pursuant to Sections 20.2, 20.3 or 20.7 hereof, each of the Parties shall designate a senior-level representative, who shall collectively endeavor in good faith to resolve the default on a reasonable basis. Upon agreement of the Parties, a mediator with expertise in the matter in default may be selected to assist in this process. The costs and fees of the mediator shall be shared equally by the Parties. In the event a default is not resolved within sixty (60) days (or such longer time as may be agreed to by the Parties) after the effective date of any notice provided pursuant to Sections 20.2 or 20.3 hereof, or in the event a dispute is not resolved within sixty (60) days (or such longer time as may be agreed to by the Parties) after the effective date of any notice of intent to proceed with mediation and, if necessary, arbitration provided pursuant to Sections 20.7 hereof, the Parties shall have the exclusive right to proceed with arbitration pursuant to Section 20.10 hereof.

Section 20.10. Arbitration Procedures and Choice of Law. Defaults not resolved by the Parties in accordance with the mediation provisions of Section 20.9 hereof will be finally resolved by arbitration pursuant to the following terms:

1. The Party initiating the arbitration shall give written notice to the other Party.
2. The arbitration shall be conducted before a single arbitrator who shall be an individual possessing substantial professional experience in the subject matter of the dispute and, unless otherwise agreed by the Parties, shall be a lawyer licensed to practice in the State of Montana.
3. If the Parties can agree, the arbitrator shall be selected by the consent of the Parties. If the Parties cannot agree, then, within thirty (30) days after the notice initiating the

arbitration, the Parties shall each nominate an individual who is qualified to serve as the arbitrator and the two individuals so nominated shall select a qualified individual to serve as the arbitrator.

4. The Parties shall cooperate with the arbitrator to permit the scheduling of a hearing so as to complete any such arbitration within One hundred twenty (120) days of commencement, except if the arbitrator determines for good cause that a longer period is required. The Parties shall have no less than thirty (30) days' notice prior to the commencement of any hearing.

5. No adjournment of any hearing shall exceed thirty (30) days in length, nor shall there be more than one (1) such adjournment without the written consent of the Parties.

6. Except as otherwise provided in this Section 20.10, the arbitration shall be governed by the United States Arbitration Act, 9 U.S.C. 1-16, to the exclusion of any provision of State law inconsistent therewith, and judgment upon the award rendered by the single arbitrator may be entered by any court having jurisdiction thereof.

7. The arbitrator shall apply the substantive law of the State of Montana exclusive of its conflict of law rules.

8. Any award rendered by the single arbitrator shall contain specific findings of fact and conclusions of law on which the award is based and the Parties shall have the right to appeal all issues of law to any court having jurisdiction.

9. In the event the occurrence or continuation of a default or event of default is disputed by a Party, the arbitrator is specifically authorized to resolve the dispute. Any decision of the arbitrator relating to the occurrence or non-occurrence of a default or event of default shall contain specific findings of fact and conclusions of law on which the decision is based and the Parties shall have the right to appeal all issues of law to any court having jurisdiction.

10. The arbitrator is specifically authorized to grant appropriate relief as may be requested, explicitly including specific performance or orders to any Party to perform the Agreement. The Parties explicitly agree that the arbitrator may award specific performance of any kind or character notwithstanding the fact that damages may accord complete relief, and the arbitrator may award both specific performance and damages in order to provide a Party with complete relief.

11. The Parties agree that the prevailing Party in any dispute finally resolved by arbitration shall be entitled to an award of its reasonable legal fees and expenses incurred in the arbitration, including attorneys' fees, expert fees, other professional fees and fees of arbitration.

Section 20.11. Termination of Agreement by AR. Notwithstanding any other term or condition of this Agreement, AR, at its election, shall have the right to terminate this Agreement if: (i) the excavation or removal of any Mine Waste from within the MSD Corridor is required pursuant to the ROD; (ii) EPA fails to incorporate the material terms and conditions of this Agreement into a Consent Decree as contemplated by Section 21.2 hereof on or before December 31, 2013; or (iii) a Work Takeover occurs. AR shall provide BSB with written notice of any election made pursuant to this Section 20.11. Promptly following BSB's receipt of such notice, the Parties shall meet and confer. It is understood that during such meeting and conference, AR, in its sole discretion, may make proposals for the modification of this

Agreement in lieu of the termination of this Agreement and that such proposals may include, without limitation, a proposal to reduce the amount of the funding provided by AR to BSB pursuant to Article XV hereof. In the event AR elects to terminate this Agreement following the meeting and conference, AR shall promptly notify BSB in writing.

Section 20.12. Termination of Agreement by Non-Defaulting Party. Subject to the terms and conditions set forth in this Section 20.12, if a default or event of default referred to in Sections 20.1.1 or 20.1.2 hereof shall have happened, the non-defaulting Party, at its election, shall have the right to terminate this Agreement. The non-defaulting Party shall provide the defaulting Party with written notice of any election made pursuant to this Section 20.12. In the event the occurrence of a default or event of default is disputed, the right of the non-defaulting Party to terminate this Agreement may be exercised only after a final decision of the arbitrator that contains specific findings of fact which confirm the occurrence of the default or event of default.

Section 20.13. Return of Trust Funds. If this Agreement is terminated by BSB pursuant to Section 20.12 hereof or by AR pursuant to Sections 20.11 or 20.12 hereof, then, on the date of termination, all funds remaining in the Superfund Programs Trust Account, the Multi-Pathway Program Trust Account, the Superfund Management Trust Account, the Capital Purchase, Repair and Replacement Account, the Groundwater Treatment System Capital Repair and Replacement Account and the Capital Improvements Trust Account (if funded pursuant to Section 13.7 hereof), including all accrued interest and income earned thereon, and all funds deposited in the Redevelopment Trust Account pursuant to Section 15.2.4 hereof, including all accrued interest and income earned thereon, and all funds paid to BSB pursuant to Section 3.8 hereof shall be returned to AR or, at the option of AR, be available solely to AR or its designee to perform Response Actions and/or Operation and Maintenance Activities within the BPSOU, at the option of AR.

Section 20.14. Failure to Reach Concurrence. In the event the Parties are unable to reach concurrence with respect to any matter with respect to which concurrence of the Parties is required pursuant to this Agreement, the matter shall be submitted to mediation and, if necessary, arbitration in accordance with the terms and conditions of Sections 20.9 and 20.10 hereof.

ARTICLE XXI.

MISCELLANEOUS PROVISIONS

Section 21.1. Support of Anticipated Remedy. No representative of BSB or AR will, on behalf of BSB or AR respectively, either support or advocate to the EPA or State any position that is materially different than the Parties' respective positions set forth in this Agreement, consistent with the following:

1. Where this Agreement states that the Parties anticipate that specified requirements will be required by EPA or required pursuant to the ROD or the Consent Decree, the Parties agree that those requirements are appropriate and agree to mutually advocate the adoption of those requirements in the ROD and the Consent Decree.

2. With regard to the remedy for the MSD Corridor and the remedy for treatment of groundwater from the MSD and LAO areas, each Party shall respect the other Party's right to advocate their respective positions as set forth in Sections 3.5 and 4.1 hereof.

Section 21.2. Incorporation of Agreement into Consent Decree. On or before December 31, 2013, the Parties shall seek to negotiate and execute a judicially enforceable Consent Decree with EPA which incorporates all of the material terms and conditions of this Agreement.

Section 21.3. Submittals to EPA, other Governmental Entities. At the time either Party provides or submits any correspondence, report or other document relating to the Party's obligations under this Agreement to EPA or any other Governmental Entity, the Party shall provide a copy to the other Party at the addresses set forth in Section 21.5 hereof for the giving of written notice.

Section 21.4. Natural Resources Damages Settlement. In the event AR enters into a settlement agreement with the State with respect to the State's pending claims against AR for alleged natural resources damages for Area One, AR shall use its best efforts to have the majority of any settlement funds paid by AR to the State earmarked for use in Butte-Silver Bow County. Nothing contained in this Section 21.4 shall obligate AR to enter into any settlement agreement with the State or, if any such settlement agreement is entered into, to pay any funds to the State as a term thereof.

Section 21.5. Notices and Submissions. Whenever, under the terms of this Agreement, written notice is required to be given or a report or other document is required to be sent by one Party to another or to EPA, 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 Parties in writing. All notices, submissions, requests, demands for payment, instructions, or other documents to be given hereunder shall be in writing and shall be given by delivery in person, by electronic facsimile transmission, or other standard forms of written communications, by overnight courier or by registered or certified mail, postage prepaid, and shall be considered effective upon receipt, unless otherwise provided. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Agreement.

IF TO AR:

Gavin Scally
Atlantic Richfield Company
317 Anaconda Road
Butte, Montana 59701

WITH A COPIES TO:

Jean Martin, Esq.
6 Center Point Drive
LPC 6-557
LaPalma, California 90623

John P. Davis, Esq.
Poore, Roth & Robinson, P.C.
1341 Harrison Avenue
Butte, Montana 59701

IF TO BSB:

The City and County of
Butte-Silver Bow
155 West Granite
Butte, Montana 59701
Attn: Chief Executive

Section 21.6. Captions. The titles or captions of the provisions of this Agreement are merely for convenience or reference and are not representations of matters included or excluded from such provisions.

Section 21.7. Entire Agreement. Except as otherwise provided in this Section 21.7 and this Agreement, this Agreement and all exhibits hereto shall constitute the entire Agreement and understanding between and among the Parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter. The Parties expressly acknowledge and agree that, with regard to the subject matter of this Agreement and the transactions contemplated herein, (a) there are no oral agreements between the Parties and (b) this Agreement, including the recitals and all exhibits attached hereto, (i) embodies the final and complete agreement between the Parties, (ii) supersedes all prior and contemporaneous negotiations, offers, proposals, agreements, commitments, promises, acts, conduct, course of dealing, representations, statements, assurances and understandings, whether oral or written, and (iii) may not be varied or contradicted by evidence of any such prior or contemporaneous matter or by evidence of any subsequent oral agreement of the Parties. The Parties further expressly acknowledge and agree that the following agreements do not relate to the subject matter of this Agreement, are not superseded by this Agreement and remain in full force and effect:

1. That certain Water Service Agreement between BSB and AR dated as of November 26, 1996, as amended by the Parties;
2. That certain Horseshoe Bend Pipeline Easement Agreement dated as of June 10, 2005 between BSB, AR and Montana Resources, a Montana limited liability partnership;
3. That certain MSD Improvements Agreement dated as of June 10, 2005 between BSB and AR (provided, however, the obligations to perform monitoring, operation, maintenance, repair, replacement and supplementation of the MSD Improvements pursuant to the MSD Improvements Agreement shall be superseded by the obligations to perform Response Actions and Operation and Maintenance Activities pursuant to Article IV of this Agreement); and
4. That certain Agreement dated as of August 30, 1999 between BSB and AERL, as amended by the Parties ("Copper Mountain Sports Complex Agreement").

Section 21.8. Further Assurances. In addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by the Parties, the Parties shall perform, execute and/or deliver or cause to be performed, executed and/or delivered any and all other acts or deeds necessary to complete the work and/or the transactions contemplated herein.

Section 21.9. Negation of Agency Relationship. This Agreement shall not be construed to create, either expressly or by implication, the relationship of agency or partnership between the Parties. Neither Party (including such Party's agents, employees or contractors) is authorized to act on behalf of the other Party in any manner relating to the subject matter of this

Agreement. Neither Party shall be liable for the acts, errors or omissions of the officers, agents, employees or contractors of the other Party entered into, committed or performed with respect to or in the performance of this Agreement.

Section 21.10. Exhibits. All Exhibits attached to this Agreement are hereby incorporated into and made part of this Agreement. If the description set forth in the body of this Agreement of the terms and conditions of any document conflicts with the provisions of the actual document attached as an exhibit, the provisions of this Agreement shall control.

Section 21.11. No Admission of Liability. The Parties that have entered into this Agreement do not admit any liability arising out of the transactions or occurrences, or any Environmental Conditions whatsoever, relating to the Site or as set forth in this Agreement, exhibits, index or any other record documents attached hereto or incorporated by reference; nor do the Parties acknowledge that the Release or threatened Release of Hazardous Materials at or from the Site constitutes an imminent and substantial endangerment to the public health or welfare or the environment. The Parties do not admit and retain the right to dispute and contest any of the factual or legal statements made in any pleadings or other documents prepared or filed in connection with the NPL Sites including, without limitation, the ROD. This Agreement, any factual or legal statements made in this Agreement, and the resulting obligations of the Parties shall not be admissible in any judicial or administrative proceeding against any of the Parties, over their objection, as evidence of liability or as an admission of any factual or legal statements made herein, but it shall be admissible in an action to enforce this Agreement. This Agreement shall not be admissible in any judicial or administrative proceeding brought by or on behalf of any natural resource trustee or any Party to this Agreement for natural resource damages as evidence of liability or as an admission of any factual or legal statements or determinations made herein.

Section 21.12. General Reservations. Nothing in this Agreement shall restrict or limit in any way any cause of action or other rights, whether contingent or absolute, matured or un-matured, determined or undetermined or known or unknown as of the Effective Date of this Agreement, that either of the Parties may have against any Person or Governmental Entity including, without limitation, any cause of action for contribution or indemnity against any Person or Government Entity for reimbursement of the considerations incurred or to be incurred by AR pursuant to this Agreement.

Section 21.13. Binding Effect; Assignment. The rights and obligations set forth in this Agreement shall be binding on the Parties hereto and their successors and assigns. No assignment or delegation of any right or obligation hereunder, whether accruing prior to or after such assignment or delegation, will release the assigning or delegating Party from any liability or obligation under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld. No assignment or other transfer by any Party of its rights or obligations hereunder shall be effective unless and until (i) written notice thereof has been given to each other Party hereto, (ii) the transferee or assignee has executed and delivered to each other Party hereto a binding assumption in writing of all obligations of the transferor or assignor hereunder and an agreement to perform such obligations, and (iii) the Parties have each agreed in their sole discretion and in writing to the assignment or other transfer of rights or obligations. Any attempted assignment or transfer of rights or obligations by any Party which fails to comply with the foregoing requirements will be ineffective and void. Except as otherwise provided in Sections 20.11 and 21.2 hereof, this Agreement is not contingent on the entry or issuance of any consent decree, order or directive of any Governmental Entity.

Section 21.14. Retroactive Application For Limited Purposes. The Parties agree that the following provisions of this Agreement ,together with applicable definitions and exhibits, shall apply retroactively to all work that BSB performs under MOU 119 and MOU 135 pursuant to Sections 10.3 and 11.3 hereof, to funds drawn upon for that work from the Superfund Programs Trust Account, the Multi-Pathway Program Trust Account, the Superfund Management Trust Account or the Capital Purchase Repair and Replacement Trust Account; and to any disputes that arise from that work or with respect to amounts drawn from those trust accounts:

1. Sections 10.6, 11.6, 12.4 and 13.4 (record-keeping);
2. Sections 10.7, 11.7, 12.5 and 13.5 (budgeting);
3. Sections 10.8, 11.8, 12.6 and 13.6 (accounting, reporting);
4. Sections 18.1 through 18.5 (limitation on obligations); and
5. Article XX (dispute resolution).

Section 21.15. Modification. This Agreement, and the rights and the obligations of the Parties hereunder, may not be amended, altered or modified, and no rights of any Party hereunder shall be waived, unless such amendment, alteration, modification or waiver is evidenced by a written instrument executed by the Parties hereto.

Section 21.16. No Third-Party Beneficiaries. Except as expressly provided in this Agreement, nothing in this Agreement, express or implied, is intended to or shall confer upon any Person or Governmental Entity (including any other potentially responsible party at BPSOU) other than the Parties any rights (including without limitation any right of reimbursement or indemnification), benefits, or remedies of any nature whatsoever under or by reason of this Agreement.

Section 21.17. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of Montana applicable to agreements made and to be performed wholly within such jurisdiction.

Section 21.18. Counterparts. This Agreement may be executed in one or more counterpart, each of which shall for all purposes be deemed to be an original and all of which together shall constitute the same instrument.

Section 21.19. Severability. If any provision of this Agreement is or becomes invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions hereof, or of such provision in other respects, shall not be affected thereby.

Section 21.20. Integration of Recitals. All of the recitals to this Agreement are incorporated by this reference in their entirety as terms and conditions of this Agreement.

Section 21.21. Quarterly Meetings. Appropriate representatives of the Parties shall meet and confer on a quarterly basis to discuss any compliance issues that may have arisen in the prior quarter and to discuss and coordinate the respective duties and obligations of the

Parties during the upcoming quarter. AR shall be responsible for taking and preparing minutes of each quarterly meeting and shall provide BSB with copies of the quarterly meeting minutes within ten (10) business days of each such meeting.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the 21st day of December, 2006.

Exhibit "1"
(Map of BPSOU)



Exhibit "2"

(Revised Map of Superfund Storm Water Structures)

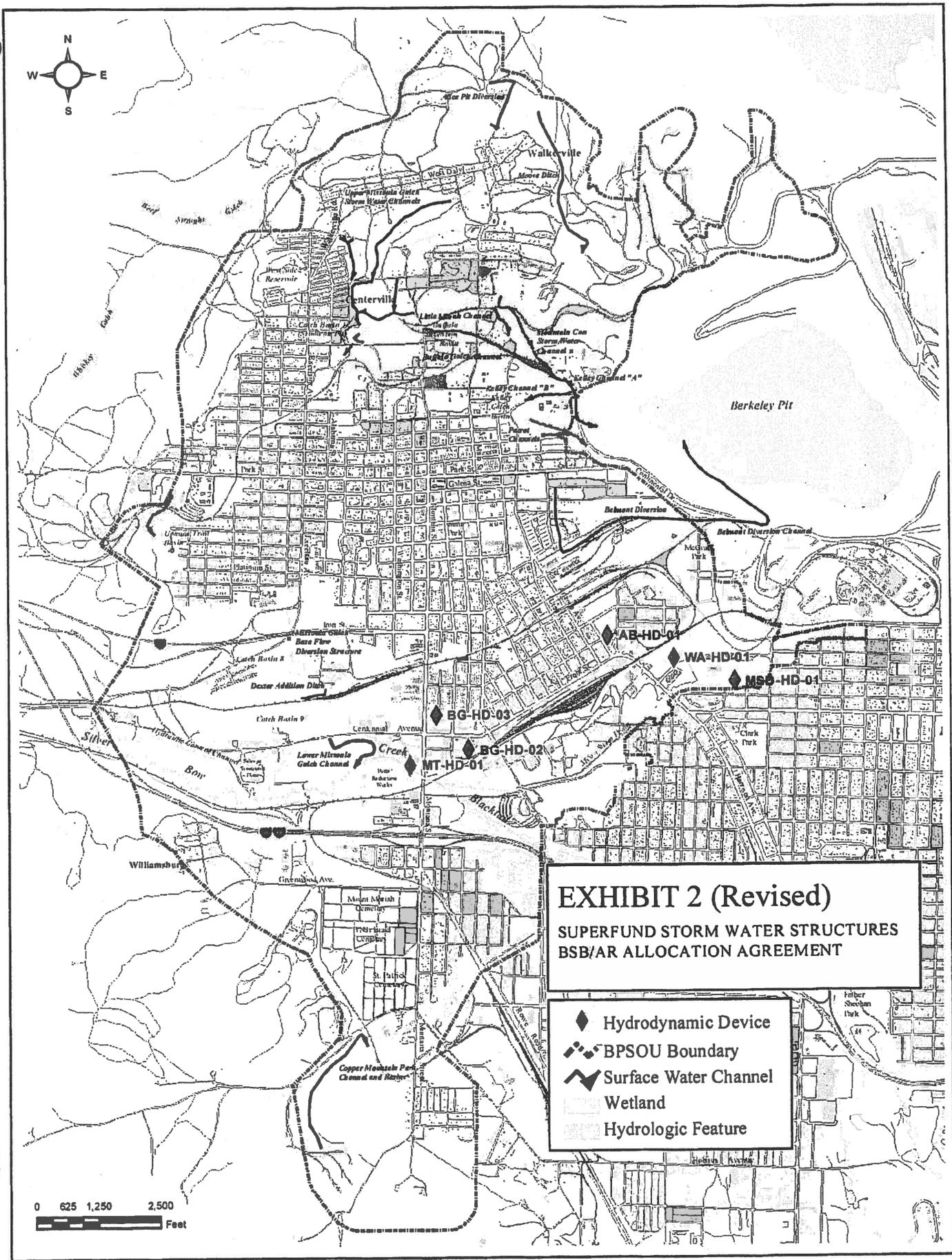


EXHIBIT 2 (Revised)
SUPERFUND STORM WATER STRUCTURES
BSB/AR ALLOCATION AGREEMENT

- ◆ Hydrodynamic Device
- ▤ BPSOU Boundary
- ▬ Surface Water Channel
- ▨ Wetland
- ▧ Hydrologic Feature

0 625 1,250 2,500
 Feet

Exhibit 2.1
(List of Superfund Storm Water Structures)

Exhibit 2.1

List of Superfund Storm Water Structures

The following is a list of Superfund Storm Water Structures (SSWS) as defined in Definition 119 of the Allocation Agreement and shown on the accompanying Map in this Exhibit 2.

1. Alice Pit Diversion
2. Moose Ditch Diversion to Green Mountain Shaft
3. Green Mountain Shaft Sedimentation Basin
4. Upper Missoula Gulch Channels (2 - East and West)
5. Centerville Channels to Syndicate Pit
6. Syndicate Pit Catch Basin 1 (CB-1)
7. Lower Missoula Gulch Splash Basin and Base Flow Diversion Structure
8. Lower Missoula Gulch Catch Basin 8 (CB-8)
9. Lower Missoula Gulch Catch Basin 9 (CB-9)
10. Lower Missoula Gulch Channel to Silver Bow Creek
11. Upper Trail Catch Basin 2 (CB-2) - (Far West Drainage, south of Montana Tech football fields)
12. Little Minah Channel
13. Buffalo Gulch Channel
14. Buffalo Gulch Detention Basin
15. Mountain Con Channel
16. Kelley Channel "A" to Berkeley Pit
17. Kelley Channel "B" to Kelley Catch Basin
18. Kelley Catch Basin at lower Anaconda Road
19. Kelley Catch Basins (2) north of Kelley Shaft
20. Parrot Channels (2 - North and South)
21. Belmont Diversion
22. Dexter Addition Ditch

Intentionally not shown on the Exhibit 2 Map are Rail Road Properties depicted on the map attached as Exhibit 30 to the Allocation Agreement.

The following structures are not Superfund Storm Water Structures;

1. Rail Road TCRA Middle Yard Channels
2. Rail Road TCRA Middle Yard Sedimentation Basin
3. Rail Road TCRA Lower Yard Channels
4. Rail Road TCRA Lower Yard Sedimentation Basin

(Revised 08-25-06)

Exhibit “3”
(Map of GMMIA and Historic Mining Landscape Area)

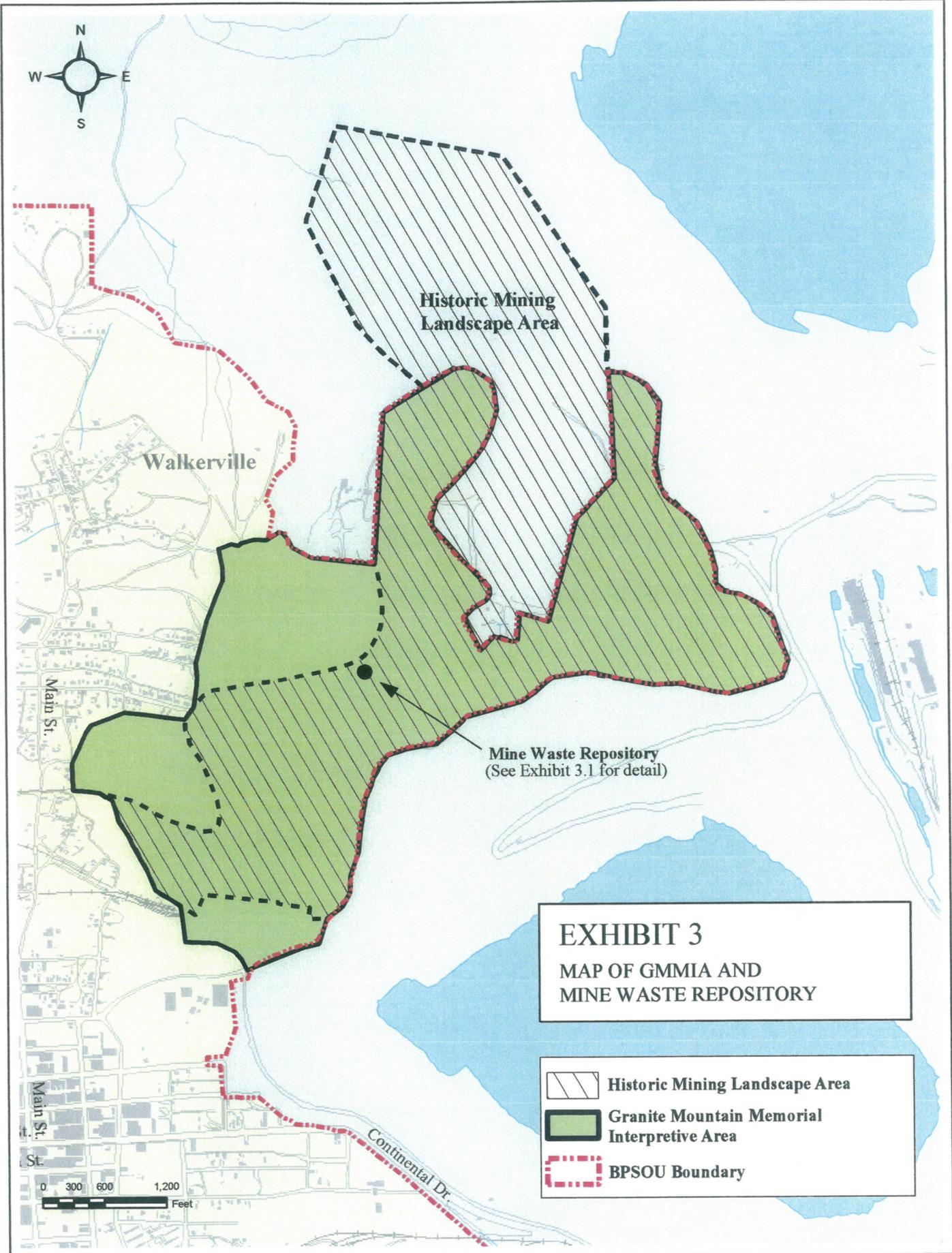
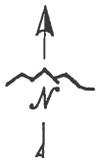
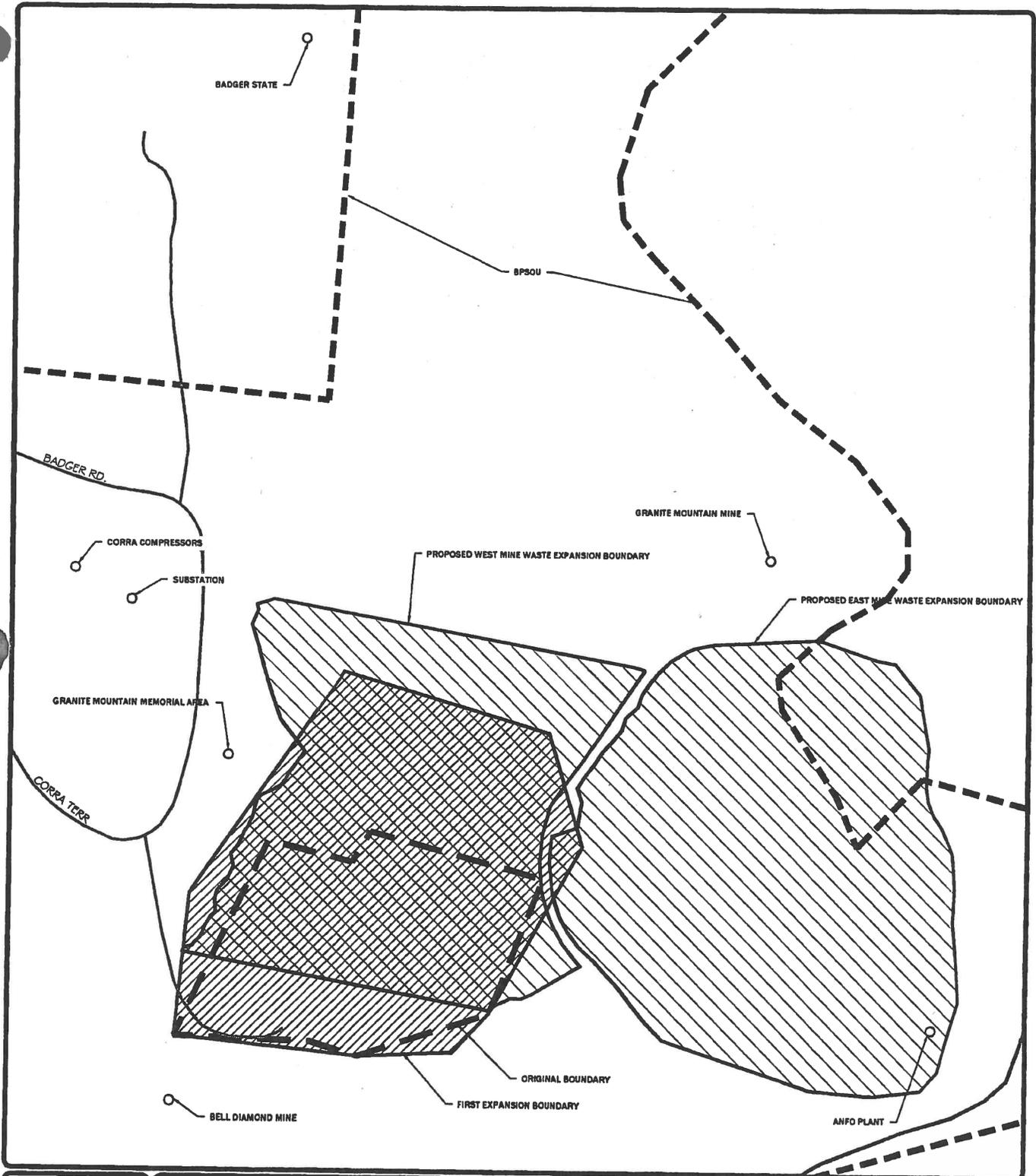


EXHIBIT 3
MAP OF GMMIA AND
MINE WASTE REPOSITORY

-  **Historic Mining Landscape Area**
-  **Granite Mountain Memorial Interpretive Area**
-  **BPSOU Boundary**

Exhibit 3.1
(Revised Map of Mine Waste Repository)



DISPLAYED AS: _____
 COORD SYS/ZONE: NAD 83
 DATUM: NAD 83
 UNITS: IF
 SOURCE: PIONEER/BSB



EXHIBIT 3.1



BUTTE, MONTANA 59701
 63-1/2 WEST BROADWAY
 (406) 782-5177

**MINE WASTE
REPOSITORY
LOCATION**

DATE: 6/4/12

Exhibit "4"
(Legal Description of Dedicated Use Properties)

(Intentionally Omitted from Working Copy)

Exhibit "5"
(Legal Description of Developable Properties)

(Intentionally Omitted from Working Copy)

Exhibit "6"
(Description of Storm Water Sites)

**Exhibit 6
"Storm Water Sites" Descriptions**

No.	Location, Description
1	Back Fill 007 Site 65 (south east corner of Excelsior & Empire)
2	New and Mahoney Street -corner of Curtis Street
3	Kelley Mine Yard Entrance - intersection of Copper, Wyoming and Anaconda Road
4	North Wyoming Street - where tourist line enters Kelley Mine Yard.
5	800 North Main - Main & Buffalo Street
6	131 West Copper Street- area behind 131 West Copper
7	424 North Washington Street - site next to 424 Washington Street.
8	413 Boardman Street - on opposite sides of Boardman where street changes from East-West to North-South
9	North Corner of Granite & Arizona
10	Artic Site 1530. Between Main and Alaska, south of Quartz.
11	Caledonia Street - south of Anselmo Mine Yard
12	PA012 Dump Site 113 (on Idaho Street between Mercury and Silver Streets)
13	33 West Missoula

Exhibit "7"
(Description of Capital Equipment Purchases)

Exhibit 7
 Capital Equipment Purchasing Schedule
 Allocation and Settlement Agreement
 By and Between the City and County of Butte-Silver Bow and Atlantic Richfield Company

Capital Cost Item	Description
Storm Water Equipment – Vacuum Truck	Initial purchase (Year 0) and limited periodic replacement of vacuum truck (replaced in year 10 and year 20).
Multi Pathway Program Vehicles	Initial purchase (Year 0) and periodic replacement of vehicles (re-placed in year 10 and year 20) for the MPP Program.
Reclaimed Area O & M Equipment	<p>Purchase and/or lease of equipment for use in Operation and Maintenance of reclaimed areas. Such equipment will include;</p> <ol style="list-style-type: none"> 1) Agricultural Equipment, such as a tractor and trailer with multiple attachments, such as a front end loader, a backhoe with retractable thumb, post-hole augers, grass mowers, seeders, discs, mulchers, water tanks, water pumps, irrigation devices, all-terrain four wheel drive vehicles (ATVs), weed sprayers, weed-eaters, fertilizer spreaders, hydro-seeders, tree planters, and other similar agricultural implements; 2) Materials Moving Equipment such as a dump truck and trailers with appropriate implements; and 3) Program Service Vehicles such as pick-up trucks, trailers and/or other vehicles for transporting personnel and equipment. <p>It is anticipated the larger vehicles, such as the tractor, trailer, dump truck, pick-up truck and ATV will be purchased or leased as soon as funding becomes available, i.e., Year 0, and periodically replaced at 10 year intervals for the duration of the program (100 years). Smaller implements will be purchased throughout the duration of the program on an as-needed basis. The need for alternative vehicles and/or implements yet unidentified will be reevaluated throughout the duration of the program and presented for concurrence as needed.</p>

Exhibit "8"
(Dedicated Use Properties Quitclaim Deeds)

(Intentionally Omitted from Working Copy)

Exhibit "9"
(Developable Properties Quitclaim Deeds)

(Intentionally Omitted from Working Copy)

Exhibit "10"
(Superfund Storm Water Structures Quitclaim Deed)

(Intentionally Omitted from Working Copy)

Exhibit "11"
(Third Party Quitclaim Deeds)

(Intentionally Omitted from Working Copy)

Exhibit "12"
(Capital Purchase Repair and Replacement Trust Agreement)

CAPITAL PURCHASE, REPAIR AND REPLACEMENT TRUST AGREEMENT

This Capital Purchase, Repair and Replacement Trust Agreement made 12-21, 2006, by and between Atlantic Richfield Company ("AR"), the City and County of Butte-Silver Bow ("BSB" and, together with AR, the "Parties" and each of them, a "Party") and Vanguard National Trust Company ("the Trustee").

WHEREAS, AR and BSB have entered into the Allocation and Settlement Agreement and Mutual Release of Claims effective 12-21, 2006 (the "Allocation Agreement" attached hereto as Exhibit A);

WHEREAS, pursuant to Section 13.1 of the Allocation Agreement, AR and BSB have agreed to establish the Capital Purchase, Repair and Replacement Trust Account and to execute this Trust Agreement;

WHEREAS, AR and BSB anticipate entering into negotiations with the U.S. Environmental Protection Agency ("EPA") and others for performance of EPA's selected remedial action for the Butte Priority Soils Operable Unit under a consent decree to which both BSB and AR are signatory parties (the "Consent Decree");

WHEREAS, AR and BSB desire to execute this Trust Agreement and to establish the Trust created hereby to carry out the agreement provided in Article XIII of the Allocation Agreement and to pay Capital Purchase, Repair and Replacement Costs (as defined in the Allocation Agreement) (the "Costs");

WHEREAS, the Initial Capital Purchase, Repair and Replacement Budget, including all Task Accounts and the approved budget amount for each Task Account (each as defined in the Allocation Agreement) has been prepared as provided in Section 13.5 of the Allocation Agreement, and BSB and AR have concurred with such budget;

WHEREAS, AR and BSB contemplate the joint identification and BSB's completion of "Priority Projects" for the BSB stormwater system as contemplated in Section 13.7 of the Allocation Agreement, and transfer of funds then remaining in the Capital Purchase, Repair and Replacement Trust Account by Trustee to the Capital Improvements Trust established and administered by BSB;

NOW, THEREFORE, the parties do hereby establish the Trust and agree that the Trust shall be comprised, held and disposed of as follows:

Section 1. Establishment Of Trust

(a) **The Purpose.** This Trust Agreement is intended to fulfill the agreement of AR and BSB provided in Article XIII of the Allocation Agreement. Accordingly, except as provided in Section 12(f) of this Trust Agreement, to the extent any provision hereof or obligation hereunder conflicts with any provision or obligation provided in Article XIII of the Allocation

Agreement, the terms of the Allocation Agreement shall be controlling. Capitalized terms used but not defined herein shall have the meanings assigned to them in the Allocation Agreement.

(b) **Deposit of Funds.** AR hereby deposits with the Trustee in trust the amount of cash listed in Exhibit B, which shall become the principal of the Trust to be held in a separate account (the "Trust Account"), administered and disposed of by the Trustee as provided in this Trust Agreement. Said deposit is made in satisfaction of the initial funding requirement under Section 13.2.1 of the Allocation Agreement.

(c) **Revocability.** The Trust hereby established shall be revocable only upon the joint written notification by AR and BSB to the Trustee that: (i) the then-remaining principal of the Trust, and any earnings thereon, shall be transferred by the Trustee to the Capital Improvements Trust Account established by BSB pursuant to Section 13.7 of the Allocation Agreement; or (ii) the Allocation Agreement has been terminated pursuant to Article XX of the Allocation Agreement.

(d) **Grantor Trust Status.** The Trust is intended to be a grantor trust, of which AR is the grantor, within the meaning of subpart E, Part I, subchapter J, chapter 1, subtitle A of the Internal Revenue Code of 1986, as amended, and shall be construed accordingly. All gains and losses from the investments of the assets of the Trust shall be recognized by AR, and the taxes thereon shall be paid by AR and shall not be recovered from the assets of the Trust.

(e) **Trust Assets.** The principal of the Trust, and any earnings thereon, shall be held by the Trustee separate and apart from other funds of AR or BSB and shall be used exclusively for the uses and purposes herein set forth.

(f) **Additional Deposits.**

(i) AR shall make additional deposits, in accordance with the applicable provisions of the Allocation Agreement and the Funding Spreadsheet attached thereto, with the Trustee in trust as and when required under Section 13.2.2 of the Allocation Agreement. The remaining principal balance of the funds required under the Allocation Agreement may be prepaid by AR at AR's election by deposit to the Trust, either in whole or in part, without premium or penalty, at any time prior to July 1, 2010 on the condition that AR shall pay all accrued interest calculated from the date of the last deposit to the Trust through and including the date of any prepayment on the amount of the then remaining principal balance of the funds outstanding at the time of each prepayment. AR's payment of interest so calculated shall be in addition to any prepayment of principal made by AR.

(ii) The Trustee shall not have any right or obligation to compel the collection or any such deposits or any additional deposits, nor for determining whether any such deposits are calculated or deposited in accordance with the provisions of the Allocation Agreement.

(g) Preparation of Annual Budgets.

(i) BSB and AR have concurred on the Initial Capital Purchase, Repair and Replacement Budget, attached hereto as Exhibit C. As provided in Section 13.5 of the Allocation Agreement, on or before May 1 of each year hereafter for so long as the Allocation Agreement is in effect or until there is a revocation of the Trust in accordance with Section 1(c) above, BSB shall prepare a Capital Purchase, Repair and Replacement Budget which specifies the dollar amount for each quarterly distribution to be made by the Trustee to BSB during that Fiscal Year by Task Account from the Trust Account (each, a "BSB Annual Budget").

(ii) Each BSB Annual Budget shall be provided to AR for AR's concurrence, which concurrence shall not be unreasonably withheld. All other proposed increases to the Initial Capital Purchase, Repair and Replacement Budget shall be concurred in by AR, which concurrence shall not be unreasonably withheld, and shall be accompanied by a narrative explanation of the reasons for each such proposed increase. A copy of the BSB Annual Budget, together with evidence of AR's written concurrence thereto, shall be provided to the Trustee by June 15 prior to the Fiscal Year to which such budget applies.

(iii) BSB shall not incur any charges, expenses, fees or other costs during a Fiscal Year in excess of or in addition to the total budget for a Task Account set forth in the BSB Annual Budget then in effect without the concurrence of AR, which concurrence shall not be unreasonably withheld. BSB may request AR's concurrence to incur charges, expenses, fees or other costs in excess of or in addition to the amount budgeted for the Fiscal Year in which the request is made, which concurrence shall not be unreasonably withheld by AR. If AR concurs in such a request, BSB shall provide a copy of the request and evidence of AR's written concurrence as soon as reasonably possible to the Trustee.

(h) Accounting by Parties. As provided in Section 13.6 of the Allocation Agreement, on or before September 1 of each year for so long as the Allocation Agreement is in effect and funds remain in the Trust Account, BSB shall deliver to AR and the Trustee a reconciliation that compares all amounts disbursed to BSB from the Trust Account during the prior Fiscal Year by Task Account with the total amount of Capital Purchase, Repair and Replacement Costs actually incurred by BSB for each Task Account during that prior Fiscal Year ("Capital Purchase, Repair and Replacement Accounting Report"). BSB and AR shall meet and confer, as necessary, to reach consensus upon the dollar amount, if any, to be carried forward. If there is concurrence, BSB shall provide evidence of AR's concurrence to the Trustee as soon as reasonably possible. Disputes between BSB and AR related to accounting shall be resolved pursuant to the procedures for mediation under Section 20.9 of the Allocation Agreement. This Trust Agreement imposes no obligation or duty upon Trustee to perform any accounting of or to otherwise verify the accuracy of any Capital Purchase, Repair and Replacement Accounting Report.

(i) **Books and Records of BSB.** BSB will keep, or cause to be kept, proper books of record and accounts separate from all other records and accounts, in which complete and correct

entries shall be made of all of its transactions relating to the Trust Account. Such books of record and accounts shall be at all times during business hours subject to the inspection and audit of AR, at such AR's expense.

(j) **Books and Records of the Trustee.** Without limitation of AR's and BSB's rights and the Trustee's obligations under Section 6, AR and BSB shall at all reasonable times and upon written notice to the Trustee, have access to all Trustee's books, records, correspondence and related documentation for the Trust for the purpose of auditing and verifying the Trustee's use of the Trust assets for the Costs, as provided by this Trust Agreement.

Section 2. Payments in Satisfaction of the Costs

(a) **Payments by Trustee.** The Trustee shall disburse the funds and earnings thereon from the Trust Account within ten (10) business days from receipt of a written request and only in accordance with the following provisions:

(i) Unless otherwise provided in the relevant BSB Annual Budget or otherwise directed by BSB and AR, the amount BSB may request the Trustee to disburse to BSB from the Trust Account for each quarter for each Task Account shall be twenty-five (25) percent of the total annual budget that Fiscal Year, as specified in the relevant BSB Annual Budget for that Task Account. BSB shall provide any documentation and information documenting the expenditure of such funds requested by the Trustee within forty-five (45) days following the last day of each quarter during which such funds were advanced by the Trustee.

(ii) In the event funds disbursed by the Trustee to BSB are not expended for Capital Purchase, Repair and Replacement Costs by BSB during the Fiscal Year such funds are received by BSB, as shown in the Capital Purchase, Repair and Replacement Accounting Report for that Fiscal Year prepared and concurred in by AR and BSB under Section 1(h), said funds shall be carried forward by BSB and expended by BSB to pay Costs during the next Fiscal Year. The Trustee shall reduce the payments to BSB that are authorized under the BSB Annual Budget for the second quarter of the next Fiscal Year by the amount carried forward by BSB from the prior Fiscal Year, and subsequent quarters until the balance of the total dollar amount carried forward for a Task Account is expended.

(iii) Upon written request of BSB for any amount not specifically provided for or in excess of the amount provided in the relevant BSB Annual Budget or any amount for an item specified in an BSB Annual Budget but in excess of the amount provided in the relevant Task Account of such BSB Annual Budget, the Trustee shall disburse funds to BSB upon receipt of a written request of BSB accompanied by AR's written consent to the disbursement of such account.

(iv) The Trustee shall disburse funds to BSB in accordance with a request that does not otherwise comply with the requirements of this Section 2(a), provided that the Trustee receives written approval from both BSB and AR for the disbursement.

(v) Upon written notice from AR and BSB that there has been a revocation of this Trust Agreement pursuant to Section 1(c)(i), the Trustee shall transfer the corpus of the Trust to the Capital Improvements Trust Account established by BSB after payments (reduced by any amounts then carried forward by BSB under Section 2(a)(ii)) are made by Trustee in satisfaction of Costs incurred prior to the date of such notice from AR and BSB and authorized under this Section 2(a).

(vi) Upon written notice from AR and BSB that there has been a revocation of this Trust Agreement pursuant to Section 1(c)(ii), the Trustee shall pay to AR all amounts remaining in the Trust after payments (reduced by any amounts then carried forward by BSB under Section 2(a)(ii)) are made by Trustee in satisfaction of Costs incurred prior to the date of such notice from AR and BSB and authorized under this Section 2(a).

(b) **Reporting and Payment of Taxes.** The Trustee, AR and BSB shall make provisions for the reporting of any federal, state or local income to the appropriate taxing authorities, and that the Trustee shall on a timely basis provide each Party the necessary specific information to properly withhold and report such income.

(c) **No Duty to Determine Sufficiency.** If the principal of the Trust and any earnings thereon are not sufficient to pay amounts due in respect of the Costs, the Trustee shall notify AR and BSB prior to the time payments are due, and in any event no later than five business days after the Trustee determines that the funds remaining in the Trust are not sufficient to pay amounts due in respect of the Costs. The Trustee shall have no responsibility to determine whether the Trust is sufficient to meet the Costs, and shall not be liable for liabilities arising from the Costs in excess of the value of the Trust's assets.

Section 3. Payments To AR

The Trust is revocable only as provided in Section 1(c) hereof, and AR shall have no right or power to direct the Trustee to return to AR or to divert to others any of the Trust assets prior to such revocation.

Section 4. Powers of Trustee

The Trustee, or the Trustee's designee, is authorized and empowered:

(i) To make payments in whole or partial satisfaction of the Costs, as provided in Section 2(a);

(ii) To invest and reinvest Trust assets, together with the income therefrom, in accordance with the prudent investor rule and the Investment Guidelines attached hereto as Exhibit D, which guidelines may be changed from time to time as provided in Section 11;

(iii) To hold in cash, without liability for interest, such portion of the Trust as is pending payment in satisfaction of the Costs, investment, payment of other expenses or the distribution of benefits;

(iv) To settle, compromise or abandon all claims and demands in favor of or against the Trust;

(v) To exercise all of the further rights, powers, options and privileges granted, provided for, or vested in trustees generally under the laws of the state of Montana so that the powers conferred upon the Trustee herein shall not be in limitation of any authority conferred by law, but shall be in addition thereto.

Section 5. Disposition Of Income

During the term of this Trust, all income received by the Trust, net of expenses as provided in Section 8, shall be accumulated and reinvested in accordance with the Investment Guidelines or used to satisfy the Costs in accordance with Section 2.

Section 6. Accounting By The Trustee

(a) **Monthly Statements.** The Trustee shall provide monthly account statements to AR and BSB in the manner provided for written notices under Section 12(c). The Trustee shall keep accurate and detailed records of all investments, receipts, disbursements, and all other transactions required to be made and such other records as shall be agreed upon in writing between AR, BSB and the Trustee. Within sixty (60) days after removal or resignation of the Trustee or such other period of time agreed upon by AR, BSB and the Trustee, the Trustee shall deliver to AR and BSB (a) a written account of its administration of the Trust during the period from the date of the last written account of its administration to the date of such removal or resignation, setting forth all investments, receipts, disbursements and other transactions effected by it, including a description of all securities and investments purchased and sold with the cost or net proceeds of such purchases or sales (accrued interest paid or receivable being shown separately), and showing all cash, securities and other property held in the Trust as of the date of such removal or resignation and (b) any information AR or BSB requires in order to comply with any financial, tax or other reporting obligations either of them may have under Federal, state or local law.

(b) **Request for Accounting.** Upon written notice by AR or BSB to the Trustee to provide an accounting for Trustee's financial transactions as trustee hereunder, the Trustee shall prepare a complete and detailed accounting, for such period as is designated in the written notice, and provide such accounting to AR and BSB within sixty (60) days of receipt of such request.

Section 7. Responsibility and Indemnity of the Trustee

(a) **Fiduciary Standard.** The Trustee shall administer the Trust in good faith and impartially, act in a fiduciary capacity pursuant to the laws of Montana and with the care, skill,

prudence and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, provided, however, that the Trustee shall incur no liability to any person for any action taken pursuant to a direction, request or approval given by AR or BSB which is contemplated by, and in conformity with, the terms of this Trust Agreement and is given in writing by AR, or BSB or in such other manner prescribed by the Trustee. The Trustee shall also incur no liability to any person for any failure to act in the absence of direction, request or approval from AR or BSB which is contemplated by, and in conformity with, the terms of this Trust Agreement. Further, the Trustee shall incur no liability to any other person by reason of any actions taken by any [additional trustee or] successor trustee or for assets that are not included in the Trust Account.

(b) **Indemnification of the Trustee.** AR hereby indemnifies the Trustee against, and shall hold it harmless from, any and all loss, claims, liability, and expenses, including reasonable attorneys' fees, imposed upon or incurred by the Trustee as a result of any acts taken or any failure to act, where such act or failure to act is in accordance with the directions from AR or any of its agents. AR's obligations in the foregoing regard shall be satisfied promptly by AR, provided that in the event the loss, claim, liability or expense involved is determined by a no longer appealable final judgment entered in a lawsuit or proceeding to have resulted from the negligence, gross negligence or willful misconduct of the Trustee or the act or omission of any third party, the Trustee shall promptly return to AR any amount previously received by the Trustee under this Section with respect to such loss, claim, liability or expense. If AR does not pay such costs, expenses and liabilities in a timely manner, the Trustee may obtain payment from the Trust without direction from AR as provided in Section 8. Amounts so obtained by Trustee shall be promptly reimbursed by AR to the Trust upon the conclusion of dispute resolution, if any, under Section 8(b).

(c) **Legal Counsel.** The Trustee, after providing written notice to AR and BSB, may consult with legal counsel with respect to any of its duties hereunder.

(d) **Other Advisers.** The Trustee, after providing written notice to AR and BSB, may hire agents, accountants, actuaries, investment advisers, financial consultants or other professionals as necessary to assist it in performing any of its duties or obligations hereunder.

(e) **Authority of Trustee.** The Trustee shall have, without exclusion, all powers conferred on the Trustee by applicable law, unless expressly provided otherwise herein.

(f) **Limitation on Trustee.** Notwithstanding any powers granted to the Trustee pursuant to this Trust Agreement or to applicable law, the Trustee shall not have any power that could give this Trust the objective of carrying on a business and dividing the gains therefrom, within the meaning of Section 301.7701-2 of the Procedure and Administrative Regulations promulgated pursuant to the Internal Revenue Code.

Section 8. Compensation And Expenses Of The Trustee

(a) From time to time, the Trustee shall submit to AR, and AR shall timely pay, an invoice for its fees in accordance with the Fee Schedule attached hereto as Exhibit E, and any

expenses charged for third party counsel and advisers described in Sections 7(c) and 7(d); provided that if the Trustee has not received payment of any such invoice within sixty (60) days of the date thereof, the Trustee is authorized to withdraw from the Trust the amount of such invoice subject to Section 7(b).

(b) Any dispute regarding compensation or expenses of the Trustee invoiced to AR under this Section 8 shall be submitted to informal dispute resolution, mediation or arbitration pursuant to the provisions of Section 13 (Remedies) of this Trust Agreement. If the dispute is submitted to arbitration, to the extent the arbitrator finds in the favor of AR, the Trustee shall pay into the Trust Account the amount withdrawn by the Trustee which the arbitrator found not to be compensation or expenses due under this Trust Agreement.

Section 9. Resignation And Removal Of The Trustee

(a) **Resignation of Trustee.** The Trustee may resign at any time by written notice to AR and BSB, which resignation shall be effective upon the latter of the appointment of a successor Trustee or thirty (30) days after receipt of such notice, unless AR, BSB and the Trustee agree otherwise.

(b) **Removal of Trustee.** The Trustee may be removed by AR and BSB upon the appointment of a successor Trustee as provided in Section 10(a), but in any event upon not less than thirty (30) days' notice, or upon shorter notice accepted by the Trustee.

(c) **Transfer of Assets to Successor.**

(i) Upon resignation or removal of the Trustee and appointment of a successor Trustee, all assets shall subsequently be transferred to the successor Trustee. The transfer shall be completed within sixty (60) days after receipt of notice of resignation, removal or transfer, unless AR and BSB together extend the time limit, provided that (i) the Trustee is provided assurance by AR satisfactory to the Trustee that all fees and expenses reasonably anticipated will be paid, and (ii) the Trustee's administration of the Trust will be settled either judicially or non-judicially.

(ii) Upon settlement of the account and transfer of the Trust assets to the successor Trustee, all rights and privileges under this Trust Agreement shall vest in the successor Trustee and all responsibility and liability of the Trustee with respect to the Trust and assets thereof shall terminate subject only to: (a) the requirement that the Trustee execute all necessary documents to transfer the Trust assets to the successor Trustee; and (b) the provisions of Sections 7(b) and 13.

Section 10. Appointment Of Successor

(a) **Appointment of Successor.** If the Trustee resigns or is removed in accordance with Section 9(a) or Section 9(b), AR and BSB shall confer and together appoint a third party as a successor to replace the Trustee upon resignation or removal. AR and BSB hereby agree to take reasonable steps to name a mutually agreeable successor in a timely manner. The appointment shall be effective when accepted in writing by the successor Trustee, who shall have

all of the rights and powers of the former Trustee. The former Trustee shall execute any instrument necessary or reasonably requested by AR or the successor Trustee to evidence the transfer.

(b) **Duty of Successor Trustee.** The successor Trustee need not examine the records and acts of any prior Trustee and may retain or dispose of existing Trust assets, consistent with its obligations under this Trust Agreement. The successor Trustee shall not be responsible for and AR shall indemnify and defend the successor Trustee from any claim or liability resulting from any action or inaction of any prior Trustee or from any other past event or any condition existing at the time it becomes successor Trustee.

Section 11. Amendment Or Termination

(a) **Amendment.** This Trust Agreement may be amended by a written instrument (i) executed by the Trustee and AR as deemed necessary or appropriate to meet the requirements of any change of law or circumstances affecting the intended treatment of the Trust, (ii) executed by the Trustee, AR and BSB to meet the requirements of any change in law or circumstances affecting the modification of the Costs, or any change in the authorized business purposes or powers of AR, BSB or the Trustee, (iii) executed by AR and BSB with respect to any amendment of or change to the Investment Guidelines, provided, that no such amendment may be made that alters the Trustee's rights or obligations under this Agreement without the Trustee's written consent, and (iv) with respect to any other matter, including any administrative, non-dispositive terms of this Agreement, by written instrument executed by AR, BSB and the Trustee.

(b) **Termination.** The Trustee is hereby directed to terminate the Trust as soon as practicable following the receipt of notice pursuant to Section 1(c) and the distribution of the Trust assets as provided in Section 2(a)(v) or Section 2(a)(vi).

Section 12. Miscellaneous

(a) **Severability.** Any provision of this Trust Agreement prohibited by law shall be ineffective to the extent of any such prohibition, without invalidating the remaining provisions hereof.

(b) **No Assignment of Benefits.** Amounts payable under this Trust Agreement may not be assigned (either at law or in equity), alienated, pledged, encumbered or subjected to attachment, garnishment, levy, execution or other legal or equitable process.

(c) **Notices.** All notices or other communications required to be given to Trustee, and BSB hereunder shall be in writing and shall be sufficiently given and shall be deemed given when provided by facsimile, and delivered or deposited in the United States First Class mail with postage fully prepaid and addressed as follows:

If to Trustee: Travis W. Gibboney, or Successor
Vanguard National Trust Company
PO Box 709, MS T-21
Valley Forge, PA 19482-0709

If to AR: Gavin Scally or Successor
Atlantic Richfield Company
317 Anaconda Road
Butte, MT 59701

If to BSB: City and County of Butte-Silver Bow
155 West Granite
Butte, MT 59701
Attn: Chief Executive

(d) **Governing Law.** The principal place of administration of this Trust Agreement shall be Montana. This Trust Agreement and its enforcement shall be governed by and construed in accordance with the laws of the State of Montana.

(e) **Survival.** The provisions of Sections 7(b) and 13 of this Trust Agreement shall survive termination of this Trust Agreement.

(f) **Conflict with the Obligations.** The rights, duties, responsibilities, obligations and liabilities of the Trustee are as set forth in this Trust Agreement, and no provision of any other document shall affect such rights, responsibilities, obligations and liabilities. If there is a conflict between this Trust Agreement with respect to any subject involving the Trustee, including but not limited to the responsibility, authority or powers of the Trustee, the provisions of this Trust Agreement shall be controlling.

Section 13. Remedies

(a) **Disputes between AR and BSB.** AR and BSB agree that all controversies that may arise between AR and BSB under this Agreement shall be resolved pursuant to the procedures and remedies set forth in Article XX of the Allocation Agreement.

(b) **Disputes between Trustee, AR and BSB.** AR, BSB and the Trustee agree that all controversies that may arise between any of them in connection with the Trust, including, but not limited to, those involving any transactions, or the construction, performance, or breach of this or any other agreement between any of them, whether entered into prior to, on, or subsequent to the date hereof, shall first be the subject of informal dispute resolution. In the event the controversy cannot be resolved through informal negotiations, the parties may elect to resolve the controversy by arbitration under a format agreed upon at that time; provided however, AR and Trustee agree that any dispute regarding compensation or expenses of the Trustee invoiced to AR under Section 8 shall be required to be arbitrated, if not resolved informally or by mediation. Judgment upon the award of arbitrators may be entered in any federal or state court having jurisdiction. In the event the Parties are unable to resolve any

controversy (other than a dispute regarding compensation or expenses of the Trustee) by agreement upon an alternative form of dispute resolution as provided above, any Party may commence an action concerning the subject matter of such controversy in any court of competent jurisdiction located in Montana.

Section 14. Effective Date

The effective date of this Trust Agreement shall be _____, 2006.

IN WITNESS WHEREOF, AR, BSB and the Trustee have executed this Trust Agreement each by action of a duly authorized person.

Atlantic Richfield Company

By: 

Robin Bullock
Northwest Region Manager

Vanguard National Trust Company

By: _____

Name/Title:

The City and County of Butte-Silver Bow



PAUL DAVID BABB
CHIEF EXECUTIVE

ATTEST:


MARY M. McMAHON
CLERK AND RECORDER

APPROVED AS TO FORM:


ROBERT M. MCCARTHY
COUNTY ATTORNEY

STATE OF MONTANA)

County of Silver Bow)

:ss.

On this 21st day of December, 2006, before me, Mollie A. Maffei, a Notary Public for the State of Montana, personally appeared PAUL DAVID BABB and MARY M. McMAHON, known to me to be the Chief Executive and Clerk and Recorder, respectively, of the City and County of Butte-Silver Bow, a municipal corporation and political subdivision of the State of Montana, and acknowledged to me that they executed the written instrument on behalf of said municipal corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Mollie A. Maffei
PRINTED NAME Mollie A. MAFFEI
NOTARY PUBLIC FOR THE STATE OF MONTANA
RESIDING AT BUTTE, MONTANA
MY COMMISSION EXPIRES 8-24-2008

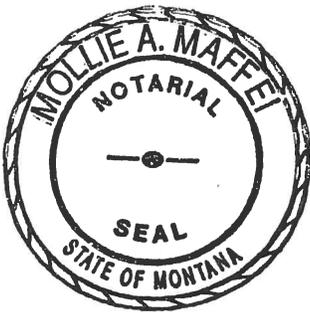


Exhibit A

[copy of Allocation Agreement]

Exhibit B

Initial Deposit, pursuant to Section 1(b)

\$2,208,000.00

Exhibit C

Initial BSB Capital Purchase, Repair and Replacement Budget

Exhibit D

Investment Guidelines

1. The investment objective for the Trust is to achieve a 7% return. This target objective will apply to all long-term assets. It is understood and acknowledged by the Parties that the actual return on investments held in the Trust will vary from year to year. The trustee will employ a long term approach that utilizes a diversified portfolio of domestic and international equity and fixed income funds, diversified across industry segments and time durations to achieve the investment objective for the fully funded Trust. For assets that are not deemed to be long-term in nature, the primary investment objectives are preserving capital and generating income.
2. The Trustee is specifically authorized to invest in and vote securities with the management of mutual funds affiliated with *The Vanguard Group, Inc. ("Vanguard")* even if such mutual funds will comprise the entire Trust estate, In addition, Trustee is specifically authorized to engage the services of and transact Trust business with any *Vanguard* affiliate.

Exhibit E

Fee Schedule for Trust Administration

This Trust is one of five trusts for which *Vanguard National Trust Company* shall serve as trustee under the terms of the Allocation Agreement and the five separate trust agreements among the Trustee, AR and BSB that are described in the Allocation Agreement.

The five trusts are:

- Superfund Programs Trust Agreement
- Superfund Management Trust Agreement
- Multi-Pathway Programs Trust Agreement
- Capital Purchase, Repair and Replacement Trust Agreement
- Ground Water Treatment System Capital Repair and Replacement Trust Agreement

This Exhibit E sets forth the Fee Schedule for Trust Administration applicable to the Trust and each of the other four trust agreements described above. This Fee Schedule shall remain in force for the duration of the Trustee's management of the Trust, and may only be amended by written instrument executed by Trustee and AR:

1. Fiduciary Fee – A Fiduciary Fee of \$1,250 per trust per year shall be invoiced to and paid by AR via quarterly deductions from each trust, as described in Paragraph 3 below; provided however, Trustee will waive the quarterly installment of the Fiduciary Fee for each trust whenever the aggregate assets under management (the sum of the assets of all trusts then under Trustee's management) exceeds \$20 million during the quarterly fee calculation. If the aggregate assets under management fall below \$20 million on any subsequent quarterly fee calculation, then the quarterly installment of the Fiduciary Fee will apply for that quarter.
2. Minimum Asset Requirement – There is no minimum asset requirement for the Trust; provided however, AR shall deposit and maintain a minimum \$2,500,000 in long-term investment assets year over year that is distributed among the trusts under management.
3. Asset Management Fee – Trustee shall provide full discretionary asset management services and full fiduciary trust services for an annual fee that shall be calculated based on the assets under management within each trust according to the schedule which follows.

Whenever the aggregate assets under management for all trusts during a quarterly fee calculation is \$5,000,000 or more, the quarterly fee shall be calculated (as provided below) on the total assets under management for all trusts and prorated among the trusts; provided however, the minimum annual fee of \$4,500 per trust is waived if the \$5,000,000 threshold is met. In the event the aggregate assets under management for all trusts during a quarterly fee calculation is less than \$5,000,000, the quarterly fee

shall be calculated individually for each trust under management, based upon the assets held in each trust.

*First \$1 to \$1,000,000.....0.75%

\$1,000,001 - \$2,000,000 = \$7,500 Plus 0.35% of assets over \$1 million

\$2,000,000 - \$10,000,000 = \$11,000 Plus 0.20% of assets over \$2 million

Over \$10,000,000 = \$25,000 Plus 0.15% of assets over \$10 million

Over \$30,000,000 = \$55,000 Plus 0.10% of assets over \$30 million

Over \$50,000,000 = \$75,000 Plus 0.05% of assets over \$50 million

* Minimum annual fee is \$4,500 per trust in addition to any applicable Fiduciary Fee.

The annual fee is calculated at the end of each calendar quarter. The Method of Payment for both the variable Asset Management Fee and the fixed Fiduciary Fee is by deduction of the calculated fee, on a quarterly basis from a separate money market account with a unique account number within the Trust and the other four trusts that is used solely for payment of fees ("Fee Account").

At the end of each quarter, Trustee shall prepare and transmit to AR an invoice for the quarterly fee for payment by AR by withdrawal from the Fee Account established for the Trust. All quarterly fees will be deducted from each trust approximately 14 days after the end of each calendar quarter. In addition to the quarterly invoices, Trustee shall provide an annual account statement for each Fee Account. At AR's sole discretion, AR may elect to pre-fund the fees by deposit of funds to any Fee Account in advance of the date for payment of any quarterly fee.

- 4. Mutual Fund Expenses – The Fiduciary Fee and Asset Management Fee are in addition to the internal expense ratio of Vanguard mutual funds. The internal expenses of Vanguard mutual funds apply to all investors, whether they are managing the investments themselves or if they have hired Vanguard National Trust Company to manage their assets for them.
- 5. Transaction Fees – The Trust shall utilize, if available, the Automated Clearing House (ACH) (or similar service in its stead) to periodically transfer funds from the Trust to the Butte Silver Bow bank account as required by the Trust Agreement. No transaction fees shall be invoiced to AR for this service. ACH transfers can be scheduled in advance (with two business days minimum).

Exhibit "13"
**(Groundwater Treatment System Capital Repair
and Replacement Trust Agreement)**

**GROUNDWATER TREATMENT SYSTEM
CAPITAL REPAIR AND REPLACEMENT
TRUST AGREEMENT**

This Groundwater Treatment System Capital Repair and Replacement Trust Agreement made 12-21, 2006, by and between Atlantic Richfield Company ("AR"), the City and County of Butte-Silver Bow ("BSB" and, together with AR, the "Parties" and each of them, a "Party") and Vanguard National Trust Company ("the Trustee").

WHEREAS, AR and BSB have entered into the Allocation and Settlement Agreement and Mutual Release of Claims effective 12-21, 2006 (the "Allocation Agreement" attached hereto as Exhibit A);

WHEREAS, pursuant to Section 14.1 of the Allocation Agreement, AR and BSB have agreed to establish the Groundwater Treatment System Capital Repair and Replacement Trust Account and to execute this Trust Agreement;

WHEREAS, AR and BSB anticipate entering into negotiations with the U.S. Environmental Protection Agency ("EPA") and others for performance of EPA's selected remedial action for the Butte Priority Soils Operable Unit under a consent decree to which both BSB and AR are signatory parties (the "Consent Decree");

WHEREAS, AR and BSB desire to execute this Trust Agreement and to establish the Trust created hereby to carry out the agreement provided in Article XIV of the Allocation Agreement and to pay Groundwater Treatment System Capital Repair and Replacement Costs (as defined in the Allocation Agreement) (the "Costs");

WHEREAS, AR and BSB anticipate entering into negotiations with the U.S. Environmental Protection Agency ("EPA") and others for performance of EPA's selected remedial action for the Butte Priority Soils Operable Unit under a consent decree to which both BSB and AR are signatory parties (the "Consent Decree");

WHEREAS, the Parties and the Trustee contemplate this Trust Agreement may later be amended at the Parties' request by the Parties, the Trustee and EPA to confirm EPA's right to funds in the Trust in the event of a Work Takeover and to pledge Trust assets in satisfaction of financial assurance requirements under the Consent Decree;

NOW, THEREFORE, the parties do hereby establish the Trust and agree that the Trust shall be comprised, held and disposed of as follows:

Section 1. Establishment Of Trust

(a) **The Purpose.** This Trust Agreement is intended to fulfill the agreement of AR and BSB provided in Article XIV of the Allocation Agreement. Accordingly, except as provided in Section 12(f) of this Trust Agreement, to the extent any provision hereof or obligation hereunder conflicts with any provision or obligation provided in Article XIV of the Allocation

Agreement, the terms of the Allocation Agreement shall be controlling. Capitalized terms used but not defined herein shall have the meanings assigned to them in the Allocation Agreement.

(b) **Deposit of Funds.** AR hereby deposits with the Trustee in trust the amount of cash listed in Exhibit B, which shall become the principal of the Trust to be held in a separate account (the "Trust Account"), administered and disposed of by the Trustee as provided in this Trust Agreement. Said deposit is made in satisfaction of the funding requirement under Section 14.2 of the Allocation Agreement.

(c) **Revocability.** The Trust hereby established shall be revocable only upon the joint written notification by AR and BSB to the Trustee that one of the following has occurred: (i) the Allocation Agreement has been terminated pursuant to Article XX of the Allocation Agreement; (ii) AR has assumed responsibility for all Superfund Programs Obligations pursuant to Sections 18.1 and 18.7 of the Allocation Agreement; or (iii) Operation and Maintenance Activities for the Expanded Lagoon Treatment System and/or the Conventional Groundwater Treatment System for which funding is provided from the Trust have been completed to EPA's satisfaction, eliminating the need for the Trust.

(d) **Grantor Trust.** The Trust is intended to be a grantor trust, of which AR is the grantor, within the meaning of subpart E, Part I, subchapter J, chapter 1, subtitle A of the Internal Revenue Code of 1986, as amended, and shall be construed accordingly. All gains and losses from the investments of the assets of the Trust shall be recognized by AR, and the taxes thereon shall be paid by AR and shall not be recovered from the assets of the Trust.

(e) **Trust Assets.** The principal of the Trust, and any earnings thereon, shall be held by the Trustee separate and apart from other funds of AR or BSB and shall be used exclusively for the uses and purposes herein set forth.

(f) **Additional Deposits.** The Trustee shall not have any right or obligation to compel the collection of any additional deposits, nor for determining whether any such deposits, if made by AR, are calculated or deposited in accordance with the provisions of the Allocation Agreement.

(g) **Preparation of Annual Budgets.**

(i) BSB and AR shall provide written notice to Trustee when BSB assumes the obligation to perform Operation and Maintenance Activities for the Expanded Lagoon Treatment System and/or the Conventional Groundwater Treatment System, as provided in Sections 4.2 or 4.3 of the Allocation Agreement.

(ii) Following transfer of the obligation to perform Operation and Maintenance Activities pursuant to Sections 4.2 and/or 4.3 of the Allocation Agreement and in the event BSB determines that any Groundwater Treatment System Capital Repair and Replacement are necessary, BSB shall prepare a Groundwater Treatment System Capital Repair and Replacement Budget which specifies the dollar amount for each quarterly distribution to be made by the Trustee to BSB during that Fiscal Year by Task Account from the Trust Account (each, a "BSB Annual Budget").

(iii) Each BSB Annual Budget shall be provided to AR for AR's concurrence, which concurrence shall not be unreasonably withheld. A copy of the BSB Annual Budget, together with evidence of AR's written concurrence thereto, shall be provided to the Trustee by June 15 prior to the Fiscal Year to which such budget applies.

(iv) BSB shall not incur any charges, expenses, fees or other costs during a Fiscal Year in excess of or in addition to the total budget for a Task Account set forth in the BSB Annual Budget then in effect without the concurrence of AR, which concurrence shall not be unreasonably withheld. BSB may request AR's concurrence to incur charges, expenses, fees or other costs in excess of or in addition to the amount budgeted for the Fiscal Year in which the request is made, which concurrence shall not be unreasonably withheld by AR. If AR concurs in such a request, BSB shall provide a copy of the request and evidence of AR's written concurrence as soon as reasonably possible to the Trustee.

(h) **Accounting by Parties.** As provided in Section 14.6 of the Allocation Agreement, BSB shall prepare and provide to AR, on or before September 1 of each year for so long as the Allocation Agreement is in effect and funds remain in the Trust Account, an accounting report of all amounts disbursed to by BSB from the Trust Account during the prior Fiscal Year ("Groundwater Treatment System Capital Repair and Replacement Accounting Report"), including a reconciliation of all funds which were not expended. All funds not expended by BSB shall promptly be transferred to Trustee by BSB for deposit to the Trust Account. Disputes between BSB and AR related to accounting shall be resolved pursuant to the procedures for mediation under Section 20.9 of the Allocation Agreement. This Trust Agreement imposes no obligation or duty upon Trustee to perform any accounting of or to otherwise verify the accuracy of any Groundwater Treatment System Capital Repair and Replacement Accounting Report.

(i) **Books and Records of BSB.** BSB will keep, or cause to be kept, proper books of record and accounts separate from all other records and accounts, in which complete and correct entries shall be made of all of its transactions relating to the Trust Account. Such books of record and accounts shall be at all times during business hours subject to the inspection and audit of AR, at such AR's expense.

(j) **Books and Records of the Trustee.** Without limitation of AR's and BSB's rights and the Trustee's obligations under Section 6, AR and BSB shall at all reasonable times and upon written notice to the Trustee, have access to all Trustee's books, records, correspondence and related documentation for the Trust for the purpose of auditing and verifying the Trustee's use of the Trust assets for the Costs, as provided by this Trust Agreement.

Section 2. Payments in Satisfaction of the Costs

(a) **Payments by Trustee.** The Trustee shall disburse the funds and earnings thereon from the Trust Account within ten (10) business days from receipt of a written request and only in accordance with the following provisions:

(i) Unless otherwise provided in the relevant BSB Annual Budget or otherwise directed by BSB and AR, the amount BSB may request the Trustee to disburse to BSB from the Trust Account for each quarter for each Task Account shall be twenty-five (25) percent of the total annual budget for that Fiscal Year, as specified in the relevant BSB Annual Budget for that Task Account. BSB shall provide any documentation and information documenting the expenditure of such funds requested by the Trustee within forty-five (45) days following the last day of each quarter during which such funds were advanced by the Trustee.

(ii) Upon written request of BSB for any amount not specifically provided for or in excess of the amount provided in the relevant BSB Annual Budget or any amount for an item specified in an BSB Annual Budget but in excess of the amount provided in the relevant Task Account of such BSB Annual Budget, the Trustee shall disburse funds to BSB upon receipt of a written request of BSB accompanied by AR's written consent to the disbursement of such account.

(iii) The Trustee shall disburse funds to BSB in accordance with a request that does not otherwise comply with the requirements of this Section 2(a), provided that the Trustee receives written approval from both BSB and AR for the disbursement.

(iv) From and after receipt of written notice from AR and BSB that EPA has commenced a Work Takeover and for the duration of any Work Takeover under the Consent Decree of any Groundwater Treatment System Operation and Maintenance Activities under the Allocation Agreement to be funded under this Trust Agreement, the Trustee shall pay Groundwater Treatment System Capital Repair and Replacement Costs incurred by EPA upon EPA's presentation of a written demand for payment of its costs from the Trust Account as may be provided in an amendment to this Trust Agreement.

(v) Upon written notice from AR and BSB that (i) AR and BSB have received written notice from EPA that Operation and Maintenance Activities for the Expanded Lagoon Treatment System and/or the Conventional Groundwater Treatment System are complete or (ii) there has been a revocation of this Trust Agreement pursuant to Section 1(c), the Trustee shall pay to AR all amounts remaining in the Trust after payments (reduced by any amounts then carried forward by BSB under Section 2(a)(ii)) are made by Trustee in satisfaction of Costs incurred prior to the date of such notice from AR and BSB and authorized under this Section 2(a).

(b) **Reporting and Payment of Taxes.** The Trustee, AR and BSB shall make provisions for the reporting of any federal, state or local income to the appropriate taxing authorities, and that the Trustee shall on a timely basis provide each Party the necessary specific information to properly report such income.

(c) **No Duty to Determine Sufficiency.** If the principal of the Trust and any earnings thereon are not sufficient to pay amounts due in respect of the Costs, the Trustee shall notify AR and BSB prior to the time payments are due, and in any event no later than five business days after the Trustee determines that the funds remaining in the Trust are not sufficient to pay amounts due in respect of the Costs. The Trustee shall have no responsibility to determine

whether the Trust is sufficient to meet the Costs, and shall not be liable for liabilities arising from the Costs in excess of the value of the Trust's assets.

Section 3. Payments To AR

The Trust is revocable only as provided in Section 1(c) hereof, and AR shall have no right or power to direct the Trustee to return to AR or to divert to others any of the Trust assets prior to such revocation.

Section 4. Powers of Trustee

The Trustee, or the Trustee's designee, is authorized and empowered:

- (i) To make payments in whole or partial satisfaction of the Costs, as provided in Section 2(a);
- (ii) To invest and reinvest Trust assets, together with the income therefrom, in accordance with the prudent investor rule and the Investment Guidelines attached hereto as Exhibit C, which guidelines may be changed from time to time as provided in Section 11;
- (iii) To hold in cash, without liability for interest, such portion of the Trust as is pending payment in satisfaction of the Costs, investment, payment of other expenses or the distribution of benefits;
- (iv) To settle, compromise or abandon all claims and demands in favor of or against the Trust;
- (v) To pledge Trust assets to satisfy financial assurance requirements pursuant to the Consent Decree or any administrative order issued by EPA for the BPSOU, as provided in Section 14.7 of the Allocation Agreement; and
- (vi) To exercise all of the further rights, powers, options and privileges granted, provided for, or vested in trustees generally under the laws of the state of Montana so that the powers conferred upon the Trustee herein shall not be in limitation of any authority conferred by law, but shall be in addition thereto.

Section 5. Disposition Of Income

During the term of this Trust, all income received by the Trust, net of expenses as provided in Section 8, shall be accumulated and reinvested in accordance with the Investment Guidelines or used to satisfy the Costs in accordance with Section 2.

Section 6. Accounting By The Trustee

(a) **Monthly Statements.** The Trustee shall provide monthly account statements to AR and BSB in the manner provided for written notices under Section 12(c). The Trustee shall keep accurate and detailed records of all investments, receipts, disbursements, and all other transactions required to be made and such other records as shall be agreed upon in writing between AR, BSB and the Trustee. Within sixty (60) days after removal or resignation of the Trustee or such other period of time agreed upon by AR, BSB and the Trustee, the Trustee shall deliver to AR and BSB (a) a written account of its administration of the Trust during the period from the date of the last written account of its administration to the date of such removal or resignation, setting forth all investments, receipts, disbursements and other transactions effected by it, including a description of all securities and investments purchased and sold with the cost or net proceeds of such purchases or sales (accrued interest paid or receivable being shown separately), and showing all cash, securities and other property held in the Trust as of the date of such removal or resignation and (b) any information AR or BSB requires in order to comply with any financial, tax or other reporting obligations either of them may have under Federal, state or local law.

(b) **Request for Accounting.** Upon written notice by AR or BSB to the Trustee to provide an accounting for Trustee's financial transactions as trustee hereunder, the Trustee shall prepare a complete and detailed accounting, for such period as is designated in the written notice, and provide such accounting to AR and BSB within sixty (60) days of receipt of such request.

Section 7. Responsibility and Indemnity of the Trustee

(a) **Fiduciary Standard.** The Trustee shall administer the Trust in good faith and impartially, act in a fiduciary capacity pursuant to the laws of Montana and with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, provided, however, that the Trustee shall incur no liability to any person for any action taken pursuant to a direction, request or approval given by AR or BSB which is contemplated by, and in conformity with, the terms of this Trust Agreement and is given in writing by AR, or BSB or in such other manner prescribed by the Trustee. The Trustee shall also incur no liability to any person for any failure to act in the absence of direction, request or approval from AR or BSB which is contemplated by, and in conformity with, the terms of this Trust Agreement. Further, the Trustee shall incur no liability to any other person by reason of any actions taken by any [additional trustee or] successor trustee or for assets that are not included in the Trust Account.

(b) **Indemnification of the Trustee.** AR hereby indemnifies the Trustee against, and shall hold it harmless from, any and all loss, claims, liability, and expenses, including reasonable attorneys' fees, imposed upon or incurred by the Trustee as a result of any acts taken or any failure to act, where such act or failure to act is in accordance with the directions from AR or any of its agents. AR's obligations in the foregoing regard shall be satisfied promptly by AR, provided that in the event the loss, claim, liability or expense involved is determined by a no longer appealable final judgment entered in a lawsuit or proceeding to have resulted from the

negligence, gross negligence or willful misconduct of the Trustee or the act or omission of any third party, the Trustee shall promptly return to AR any amount previously received by the Trustee under this Section with respect to such loss, claim, liability or expense. If AR does not pay such costs, expenses and liabilities in a timely manner, the Trustee may obtain payment from the Trust without direction from AR as provided in Section 8. Amounts so obtained by Trustee shall be promptly reimbursed by AR to the Trust following the conclusion of dispute resolution, if any, under Section 8(b).

(c) **Legal Counsel.** The Trustee, after providing written notice to AR and BSB, may consult with legal counsel with respect to any of its duties hereunder.

(d) **Other Advisers.** The Trustee, after providing written notice to AR and BSB, may hire agents, accountants, actuaries, investment advisers, financial consultants or other professionals as necessary to assist it in performing any of its duties or obligations hereunder.

(e) **Authority of Trustee.** The Trustee shall have, without exclusion, all powers conferred on the Trustee by applicable law, unless expressly provided otherwise herein.

(f) **Limitation on Trustee.** Notwithstanding any powers granted to the Trustee pursuant to this Trust Agreement or to applicable law, the Trustee shall not have any power that could give this Trust the objective of carrying on a business and dividing the gains therefrom, within the meaning of Section 301.7701-2 of the Procedure and Administrative Regulations promulgated pursuant to the Internal Revenue Code.

Section 8. Compensation And Expenses Of The Trustee

(a) From time to time, the Trustee shall submit to AR, and AR shall timely pay, an invoice for its fees in accordance with the Fee Schedule attached hereto as Exhibit D, and any expenses charged for third party counsel and advisers described in Sections 7(c) and 7(d); provided that if the Trustee has not received payment of any such invoice within sixty (60) days of the date thereof, the Trustee is authorized to withdraw from the Trust the amount of such invoice subject to Section 7(b).

(b) Any dispute regarding compensation or expenses of the Trustee invoiced to AR under this Section 8 shall be submitted to informal dispute resolution, mediation or arbitration pursuant to the provisions of Section 13 (Remedies) of this Trust Agreement. If the dispute is submitted to arbitration, to the extent the arbitrator finds in the favor of AR, the Trustee shall pay into the Trust Account the amount withdrawn by the Trustee which the arbitrator found not to be compensation or expenses due under this Trust Agreement.

Section 9. Resignation And Removal Of The Trustee

(a) **Resignation of Trustee.** The Trustee may resign at any time by written notice to AR and BSB, which resignation shall be effective upon the latter of the appointment of a successor Trustee or thirty (30) days after receipt of such notice, unless AR, BSB and the Trustee agree otherwise.

(b) **Removal of Trustee.** The Trustee may be removed by AR and BSB upon the appointment of a successor Trustee as provided in Section 10(a), but in any event upon not less than thirty (30) days' notice, or upon shorter notice accepted by the Trustee.

(c) **Transfer of Assets to Successor.**

(i) Upon resignation or removal of the Trustee and appointment of a successor Trustee, all assets shall subsequently be transferred to the successor Trustee. The transfer shall be completed within sixty (60) days after receipt of notice of resignation, removal or transfer, unless AR and BSB together extend the time limit, provided that (i) the Trustee is provided assurance by AR satisfactory to the Trustee that all fees and expenses reasonably anticipated will be paid and (ii) the Trustee's administration of the Trust will be settled either judicially or non-judicially.

(ii) Upon settlement of the account and transfer of the Trust assets to the successor Trustee, all rights and privileges under this Trust Agreement shall vest in the successor Trustee and all responsibility and liability of the Trustee with respect to the Trust and assets thereof shall terminate subject only to: (a) the requirement that the Trustee execute all necessary documents to transfer the Trust assets to the successor Trustee; and (b) the provisions of Sections 7(b) and 13.

Section 10. Appointment Of Successor

(a) **Appointment of Successor.** If the Trustee resigns or is removed in accordance with Section 9(a) or Section 9(b), AR and BSB shall confer and together appoint a third party as a successor to replace the Trustee upon resignation or removal. AR and BSB hereby agree to take reasonable steps to name a mutually agreeable successor in a timely manner. The appointment shall be effective when accepted in writing by the successor Trustee, who shall have all of the rights and powers of the former Trustee. The former Trustee shall execute any instrument necessary or reasonably requested by AR or the successor Trustee to evidence the transfer.

(b) **Duty of Successor Trustee.** The successor Trustee need not examine the records and acts of any prior Trustee and may retain or dispose of existing Trust assets, consistent with its obligations under this Trust Agreement. The successor Trustee shall not be responsible for and AR shall indemnify and defend the successor Trustee from any claim or liability resulting from any action or inaction of any prior Trustee or from any other past event or any condition existing at the time it becomes successor Trustee.

Section 11. Amendment Or Termination

(a) **Amendment.** This Trust Agreement may be amended by a written instrument (i) executed by the Trustee and AR as deemed necessary or appropriate to meet the requirements of any change of law or circumstances affecting the intended treatment of the Trust, (ii) executed by the Trustee, AR and BSB to meet the requirements of any change in law or circumstances affecting the modification of the Costs, or any change in the authorized business purposes or powers of AR, BSB or the Trustee, (iii) executed by AR and BSB with respect to any

amendment of or change to the Investment Guidelines, provided, that no such amendment may be made that alters the Trustee's rights or obligations under this Agreement without the Trustee's written consent, and (iv) with respect to any other matter, including any administrative, non-dispositive terms of this Agreement, by written instrument executed by AR, BSB and the Trustee.

(b) **Termination.** The Trustee is hereby directed to terminate the Trust as soon as practicable following the receipt of notice pursuant to Section 1(c) and the distribution of the Trust assets as provided in Section 2(a)(v).

Section 12. Miscellaneous

(a) **Severability.** Any provision of this Trust Agreement prohibited by law shall be ineffective to the extent of any such prohibition, without invalidating the remaining provisions hereof.

(b) **No Assignment of Benefits.** Except as authorized under Section 4(v), amounts payable under this Trust Agreement may not be assigned (either at law or in equity), alienated, pledged, encumbered or subjected to attachment, garnishment, levy, execution or other legal or equitable process.

(c) **Notices.** All notices or other communications required to be given to Trustee, and BSB hereunder shall be in writing and shall be sufficiently given and shall be deemed given when provided by facsimile, and delivered or deposited in the United States First Class mail with postage fully prepaid and addressed as follows:

If to Trustee: Travis W. Gibboney, or Successor
Vanguard National Trust Company
PO Box 709, MS T-21
Valley Forge, PA 19482-0709

If to AR: Gavin Scally or Successor
Atlantic Richfield Company
317 Anaconda Road
Butte, MT 59701

If to BSB: City and County of Butte-Silver Bow
155 West Granite
Butte, MT 59701
Attn: Chief Executive

(d) **Governing Law.** The principal place of administration of the Trust shall be Montana. This Trust Agreement and its enforcement shall be governed by and construed in accordance with the laws of the State of Montana.

(e) **Survival.** The provisions of Sections 7(b) and 13 of this Trust Agreement shall survive termination of this Trust Agreement.

(f) **Conflict with the Obligations.** The rights, duties, responsibilities, obligations and liabilities of the Trustee are as set forth in this Trust Agreement, and no provision of any other document shall affect such rights, responsibilities, obligations and liabilities. If there is a conflict between this Trust Agreement with respect to any subject involving the Trustee, including but not limited to the responsibility, authority or powers of the Trustee, the provisions of this Trust Agreement shall be controlling.

Section 13. Remedies

(a) **Disputes between AR and BSB.** AR and BSB agree that all controversies that may arise between AR and BSB under this Agreement shall be resolved pursuant to the procedures and remedies set forth in Article XX of the Allocation Agreement.

(b) **Disputes between Trustee, AR and BSB.** AR, BSB and the Trustee agree that all controversies that may arise between any of them in connection with the Trust, including, but not limited to, those involving any transactions, or the construction, performance, or breach of this or any other agreement between any of them, whether entered into prior to, on, or subsequent to the date hereof, shall first be the subject of informal dispute resolution. In the event the controversy cannot be resolved through informal negotiations, the parties may elect to resolve the controversy by mediation or arbitration under a format agreed upon at that time; provided however, AR and Trustee agree that any dispute regarding compensation or expenses of the Trustee invoiced to AR under Section 8 shall be required to be arbitrated, if not resolved informally or by mediation. Judgment upon the award of arbitrators may be entered in any federal or state court having jurisdiction. In the event the Parties are unable to resolve any controversy (other than a dispute regarding compensation or expenses of the Trustee) by agreement upon an alternative form of dispute resolution as provided above, any Party may commence an action concerning the subject matter of such controversy in any court of competent jurisdiction located in Montana.

Section 14. Effective Date

The effective date of this Trust Agreement shall be _____, 2006.

IN WITNESS WHEREOF, AR, BSB and the Trustee have executed this Trust Agreement each by action of a duly authorized person.

Atlantic Richfield Company

By: 
Robin Bullock
Northwest Region Manager

Vanguard National Trust Company

By: _____
Name/Title:

The City and County of Butte-Silver Bow

Paul David Babb
PAUL DAVID BABB
CHIEF EXECUTIVE

ATTEST:

Mary M. McMahon
MARY M. McMAHON
CLERK AND RECORDER

APPROVED AS TO FORM:

Robert M. McCarthy
ROBERT M. McCARTHY
COUNTY ATTORNEY

STATE OF MONTANA)

County of Silver Bow) :ss.

On this 21st day of December, 2008, before me, Mollie A. Maffei, a Notary Public for the State of Montana, personally appeared PAUL DAVID BABB and MARY M. McMAHON, known to me to be the Chief Executive and Clerk and Recorder, respectively, of the City and County of Butte-Silver Bow, a municipal corporation and political subdivision of the State of Montana, and acknowledged to me that they executed the written instrument on behalf of said municipal corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Mollie A. Maffei
PRINTED NAME Mollie A. Maffei
NOTARY PUBLIC FOR THE STATE OF MONTANA
RESIDING AT BUTTE, MONTANA
MY COMMISSION EXPIRES 8-24-2008

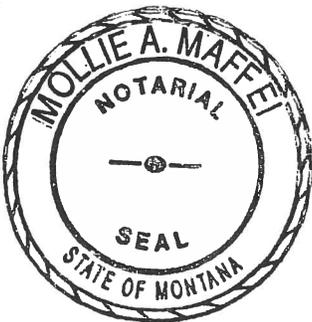


Exhibit A
[copy of Allocation Agreement]

Exhibit B

Deposit of Funds, pursuant to Section 1(b)

\$1,383,449.00

Exhibit C

Investment Guidelines

1. The investment objective for the Trust is to achieve a 7% return. This target objective will apply to all long-term assets. It is understood and acknowledged by the Parties that the actual return on investments held in the Trust will vary from year to year. The trustee will employ a long term approach that utilizes a diversified portfolio of domestic and international equity and fixed income funds, diversified across industry segments and time durations to achieve the investment objective for the fully funded Trust. For assets that are not deemed to be long-term in nature, the primary investment objectives are preserving capital and generating income.
2. The Trustee is specifically authorized to invest in and vote securities with the management of mutual funds affiliated with *The Vanguard Group, Inc. ("Vanguard")* even if such mutual funds will comprise the entire Trust estate, In addition, Trustee is specifically authorized to engage the services of and transact Trust business with any *Vanguard* affiliate.

Exhibit D

Fee Schedule for Trust Administration

This Trust is one of five trusts for which *Vanguard National Trust Company* shall serve as trustee under the terms of the Allocation Agreement and the five separate trust agreements among the Trustee, AR and BSB that are described in the Allocation Agreement.

The five trusts are:

- Superfund Programs Trust Agreement
- Superfund Management Trust Agreement
- Multi-Pathway Programs Trust Agreement
- Capital Purchase, Repair and Replacement Trust Agreement
- Ground Water Treatment System Capital Repair and Replacement Trust Agreement

This Exhibit E sets forth the Fee Schedule for Trust Administration applicable to the Trust and each of the other four trust agreements described above. This Fee Schedule shall remain in force for the duration of the Trustee's management of the Trust, and may only be amended by written instrument executed by Trustee and AR:

1. Fiduciary Fee – A Fiduciary Fee of \$1,250 per trust per year shall be invoiced to and paid by AR via quarterly deductions from each trust, as described in Paragraph 3 below; provided however, Trustee will waive the quarterly installment of the Fiduciary Fee for each trust whenever the aggregate assets under management (the sum of the assets of all trusts then under Trustee's management) exceeds \$20 million during the quarterly fee calculation. If the aggregate assets under management fall below \$20 million on any subsequent quarterly fee calculation, then the quarterly installment of the Fiduciary Fee will apply for that quarter.
2. Minimum Asset Requirement – There is no minimum asset requirement for the Trust; provided however, AR shall deposit and maintain a minimum \$2,500,000 in long-term investment assets year over year that is distributed among the trusts under management.
3. Asset Management Fee – Trustee shall provide full discretionary asset management services and full fiduciary trust services for an annual fee that shall be calculated based on the assets under management within each trust according to the schedule which follows.

Whenever the aggregate assets under management for all trusts during a quarterly fee calculation is \$5,000,000 or more, the quarterly fee shall be calculated (as provided below) on the total assets under management for all trusts and prorated among the trusts; provided however, the minimum annual fee of \$4,500 per trust is waived if the \$5,000,000 threshold is met. In the event the aggregate assets under management for all trusts during a quarterly fee calculation is less than \$5,000,000, the quarterly fee

shall be calculated individually for each trust under management, based upon the assets held in each trust.

*First \$1 to \$1,000,000.....0.75%

\$1,000,001 - \$2,000,000 = \$7,500 Plus 0.35% of assets over \$1 million

\$2,000,000 - \$10,000,000 = \$11,000 Plus 0.20% of assets over \$2 million

Over \$10,000,000 = \$25,000 Plus 0.15% of assets over \$10 million

Over \$30,000,000 = \$55,000 Plus 0.10% of assets over \$30 million

Over \$50,000,000 = \$75,000 Plus 0.05% of assets over \$50 million

* Minimum annual fee is \$4,500 per trust in addition to any applicable Fiduciary Fee.

The annual fee is calculated at the end of each calendar quarter. The Method of Payment for both the variable Asset Management Fee and the fixed Fiduciary Fee is by deduction of the calculated fee, on a quarterly basis from a separate money market account with a unique account number within the Trust and the other four trusts that is used solely for payment of fees ("Fee Account").

At the end of each quarter, Trustee shall prepare and transmit to AR an invoice for the quarterly fee for payment by AR by withdrawal from the Fee Account established for the Trust. All quarterly fees will be deducted from each trust approximately 14 days after the end of each calendar quarter. In addition to the quarterly invoices, Trustee shall provide an annual account statement for each Fee Account. At AR's sole discretion, AR may elect to pre-fund the fees by deposit of funds to any Fee Account in advance of the date for payment of any quarterly fee.

4. Mutual Fund Expenses – The Fiduciary Fee and Asset Management Fee are in addition to the internal expense ratio of Vanguard mutual funds. The internal expenses of Vanguard mutual funds apply to all investors, whether they are managing the investments themselves or if they have hired Vanguard National Trust Company to manage their assets for them.
5. Transaction Fees – The Trust shall utilize, if available, the Automated Clearing House (ACH) (or similar service in its stead) to periodically transfer funds from the Trust to the Butte Silver Bow bank account as required by the Trust Agreement. No transaction fees shall be invoiced to AR for this service. ACH transfers can be scheduled in advance (with two business days minimum).

Exhibit "14"
(Superfund Management Trust Agreement)

SUPERFUND MANAGEMENT TRUST AGREEMENT

This Superfund Management Trust Agreement made 12-21, 2006, by and between Atlantic Richfield Company ("AR"), the City and County of Butte-Silver Bow ("BSB" and, together with AR, the "Parties" and each of them, a "Party") and Vanguard National Trust Company ("the Trustee").

WHEREAS, AR and BSB have entered into the Allocation and Settlement Agreement and Mutual Release of Claims effective 12-21, 2006 (the "Allocation Agreement" attached hereto as Exhibit A);

WHEREAS, pursuant to Section 12.1 of the Allocation Agreement, AR and BSB have agreed to establish the Superfund Management Trust Account and to execute this Trust Agreement;

WHEREAS, BSB has assumed obligations for performance of certain Response Actions and Operation and Maintenance Activities identified as Superfund Management Obligations, as that term is defined and said obligations are set forth in the Allocation Agreement;

WHEREAS, AR and BSB desire to execute this Trust Agreement and to establish the Trust created hereby to carry out the agreement provided in Article XII of the Allocation Agreement and to pay Superfund Management Costs (collectively, the "Costs");

WHEREAS, the Initial Superfund Management Budget, including all Task Accounts and the approved budget amount for each Task Account (each as defined in the Allocation Agreement) has been prepared as provided in Section 12.5 of the Allocation Agreement, and BSB and AR have concurred with such budget;

WHEREAS, AR and BSB anticipate entering into negotiations with the U.S. Environmental Protection Agency ("EPA") and others for performance of EPA's selected remedial action for the Butte Priority Soils Operable Unit under a consent decree to which both BSB and AR are signatory parties (the "Consent Decree");

WHEREAS, the Parties and the Trustee contemplate this Trust Agreement may later be amended at the Parties' request by the Parties, the Trustee and EPA to confirm EPA's right to funds in the Trust in the event of a Work Takeover and to pledge Trust assets in satisfaction of financial assurance requirements under the Consent Decree;

NOW, THEREFORE, the parties do hereby establish the Trust and agree that the Trust shall be comprised, held and disposed of as follows:

Section 1. Establishment Of Trust

(a) **The Purpose.** This Trust Agreement is intended to fulfill the agreement of AR and BSB provided in Article XII of the Allocation Agreement. Accordingly, except as provided

in Section 12(f) of this Trust Agreement, to the extent any provision hereof or obligation hereunder conflicts with any provision or obligation provided in Article XII of the Allocation Agreement, the terms of the Allocation Agreement shall be controlling. Capitalized terms used but not defined herein shall have the meanings assigned to them in the Allocation Agreement.

(b) **Deposit of Funds.** AR hereby deposits with the Trustee in trust the amount of cash listed in Exhibit B, which shall become the principal of the Trust to be held in a separate account (the "Trust Account"), administered and disposed of by the Trustee as provided in this Trust Agreement. Said deposit is made in satisfaction of the initial funding requirement under Section 12.2.1 of the Allocation Agreement.

(c) **Revocability.** The Trust hereby established shall be revocable only upon written notification from AR and BSB to the Trustee that one of the following has occurred: (i) the Allocation Agreement has been terminated pursuant to Article XX of the Allocation Agreement; (ii) BSB has been released from responsibility for performance of Superfund Management Obligations pursuant to Sections 18.3 and 18.7 of the Allocation Agreement; or (iii) the Superfund Management Obligations for which funding is provided from the Trust have been completed to EPA's satisfaction, eliminating the need for the Trust.

(d) **Grantor Trust.** The Trust is intended to be a grantor trust, of which AR is the grantor, within the meaning of subpart E, Part I, subchapter J, chapter 1, subtitle A of the Internal Revenue Code of 1986, as amended, and shall be construed accordingly. All gains and losses from the investments of the assets of the Trust shall be recognized by AR, and the taxes thereon shall be paid by AR and shall not be recovered from the assets of the Trust.

(e) **Trust Assets.** The principal of the Trust, and any earnings thereon, shall be held by the Trustee separate and apart from other funds of AR or BSB and shall be used exclusively for the uses and purposes herein set forth.

(f) **Additional Deposits.**

(i) AR shall make certain additional deposits, in accordance with the applicable provisions of the Allocation Agreement and the Funding Spreadsheet attached thereto, with the Trustee in trust as and when required under Section 12.2.2 of the Allocation Agreement. The remaining principal balance of the funds required under the Allocation Agreement may be prepaid by AR at AR's election by deposit to the Trust, either in whole or in part, without premium or penalty, at any time prior to July 1, 2010 on the condition that AR shall pay all accrued interest calculated from the date of the last deposit to the Trust through and including the date of any prepayment on the amount of the then remaining principal balance of the funds outstanding at the time of each prepayment. AR's payment of interest so calculated shall be in addition to any prepayment of principal made by AR.

(ii) As provided under Section 18.7 of the Allocation Agreement, AR may elect to deposit additional funds to the Trust Account.

(iii) The Trustee shall not have any right or obligation to compel the collection of any such deposits or any additional deposits, nor for determining whether any such

deposits are calculated or deposited in accordance with the provisions of the Allocation Agreement.

(g) Preparation of Annual Budgets.

(i) BSB and AR have concurred on the Initial Superfund Management Budget, attached hereto as Exhibit C. As provided in Section 12.5 of the Allocation Agreement, on or before May 1 of each Fiscal Year hereafter for so long as the Allocation Agreement is in effect and BSB is obligated to perform Superfund Management Obligations, BSB shall prepare a Superfund Management Budget which specifies the dollar amount for each quarterly distribution to be made by the Trustee to BSB during that Fiscal Year by Task Account from the Trust Account (each, a "BSB Annual Budget").

(ii) Each BSB Annual Budget shall be provided to AR for AR's concurrence, which concurrence shall not be unreasonably withheld. In order to account for inflation, BSB may increase the approved budget amount set forth in the Initial Superfund Management Budget for each Task Account by 2% or less annually without the concurrence of AR, as illustrated in Exhibit C. All other proposed increases to the Initial Superfund Management Budget shall be concurred in by AR, which concurrence shall not be unreasonably withheld, and shall be accompanied by a narrative explanation of the reasons for each such proposed increase. A copy of the BSB Annual Budget, together with evidence of AR's written concurrence thereto, shall be provided to the Trustee by June 15 prior to the Fiscal Year to which such budget applies.

(iii) BSB shall not incur any charges, expenses, fees or other costs during a Fiscal Year in excess of or in addition to the total budget for a Task Account set forth in the BSB Annual Budget then in effect without the concurrence of AR, which concurrence shall not be unreasonably withheld. BSB may request AR's concurrence to incur charges, expenses, fees or other costs in excess of or in addition to the amount budgeted for the Fiscal Year in which the request is made, which concurrence shall not be unreasonably withheld by AR. If AR concurs in such a request, BSB shall provide a copy of the request and evidence of AR's written concurrence as soon as reasonably possible to the Trustee.

(h) Quarterly Accounting by Parties. As provided in Section 12.6 of the Allocation Agreement, BSB shall prepare and provide to AR, within forty-five (45) days of the end of each quarter for each Fiscal Year for so long as the Allocation Agreement is in effect, an accounting report of all amounts withdrawn by BSB from the Trust Account during the prior fiscal quarter ("Superfund Management Accounting Report"). The report shall include a budget reconciliation report which, separately for each Task Account and each budget amount for each Task Account set forth in the BSB Annual Budget that includes such fiscal quarter, compares the total amount actually incurred by BSB with the total budgeted amount. This Trust Agreement imposes no obligation or duty upon Trustee to perform any accounting of or to otherwise verify the accuracy of any Superfund Management Accounting Report.

(i) **Annual Accounting by the Parties.** Forty-five (45) days following the start of the first quarter of each Fiscal Year, BSB shall deliver to AR and the Trustee a reconciliation that compares all amounts disbursed to BSB from the Trust Account during the prior Fiscal Year by Task Account with the total amount of Superfund Management Costs actually incurred by BSB for each Task Account during that prior Fiscal Year (“Annual Accounting”). BSB and AR shall meet and confer, as necessary, to reach consensus upon the dollar amount, if any, to be carried forward. If there is concurrence, BSB shall provide evidence of AR’s concurrence to the Trustee as soon as reasonably possible. Disputes between BSB and AR related to accounting shall be resolved pursuant to the procedures for mediation under Section 20.9 of the Allocation Agreement. This Trust Agreement imposes no obligation or duty upon Trustee to perform any accounting of or to otherwise verify the accuracy of any Annual Accounting.

(j) **Books and Records of the Parties.** AR and BSB will keep, or cause to be kept, proper books of record and accounts separate from all other records and accounts, in which complete and correct entries shall be made of all of its transactions relating to the Trust Account. Such books of record and accounts shall be at all times during business hours subject to the inspection and audit of the other Party, at such other Party’s expense.

(k) **Books and Records of the Trustee.** Without limitation of AR’s and BSB’s rights and the Trustee’s obligations under Section 6, AR and BSB shall at all reasonable times and upon written notice to the Trustee, have access to all Trustee’s books, records, correspondence and related documentation for the Trust for the purpose of auditing and verifying the Trustee’s performance in accordance with the terms of this Trust Agreement.

Section 2. Payments in Satisfaction of the Costs

(a) **Payments by Trustee.** The Trustee shall disburse the funds and earnings thereon from the Trust Account within ten (10) business days from receipt of a written request and only in accordance with the following provisions:

(i) Unless otherwise provided in the relevant BSB Annual Budget or otherwise directed by BSB and AR, the amount BSB may request the Trustee to disburse to BSB from the Trust Account for each quarter for each Task Account shall be twenty-five (25) percent of the total annual budget for that Fiscal Year, as specified in the relevant BSB Annual Budget for that Task Account. BSB shall provide any documentation and information documenting the expenditure of such funds requested by the Trustee within forty-five (45) days following the last day of each quarter during which such funds were advanced by the Trustee.

(ii) In the event funds disbursed by the Trustee to BSB are not expended for Superfund Management Costs by BSB during the Fiscal Year such funds are received by BSB, as shown in the Annual Accounting for that Fiscal Year prepared and concurred in by AR and BSB under Section 1(i), said funds shall be carried forward by BSB and expended by BSB to pay Superfund Management Costs during the next Fiscal Year. The Trustee shall reduce the payments to BSB that are authorized under the BSB Annual Budget for the second quarter of the next Fiscal Year by the amount carried forward by

BSB from the prior Fiscal Year, and subsequent quarters until the balance of the total dollar amount carried forward for a Task Account is expended.

(iii) Upon written request of BSB for any amount not specifically provided for or in excess of the amount provided in the relevant BSB Annual Budget or any amount for an item specified in an BSB Annual Budget but in excess of the amount provided in the relevant Task Account of such BSB Annual Budget, the Trustee shall disburse funds to BSB upon receipt of a written request of BSB accompanied by AR's written consent to the disbursement of such amount.

(iv) The Trustee shall disburse funds in accordance with a request that does not otherwise comply with the requirements of this Section 2(a), provided that the Trustee receives written approval from both BSB and AR for the disbursement.

(v) From and after receipt of written notice from AR and BSB that EPA has commenced a Work Takeover and for the duration of any Work Takeover under the Consent Decree of any Superfund Management Obligations under the Allocation Agreement to be funded under this Trust Agreement, the Trustee shall pay EPA's costs in performing any such Superfund Management Obligations upon EPA's presentation of a written demand for payment of its costs from the Trust Account as may be provided in an amendment to this Trust Agreement.

(vi) Upon written notice from AR and BSB that (i) AR and BSB have received written notice from the EPA that Response Actions and Operation and Maintenance Activities delegated to BSB as Superfund Management Obligations under the Allocation Agreement are complete or (ii) there has been a revocation of this Trust Agreement pursuant to Section 1(c), the Trustee shall pay to AR all amounts remaining in the Trust after payments (reduced by any amounts then carried forward by BSB under Section 2(a)(ii)) are made by Trustee in satisfaction of Costs incurred prior to the date of such notice from AR and BSB and authorized under this Section 2(a).

(b) **Reporting and Payment of Taxes.** The Trustee, AR and BSB shall each make provisions for the reporting of any federal, state or local income to the appropriate taxing authorities, and the Trustee shall on a timely basis provide each Party the necessary specific information to properly report such income.

(c) **No Duty to Determine Sufficiency.** If the principal of the Trust and any earnings thereon are not sufficient to pay amounts requested, the Trustee shall promptly notify AR and BSB. The Trustee shall be under no duty to make any payment if sufficient cash is not available in the Trust Account. The Trustee shall have no responsibility to determine whether the Trust is sufficient to meet the Costs, and shall not be liable for liabilities arising from the Costs in excess of the value of the Trust's assets.

Section 3. Payments To AR

The Trust is revocable only as provided in Section 1(c) hereof, and AR shall have no right or power to direct the Trustee to return to AR or to divert to others any of the Trust assets prior to such revocation.

Section 4. Powers of Trustee

The Trustee, or the Trustee's designee, is authorized and empowered:

- (i) To make payments in whole or partial satisfaction of the Costs, as provided in Section 2(a);
- (ii) To invest and reinvest Trust assets, together with the income therefrom, in accordance with the prudent investor rule and the Investment Guidelines attached hereto as Exhibit D, which guidelines may be changed from time to time as provided in Section 11;
- (iii) To hold in cash, without liability for interest, such portion of the Trust as is pending payment in satisfaction of the Costs, investment, payment of other expenses or the distribution of benefits;
- (iv) To settle, compromise or abandon all claims and demands in favor of or against the Trust;
- (v) To pledge Trust assets to satisfy financial assurance requirements pursuant to the Consent Decree or any administrative order issued by EPA for the BPSOU, as provided in the Allocation Agreement; and
- (vi) To exercise all of the further rights, powers, options and privileges granted, provided for, or vested in trustees generally under the laws of the state of Montana so that the powers conferred upon the Trustee herein shall not be in limitation of any authority conferred by law, but shall be in addition thereto.

Section 5. Disposition Of Income

During the term of this Trust, all income received by the Trust, net of expenses as provided in Section 8, shall be accumulated and reinvested in accordance with the Investment Guidelines or used to satisfy the Costs in accordance with Section 2.

Section 6. Accounting By The Trustee

(a) **Monthly Statements.** The Trustee shall provide monthly account statements to AR and BSB in the manner provided for written notices under Section 12(c). The Trustee shall keep accurate and detailed records of all investments, receipts, disbursements, and all other transactions required to be made and such other records as shall be agreed upon in writing

between AR, BSB and the Trustee. Within sixty (60) days after removal or resignation of the Trustee or such other period of time agreed upon by AR, BSB and the Trustee, the Trustee shall deliver to AR and BSB (a) a written account of its administration of the Trust during the period from the date of the last written account of its administration to the date of such removal or resignation, setting forth all investments, receipts, disbursements and other transactions effected by it, including a description of all securities and investments purchased and sold with the cost or net proceeds of such purchases or sales (accrued interest paid or receivable being shown separately), and showing all cash, securities and other property held in the Trust as of the date of such removal or resignation and (b) any information AR or BSB requires in order to comply with any financial, tax or other reporting obligations either of them may have under Federal, state or local law.

(b) **Request for Accounting.** Upon written notice by AR or BSB to the Trustee to provide an accounting for Trustee's financial transactions as trustee hereunder, the Trustee shall prepare a complete and detailed accounting, for such period as is designated in the written notice, and provide such accounting to AR and BSB within sixty (60) days of receipt of such request.

Section 7. Responsibility and Indemnity of the Trustee

(a) **Fiduciary Standard.** The Trustee shall administer the Trust in good faith and impartially, act in a fiduciary capacity pursuant to the laws of Montana and with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, provided, however, that the Trustee shall incur no liability to any person for any action taken pursuant to a direction, request or approval given by AR or BSB which is contemplated by, and in conformity with, the terms of this Trust Agreement and is given in writing by AR, or BSB or in such other manner prescribed by the Trustee. The Trustee shall also incur no liability to any person for any failure to act in the absence of direction, request or approval from AR or BSB which is contemplated by, and in conformity with, the terms of this Trust Agreement. Further, the Trustee shall incur no liability to any person by reason of any actions taken by any [additional trustee or] successor trustee or for assets that are not included in the Trust Account.

(b) **Indemnification of the Trustee.** AR hereby indemnifies the Trustee against, and shall hold it harmless from, any and all loss, claims, liability, and expenses, including reasonable attorneys' fees, imposed upon or incurred by the Trustee as a result of any acts taken or any failure to act, where such act or failure to act is in accordance with the directions from AR or any of its agents. AR's obligations in the foregoing regard shall be satisfied promptly by AR, provided that in the event the loss, claim, liability or expense involved is determined by a no longer appealable final judgment entered in a lawsuit or proceeding to have resulted from the negligence, gross negligence or willful misconduct of the Trustee or the act or omission of any third party, the Trustee shall promptly return to AR any amount previously received by the Trustee under this Section with respect to such loss, claim, liability or expense. If AR does not pay such costs, expenses and liabilities in a timely manner, the Trustee may obtain payment from the Trust without direction from AR as provided in Section 8. Amounts so obtained by Trustee

shall be promptly reimbursed to the Trust by AR following the conclusion of dispute resolution, if any, under Section 8(b).

(c) **Legal Counsel.** The Trustee, after providing written notice to AR and BSB, may consult with legal counsel with respect to any of its duties hereunder.

(d) **Other Advisers.** The Trustee, after providing written notice to AR and BSB, may hire agents, accountants, actuaries, investment advisers, financial consultants or other professionals as necessary to assist it in performing any of its duties or obligations hereunder.

(e) **Authority of Trustee.** The Trustee shall have, without exclusion, all powers conferred on the Trustee by applicable law, unless expressly provided otherwise herein.

(f) **Limitation on Trustee.** Notwithstanding any powers granted to the Trustee pursuant to this Trust Agreement or to applicable law, the Trustee shall not have any power that could give this Trust the objective of carrying on a business and dividing the gains therefrom, within the meaning of Section 301.7701-2 of the Procedure and Administrative Regulations promulgated pursuant to the Internal Revenue Code.

Section 8. Compensation And Expenses Of The Trustee

(a) From time to time, the Trustee shall submit to AR, and AR shall timely pay, an invoice for its fees in accordance with the Fee Schedule attached hereto as Exhibit E, and any expenses charged for third party counsel and advisers described in Sections 7(c) and 7(d); provided that if the Trustee has not received payment of any such invoice within sixty (60) days of the date thereof, the Trustee is authorized to withdraw from the Trust the amount of such invoice as provided in Section 7(b).

(b) Any dispute regarding compensation or expenses of the Trustee invoiced to AR under this Section 8 shall be submitted to informal dispute resolution, mediation or arbitration pursuant to the provisions of Section 13 (Remedies) of this Trust Agreement. If the dispute is submitted to arbitration, to the extent the arbitrator finds in the favor of AR, the Trustee shall pay into the Trust Account the amount withdrawn by the Trustee which the arbitrator found not to be compensation or expenses due under this Trust Agreement subject to Section 7(b).

Section 9. Resignation And Removal Of The Trustee

(a) **Resignation of Trustee.** The Trustee may resign at any time by written notice to AR and BSB, which resignation shall be effective upon the latter of the appointment of a successor Trustee or thirty (30) days after receipt of such notice, unless AR, BSB and the Trustee agree otherwise.

(b) **Removal of Trustee.** The Trustee may be removed by AR and BSB upon the appointment of a successor Trustee as provided in Section 10(a), but in any event upon not less than thirty (30) days' notice, or upon shorter notice accepted by the Trustee.

(c) Transfer of Assets to Successor.

(i) Upon resignation or removal of the Trustee and appointment of a successor Trustee, all assets shall subsequently be transferred to the successor Trustee. The transfer shall be completed within sixty (60) days after receipt of notice of resignation, removal or transfer, unless AR and BSB together extend the time limit, provided that (i) the Trustee is provided assurance by AR satisfactory to the Trustee that all fees and expenses reasonably anticipated will be paid and (ii) the Trustee's administration of the Trust will be settled either judicially or non-judicially.

(ii) Upon settlement of the account and transfer of the Trust assets to the successor Trustee, all rights and privileges under this Trust Agreement shall vest in the successor Trustee and all responsibility and liability of the Trustee with respect to the Trust and assets thereof shall terminate subject only to: (a) the requirement that the Trustee execute all necessary documents to transfer the Trust assets to the successor Trustee; and (b) the provisions of Sections 7(b) and 13.

Section 10. Appointment Of Successor

(a) **Appointment of Successor.** If the Trustee resigns or is removed in accordance with Section 9(a) or Section 9(b), AR and BSB shall confer and together appoint a third party as a successor to replace the Trustee upon resignation or removal. AR and BSB hereby agree to take reasonable steps to name a mutually agreeable successor in a timely manner. The appointment shall be effective when accepted in writing by the successor Trustee, who shall have all of the rights and powers of the former Trustee. The former Trustee shall execute any instrument necessary or reasonably requested by AR or the successor Trustee to evidence the transfer.

(b) **Duty of Successor Trustee.** The successor Trustee need not examine the records and acts of any prior Trustee and may retain or dispose of existing Trust assets, consistent with its obligations under this Trust Agreement. The successor Trustee shall not be responsible for and AR shall indemnify and defend the successor Trustee from any claim or liability resulting from any action or inaction of any prior Trustee or from any other past event or any condition existing at the time it becomes successor Trustee.

Section 11. Amendment Or Termination

(a) **Amendment.** This Trust Agreement may be amended by a written instrument (i) executed by the Trustee and AR as deemed necessary or appropriate to meet the requirements of any change of law or circumstances affecting the intended treatment of the Trust, (ii) executed by the Trustee, AR and BSB to meet the requirements of any change in law or circumstances affecting the modification of the Costs, or any change in the authorized business purposes or powers of AR, BSB or the Trustee, (iii) executed by AR and BSB with respect to any amendment of or change to the Investment Guidelines, provided, that no such amendment may be made that alters the Trustee's rights or obligations under this Agreement without the Trustee's written consent, and (iv) with respect to any other matter, including any administrative, non-

dispositive terms of this Agreement, by written instrument executed by AR, BSB and the Trustee.

(b) **Termination.** The Trustee is hereby directed to terminate the Trust as soon as practicable following the receipt of notice pursuant to Section 1(c) and the distribution of the Trust assets as provided in Section 2(a)(vi).

Section 12. Miscellaneous

(a) **Severability.** Any provision of this Trust Agreement prohibited by law shall be ineffective to the extent of any such prohibition, without invalidating the remaining provisions hereof.

(b) **No Assignment of Benefits.** Except as authorized under Section 4(v), amounts payable under this Trust Agreement may not be assigned (either at law or in equity), alienated, pledged, encumbered or subjected to attachment, garnishment, levy, execution or other legal or equitable process.

(c) **Notices.** All notices or other communications required to be given to Trustee, and BSB hereunder shall be in writing and shall be sufficiently given and shall be deemed given when provided by facsimile, and delivered or deposited in the United States First Class mail with postage fully prepaid and addressed as follows:

If to Trustee: Travis W. Gibboney, or Successor
Vanguard National Trust Company
PO Box 709, MS T-21
Valley Forge, PA 19482-0709

If to AR: Gavin Scally or Successor
Atlantic Richfield Company
317 Anaconda Road
Butte, MT 59701

If to BSB: City and County of Butte-Silver Bow
155 West Granite
Butte, MT 59701
Attn: Chief Executive

(d) **Governing Law.** The principal place of administration of this Trust Agreement shall be Montana. This Trust Agreement and its enforcement shall be governed by and construed in accordance with the laws of the State of Montana.

(e) **Survival.** The provisions of Sections 7(b) and 13 of this Trust Agreement shall survive termination of this Trust Agreement.

(f) **Conflict with the Obligations.** The rights, duties, responsibilities, obligations and liabilities of the Trustee are as set forth in this Trust Agreement, and no provision of any

other document shall affect such rights, responsibilities, obligations and liabilities. If there is a conflict between this Trust Agreement with respect to any subject involving the Trustee, including but not limited to the responsibility, authority or powers of the Trustee, the provisions of this Trust Agreement shall be controlling.

Section 13. Remedies

(a) **Disputes between AR and BSB.** AR and BSB agree that all controversies that may arise between AR and BSB under this Agreement shall be resolved pursuant to the procedures and remedies set forth in Article XX of the Allocation Agreement.

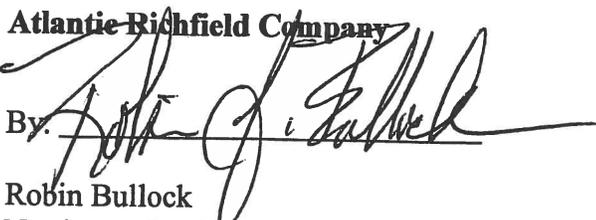
(b) **Disputes between Trustee, AR and BSB.** AR, BSB and the Trustee agree that all controversies that may arise between any of them in connection with the Trust, including, but not limited to, those involving any transactions, or the construction, performance, or breach of this or any other agreement between any of them, whether entered into prior to, on, or subsequent to the date hereof, shall first be the subject of informal dispute resolution. In the event the controversy cannot be resolved through informal negotiations, the parties may elect to resolve the controversy by mediation or arbitration under a format agreed upon at that time; provided however, AR and Trustee agree that any dispute regarding compensation or expenses of the Trustee invoiced to AR under Section 8 shall be required to be arbitrated, if not resolved informally or by mediation. Judgment upon the award of arbitrators may be entered in any federal or state court having jurisdiction. In the event the Parties are unable to resolve any controversy (other than a dispute regarding compensation or expenses of the Trustee) by agreement upon an alternative form of dispute resolution as provided above, any Party may commence an action concerning the subject matter of such controversy in any court of competent jurisdiction located in Montana.

Section 14. Effective Date

The effective date of this Trust Agreement shall be Dec 21, 2006.

IN WITNESS WHEREOF, AR, BSB and the Trustee have executed this Trust Agreement each by action of a duly authorized person.

Atlantic Richfield Company

By: 

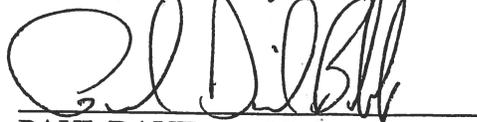
Robin Bullock
Northwest Region Manager

Vanguard National Trust Company

By: _____

Name/Title:

The City and County of Butte-Silver Bow



PAUL DAVID BABB
CHIEF EXECUTIVE

ATTEST:


MARY M. McMAHON
CLERK AND RECORDER

APPROVED AS TO FORM:


ROBERT M. McCARTHY
COUNTY ATTORNEY

STATE OF MONTANA)

:ss.

County of Silver Bow)

On this 21st day of December, 2006, before me, Mollie A. MAFFEI, a Notary Public for the State of Montana, personally appeared PAUL DAVID BABB and MARY M. McMAHON, known to me to be the Chief Executive and Clerk and Recorder, respectively, of the City and County of Butte-Silver Bow, a municipal corporation and political subdivision of the State of Montana, and acknowledged to me that they executed the written instrument on behalf of said municipal corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Mollie A. Maffei
PRINTED NAME Mollie A. MAFFEI
NOTARY PUBLIC FOR THE STATE OF MONTANA
RESIDING AT BUTTE, MONTANA
MY COMMISSION EXPIRES 8-24-2008

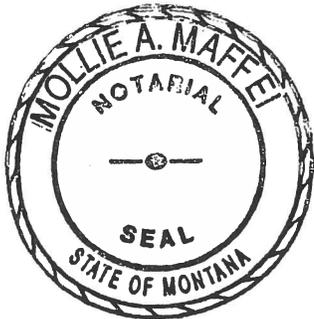


Exhibit A

[copy of Allocation Agreement]

Exhibit B

Initial Deposit, pursuant to Section 1(b)

\$1,835,000.00

Exhibit C

Initial BSB Superfund Management Budget

Exhibit D

Investment Guidelines

1. The investment objective for the Trust is to achieve a 7% return. This target objective will apply to all long-term assets. It is understood and acknowledged by the Parties that the actual return on investments held in the Trust will vary from year to year. The trustee will employ a long term approach that utilizes a diversified portfolio of domestic and international equity and fixed income funds, diversified across industry segments and time durations to achieve the investment objective for the fully funded Trust. For assets that are not deemed to be long-term in nature, the primary investment objectives are preserving capital and generating income.
2. The Trustee is specifically authorized to invest in and vote securities with the management of mutual funds affiliated with *The Vanguard Group, Inc. ("Vanguard")* even if such mutual funds will comprise the entire Trust estate, In addition, Trustee is specifically authorized to engage the services of and transact Trust business with any *Vanguard* affiliate.

Exhibit E

Fee Schedule for Trust Administration

This Trust is one of five trusts for which *Vanguard National Trust Company* shall serve as trustee under the terms of the Allocation Agreement and the five separate trust agreements among the Trustee, AR and BSB that are described in the Allocation Agreement.

The five trusts are:

- Superfund Programs Trust Agreement
- Superfund Management Trust Agreement
- Multi-Pathway Programs Trust Agreement
- Capital Purchase, Repair and Replacement Trust Agreement
- Ground Water Treatment System Capital Repair and Replacement Trust Agreement

This Exhibit E sets forth the Fee Schedule for Trust Administration applicable to the Trust and each of the other four trust agreements described above. This Fee Schedule shall remain in force for the duration of the Trustee's management of the Trust, and may only be amended by written instrument executed by Trustee and AR:

1. Fiduciary Fee – A Fiduciary Fee of \$1,250 per trust per year shall be invoiced to and paid by AR via quarterly deductions from each trust, as described in Paragraph 3 below; provided however, Trustee will waive the quarterly installment of the Fiduciary Fee for each trust whenever the aggregate assets under management (the sum of the assets of all trusts then under Trustee's management) exceeds \$20 million during the quarterly fee calculation. If the aggregate assets under management fall below \$20 million on any subsequent quarterly fee calculation, then the quarterly installment of the Fiduciary Fee will apply for that quarter.
2. Minimum Asset Requirement – There is no minimum asset requirement for the Trust; provided however, AR shall deposit and maintain a minimum \$2,500,000 in long-term investment assets year over year that is distributed among the trusts under management.
3. Asset Management Fee – Trustee shall provide full discretionary asset management services and full fiduciary trust services for an annual fee that shall be calculated based on the assets under management within each trust according to the schedule which follows.

Whenever the aggregate assets under management for all trusts during a quarterly fee calculation is \$5,000,000 or more, the quarterly fee shall be calculated (as provided below) on the total assets under management for all trusts and prorated among the trusts; provided however, the minimum annual fee of \$4,500 per trust is waived if the \$5,000,000 threshold is met. In the event the aggregate assets under management for all trusts during a quarterly fee calculation is less than \$5,000,000, the quarterly fee

shall be calculated individually for each trust under management, based upon the assets held in each trust.

*First \$1 to \$1,000,000.....0.75%

\$1,000,001 - \$2,000,000 = \$7,500 Plus 0.35% of assets over \$1 million

\$2,000,000 - \$10,000,000 = \$11,000 Plus 0.20% of assets over \$2 million

Over \$10,000,000 = \$25,000 Plus 0.15% of assets over \$10 million

Over \$30,000,000 = \$55,000 Plus 0.10% of assets over \$30 million

Over \$50,000,000 = \$75,000 Plus 0.05% of assets over \$50 million

* Minimum annual fee is \$4,500 per trust in addition to any applicable Fiduciary Fee.

The annual fee is calculated at the end of each calendar quarter. The Method of Payment for both the variable Asset Management Fee and the fixed Fiduciary Fee is by deduction of the calculated fee, on a quarterly basis from a separate money market account with a unique account number within the Trust and the other four trusts that is used solely for payment of fees ("Fee Account").

At the end of each quarter, Trustee shall prepare and transmit to AR an invoice for the quarterly fee for payment by AR by withdrawal from the Fee Account established for the Trust. All quarterly fees will be deducted from each trust approximately 14 days after the end of each calendar quarter. In addition to the quarterly invoices, Trustee shall provide an annual account statement for each Fee Account. At AR's sole discretion, AR may elect to pre-fund the fees by deposit of funds to any Fee Account in advance of the date for payment of any quarterly fee.

4. Mutual Fund Expenses – The Fiduciary Fee and Asset Management Fee are in addition to the internal expense ratio of Vanguard mutual funds. The internal expenses of Vanguard mutual funds apply to all investors, whether they are managing the investments themselves or if they have hired Vanguard National Trust Company to manage their assets for them.
5. Transaction Fees – The Trust shall utilize, if available, the Automated Clearing House (ACH) (or similar service in its stead) to periodically transfer funds from the Trust to the Butte Silver Bow bank account as required by the Trust Agreement. No transaction fees shall be invoiced to AR for this service. ACH transfers can be scheduled in advance (with two business days minimum).

Exhibit "15"
(Superfund Programs Trust Agreement)

SUPERFUND PROGRAMS TRUST AGREEMENT

This Superfund Programs Trust Agreement made 12-21, 2006, by and between Atlantic Richfield Company ("AR"), the City and County of Butte-Silver Bow ("BSB" and, together with AR, the "Parties" and each of them, a "Party") and Vanguard National Trust Company ("the Trustee").

WHEREAS, AR and BSB have entered into the Allocation and Settlement Agreement and Mutual Release of Claims effective 12-21, 2006 (the "Allocation Agreement" attached hereto as Exhibit A);

WHEREAS, pursuant to Section 10.1 of the Allocation Agreement, AR and BSB have agreed to establish the Superfund Programs Trust Account and to execute this Trust Agreement;

WHEREAS, BSB has assumed obligations for performance of certain Response Actions and Operation and Maintenance Activities identified as Superfund Programs Obligations, as that term is defined and said obligations are set forth in the Allocation Agreement;

WHEREAS, AR and BSB desire to execute this Trust Agreement and to establish the Trust created hereby to carry out the agreement provided in Article X of the Allocation Agreement and to pay Superfund Programs Costs, costs incurred by either Party for Emergency Response Actions pursuant to Section 20.8 of the Allocation Agreement, and costs incurred by AR in remedying a default by BSB, as may be awarded by an arbitrator under Section 20.7 of the Allocation Agreement (all as defined in the Allocation Agreement) (collectively, the "Costs");

WHEREAS, the Initial Superfund Programs Budget, including all Task Accounts and the approved budget amount for each Task Account (each as defined in the Allocation Agreement) has been prepared as provided in Section 10.7 of the Allocation Agreement, and BSB and AR have concurred with such budget;

WHEREAS, AR and BSB anticipate entering into negotiations with the U.S. Environmental Protection Agency ("EPA") and others for performance of EPA's selected remedial action for the Butte Priority Soils Operable Unit under a consent decree to which both BSB and AR are signatory parties (the "Consent Decree");

WHEREAS, the Parties and the Trustee contemplate this Trust Agreement may later be amended at the Parties' request by the Parties, the Trustee and EPA to confirm EPA's right to funds in the Trust in the event of a Work Takeover and to pledge Trust assets in satisfaction of financial assurance requirements under the Consent Decree;

NOW, THEREFORE, the parties do hereby establish the Trust and agree that the Trust shall be comprised, held and disposed of as follows:

Section 1. Establishment Of Trust

(a) **The Purpose.** This Trust Agreement is intended to fulfill the agreement of AR and BSB provided in Article X of the Allocation Agreement. Accordingly, except as provided in Section 12(f) of this Trust Agreement, to the extent any provision hereof or obligation hereunder conflicts with any provision or obligation provided in Article X of the Allocation Agreement, the terms of the Allocation Agreement shall be controlling. Capitalized terms used but not defined herein shall have the meanings assigned to them in the Allocation Agreement.

(b) **Deposit of Funds.** AR hereby deposits with the Trustee in trust the amount of cash listed in Exhibit B, which shall become the principal of the Trust to be held in a separate account (the "Trust Account"), administered and disposed of by the Trustee as provided in this Trust Agreement. Said deposit is made in satisfaction of the initial funding requirement under Section 10.2.1 of the Allocation Agreement.

(c) **Revocability.** The Trust hereby established shall be revocable only upon written notification from AR and BSB to the Trustee that one of the following has occurred: (i) the Allocation Agreement has been terminated pursuant to Article XX of the Allocation Agreement; (ii) AR has assumed responsibility for all of the BSB Superfund Programs Obligations pursuant to Section 18.7 of the Allocation Agreement, or (iii) the Superfund Programs Obligations for which funding is provided from the Trust have been completed to EPA's satisfaction, eliminating the need for the Trust.

(d) **Grantor Trust.** The Trust is intended to be a grantor trust, of which AR is the grantor, within the meaning of subpart E, Part I, subchapter J, chapter 1, subtitle A of the Internal Revenue Code of 1986, as amended, and shall be construed accordingly. All gains and losses from the investments of the assets of the Trust shall be recognized by AR, and the taxes thereon shall be paid by AR and shall not be recovered from the assets of the Trust.

(e) **Trust Assets.** The principal of the Trust, and any earnings thereon, shall be held by the Trustee separate and apart from other funds of AR or BSB and shall be used exclusively for the uses and purposes herein set forth.

(f) **Additional Deposits.**

(i) AR shall make certain additional deposits, in accordance with the applicable provisions of the Allocation Agreement and the Funding Spreadsheet attached thereto, with the Trustee in trust as and when required under Section 10.2.2 of the Allocation Agreement. The remaining principal balance of the funds required under the Allocation Agreement may be prepaid by AR at AR's election by deposit to the Trust, either in whole or in part, without premium or penalty, at any time prior to July 1, 2010 on the condition that AR shall pay all accrued interest calculated from the date of the last deposit to the Trust through and including the date of any prepayment on the amount of the then remaining principal balance of the funds outstanding at the time of each prepayment. AR's payment of interest so calculated shall be in addition to any prepayment of principal made by AR.

(ii) As provided under Section 18.7 of the Allocation Agreement, AR may elect to deposit additional funds to the Trust Account.

(iii) The Trustee shall not have any right or obligation to compel the collection of any such deposits or any additional deposits, nor for determining whether any such deposits are calculated or deposited in accordance with the provisions of the Allocation Agreement.

(g) Preparation of Annual Budgets.

(i) BSB and AR have concurred on the Initial Superfund Programs Budget, attached hereto as Exhibit C. As provided in Section 10.7 of the Allocation Agreement, on or before May 1 of each Fiscal Year hereafter for so long as the Allocation Agreement is in effect and BSB is obligated to perform Superfund Programs Obligations, BSB shall prepare a Superfund Programs Budget which specifies the dollar amount for each quarterly distribution to be made by the Trustee to BSB during that Fiscal Year by Task Account from the Trust Account (each, a "BSB Annual Budget").

(ii) Each BSB Annual Budget shall be provided to AR for AR's concurrence, which concurrence shall not be unreasonably withheld. In order to account for inflation, BSB may increase the approved budget amount set forth in the Initial Superfund Programs Budget for each Task Account by 2% or less annually without the concurrence of AR, as illustrated in Exhibit C. All other proposed increases to the Initial Superfund Programs Budget shall be concurred in by AR, which concurrence shall not be unreasonably withheld, and shall be accompanied by a narrative explanation of the reasons for each such proposed increase. A copy of the BSB Annual Budget, together with evidence of AR's written concurrence thereto, shall be provided to the Trustee by June 15 prior to the Fiscal Year to which such budget applies.

(iii) Except for Costs incurred for Emergency Response Actions, BSB shall not incur any charges, expenses, fees or other costs during a Fiscal Year in excess of or in addition to the total budget for a Task Account set forth in the BSB Annual Budget then in effect without the concurrence of AR, which concurrence shall not be unreasonably withheld. BSB may request AR's concurrence to incur charges, expenses, fees or other costs in excess of or in addition to the amount budgeted for the Fiscal Year in which the request is made, which concurrence shall not be unreasonably withheld by AR. If AR concurs in such a request, BSB shall provide a copy of the request and evidence of AR's written concurrence as soon as reasonably possible to the Trustee.

(h) Quarterly Accounting by Parties. As provided in Section 10.8 of the Allocation Agreement, BSB shall prepare and provide to AR, within forty-five (45) days of the end of each quarter for each Fiscal Year for so long as the Allocation Agreement is in effect, an accounting report of all amounts withdrawn by BSB from the Trust Account during the prior fiscal quarter ("Superfund Programs Accounting Report"). The report shall include a budget reconciliation report which, separately for each Task Account and each budget amount for each Task Account set forth in the BSB Annual Budget that includes such fiscal quarter, compares the total amount actually incurred by BSB with the total budgeted amount. This Trust Agreement imposes no

obligation or duty upon Trustee to perform any accounting of or to otherwise verify the accuracy of any Superfund Programs Accounting Report.

(i) **Annual Accounting by the Parties.** Forty-five (45) days following the start of the first quarter of each Fiscal Year, BSB shall deliver to AR and the Trustee a reconciliation that compares all amounts disbursed to BSB from the Trust Account during the prior Fiscal Year by Task Account with the total amount of Superfund Program Costs actually incurred by BSB for each Task Account during that prior Fiscal Year ("Annual Accounting"). BSB and AR shall meet and confer, as necessary, to reach consensus upon the dollar amount, if any, to be carried forward. If there is concurrence, BSB shall provide evidence of AR's concurrence to the Trustee as soon as reasonably possible. Disputes between BSB and AR related to accounting shall be resolved pursuant to the procedures for mediation under Section 20.9 of the Allocation Agreement. This Trust Agreement imposes no obligation or duty upon Trustee to perform any accounting of or to otherwise verify the accuracy of any Annual Accounting.

(j) **Books and Records of the Parties.** AR and BSB will keep, or cause to be kept, proper books of record and accounts separate from all other records and accounts, in which complete and correct entries shall be made of all of its transactions relating to the Trust Account. Such books of record and accounts shall be at all times during business hours subject to the inspection and audit of the other Party, at such other Party's expense.

(k) **Books and Records of the Trustee.** Without limitation of AR's and BSB's rights and the Trustee's obligations under Section 6, AR and BSB shall at all reasonable times and upon written notice to the Trustee, have access to all Trustee's books, records, correspondence and related documentation for the Trust for the purpose of auditing and verifying the Trustee's performance in accordance with the terms of this Trust Agreement.

Section 2. Payments in Satisfaction of the Costs

(a) **Payments by Trustee.** The Trustee shall disburse the funds and earnings thereon from the Trust Account within ten (10) business days from receipt of a written request and only in accordance with the following provisions:

(i) Unless otherwise provided in the relevant BSB Annual Budget or otherwise directed by BSB and AR, the amount BSB may request the Trustee to disburse to BSB from the Trust Account for each quarter for each Task Account shall be twenty-five (25) percent of the total annual budget for that Fiscal Year, as specified in the relevant BSB Annual Budget for that Task Account. BSB shall provide any documentation and information documenting the expenditure of such funds requested by the Trustee within forty-five (45) days following the last day of each quarter during which such funds were advanced by the Trustee.

(ii) In the event funds disbursed by the Trustee to BSB are not expended for Superfund Program Costs by BSB during the Fiscal Year such funds are received by BSB, as shown in the Annual Accounting for that Fiscal Year prepared and concurred in by AR and BSB under Section 1(i), said funds shall be carried forward by BSB and expended by BSB to pay Superfund Programs Costs during the next Fiscal Year. The

Trustee shall reduce the payments to BSB that are authorized under the BSB Annual Budget for the second quarter of the next Fiscal Year by the amount carried forward by BSB from the prior Fiscal Year, and subsequent quarters until the balance of the total dollar amount carried forward for a Task Account is expended.

(iii) Upon written request of BSB for any amount not specifically provided for or in excess of the amount provided in the relevant BSB Annual Budget or any amount for an item specified in an BSB Annual Budget but in excess of the amount provided in the relevant Task Account of such BSB Annual Budget, the Trustee shall disburse funds to BSB upon receipt of a written request of BSB accompanied by AR's written consent to the disbursement of such amount.

(iv) Upon AR's or BSB's written request for reimbursement of charges, expenses, fees and other costs reasonably incurred by one Party, with the written concurrence of the other Party, which concurrence shall not be unreasonably withheld, for Emergency Response Actions, the Trustee shall pay such amount to the requesting Party.

(v) Upon AR's submittal to the Trustee of a written arbitrator's award of costs incurred by AR in remedying a BSB default under the Allocation Agreement, the Trustee shall pay AR the amount of the arbitrator's award and interest as calculated under Section 20.7 of the Allocation Agreement.

(vi) The Trustee shall disburse funds in accordance with a request that does not otherwise comply with the requirements of this Section 2(a), provided that the Trustee receives written approval from both BSB and AR for the disbursement.

(vii) From and after receipt of written notice from AR and BSB that EPA has commenced a Work Takeover and for the duration of any Work Takeover under the Consent Decree of any Superfund Programs Obligations under the Allocation Agreement to be funded under this Trust Agreement, the Trustee shall pay EPA's costs in performing any such Superfund Programs Obligations upon EPA's presentation of a written demand for payment of its costs from the Trust Account as may be provided in an amendment to this Trust Agreement.

(viii) Upon written notice from AR and BSB that (i) AR and BSB have received written notice from the EPA that Response Actions and Operation and Maintenance Activities delegated to BSB as Superfund Programs Obligations under the Allocation Agreement are complete or (ii) there has been a revocation of this Trust Agreement pursuant to Section 1(c), the Trustee shall pay to AR all amounts remaining in the Trust after payments (reduced by any amounts then carried forward by BSB under Section 2(a)(ii)) are made by Trustee in satisfaction of Costs incurred prior to the date of such notice from AR and BSB and authorized under this Section 2(a).

(b) **Reporting and Payment of Taxes.** The Trustee, AR and BSB shall each make provisions for the reporting of any federal, state or local income to the appropriate taxing

authorities, and the Trustee shall on a timely basis provide each Party the necessary specific information to properly report such income.

(c) **No Duty to Determine Sufficiency.** If the principal of the Trust and any earnings thereon are not sufficient to pay amounts requested, the Trustee shall promptly notify AR and BSB. The Trustee shall be under no duty to make any payment if sufficient cash is not available in the Trust Account. The Trustee shall have no responsibility to determine whether the Trust is sufficient to meet the Costs, and shall not be liable for liabilities arising from the Costs in excess of the value of the Trust's assets.

Section 3. Payments To AR

The Trust is revocable only as provided in Section 1(c) hereof, and AR shall have no right (except the right to reimbursement of costs, as provided in Section 2) or power to direct the Trustee to return to AR or to divert to others any of the Trust assets prior to such revocation.

Section 4. Powers of Trustee

The Trustee, or the Trustee's designee, is authorized and empowered:

- (i) To make payments in whole or partial satisfaction of the Costs, as provided in Section 2(a);
- (ii) To invest and reinvest Trust assets, together with the income therefrom, in accordance with the prudent investor rule and the Investment Guidelines attached hereto as Exhibit D, which guidelines may be changed from time to time as provided in Section 11;
- (iii) To hold in cash, without liability for interest, such portion of the Trust as is pending payment in satisfaction of the Costs, investment, payment of other expenses or the distribution of benefits;
- (iv) To settle, compromise or abandon all claims and demands in favor of or against the Trust;
- (v) To pledge Trust assets to satisfy financial assurance requirements pursuant to the Consent Decree or any administrative order issued by EPA for the BPSOU, as provided in the Allocation Agreement; and
- (vi) To exercise all of the further rights, powers, options and privileges granted, provided for, or vested in trustees generally under the laws of the state of Montana so that the powers conferred upon the Trustee herein shall not be in limitation of any authority conferred by law, but shall be in addition thereto.

Section 5. Disposition Of Income

During the term of this Trust, all income received by the Trust, net of expenses as provided in Section 8, shall be accumulated and reinvested in accordance with the Investment Guidelines or used to satisfy the Costs in accordance with Section 2.

Section 6. Accounting By The Trustee

(a) **Monthly Statements.** The Trustee shall provide monthly account statements to AR and BSB in the manner provided for written notices under Section 12(c). The Trustee shall keep accurate and detailed records of all investments, receipts, disbursements, and all other transactions required to be made and such other records as shall be agreed upon in writing between AR, BSB and the Trustee. Within sixty (60) days after removal or resignation of the Trustee or such other period of time agreed upon by AR, BSB and the Trustee, the Trustee shall deliver to AR and BSB (a) a written account of its administration of the Trust during the period from the date of the last written account of its administration to the date of such removal or resignation, setting forth all investments, receipts, disbursements and other transactions effected by it, including a description of all securities and investments purchased and sold with the cost or net proceeds of such purchases or sales (accrued interest paid or receivable being shown separately), and showing all cash, securities and other property held in the Trust as of the date of such removal or resignation and (b) any information AR or BSB requires in order to comply with any financial, tax or other reporting obligations either of them may have under Federal, state or local law.

(b) **Request for Accounting.** Upon written notice by AR or BSB to the Trustee to provide an accounting for Trustee's financial transactions as trustee hereunder, the Trustee shall prepare a complete and detailed accounting, for such period as is designated in the written notice, and provide such accounting to AR and BSB within sixty (60) days of receipt of such request.

Section 7. Responsibility and Indemnity of the Trustee

(a) **Fiduciary Standard.** The Trustee shall administer the Trust in good faith and impartially, act in a fiduciary capacity pursuant to the laws of Montana and with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, provided, however, that the Trustee shall incur no liability to any person for any action taken pursuant to a direction, request or approval given by AR or BSB which is contemplated by, and in conformity with, the terms of this Trust Agreement and is given in writing by AR, or BSB or in such other manner prescribed by the Trustee. The Trustee shall also incur no liability to any person for any failure to act in the absence of direction, request or approval from AR or BSB which is contemplated by, and in conformity with, the terms of this Trust Agreement. Further, the Trustee shall incur no liability to any person by reason of any actions taken by any [additional trustee or] successor trustee or for assets that are not included in the Trust Account.

(b) **Indemnification of the Trustee.** AR hereby indemnifies the Trustee against, and shall hold it harmless from, any and all loss, claims, liability, and expenses, including reasonable attorneys' fees, imposed upon or incurred by the Trustee as a result of any acts taken or any failure to act, where such act or failure to act is in accordance with the directions from AR or any of its agents. AR's obligations in the foregoing regard shall be satisfied promptly by AR, provided that in the event the loss, claim, liability or expense involved is determined by a no longer appealable final judgment entered in a lawsuit or proceeding to have resulted from the negligence, gross negligence or willful misconduct of the Trustee or the act or omission of any third party, the Trustee shall promptly return to AR any amount previously received by the Trustee under this Section with respect to such loss, claim, liability or expense. If AR does not pay such costs, expenses and liabilities in a timely manner, the Trustee may obtain payment from the Trust without direction from AR as provided in Section 8. Amounts so obtained by Trustee shall be promptly reimbursed to the Trust by AR following the conclusion of dispute resolution, if any, under Section 8(b).

(c) **Legal Counsel.** The Trustee, after providing written notice to AR and BSB, may consult with legal counsel with respect to any of its duties hereunder.

(d) **Other Advisers.** The Trustee, after providing written notice to AR and BSB, may hire agents, accountants, actuaries, investment advisers, financial consultants or other professionals as necessary to assist it in performing any of its duties or obligations hereunder.

(e) **Authority of Trustee.** The Trustee shall have, without exclusion, all powers conferred on the Trustee by applicable law, unless expressly provided otherwise herein.

(f) **Limitation on Trustee.** Notwithstanding any powers granted to the Trustee pursuant to this Trust Agreement or to applicable law, the Trustee shall not have any power that could give this Trust the objective of carrying on a business and dividing the gains therefrom, within the meaning of Section 301.7701-2 of the Procedure and Administrative Regulations promulgated pursuant to the Internal Revenue Code.

Section 8. Compensation And Expenses Of The Trustee

(a) From time to time, the Trustee shall submit to AR, and AR shall timely pay, an invoice for its fees in accordance with the Fee Schedule attached hereto as Exhibit E, and any expenses charged for third party counsel and advisers described in Sections 7(c) and 7(d); provided that if the Trustee has not received payment of any such invoice within sixty (60) days of the date thereof, the Trustee is authorized to withdraw from the Trust the amount of such invoice subject to Section 7(b).

(b) Any dispute regarding compensation or expenses of the Trustee invoiced to AR under this Section 8 shall be submitted to informal dispute resolution, mediation or arbitration pursuant to the provisions of Section 13 (Remedies) of this Trust Agreement. If the dispute is submitted to arbitration, to the extent the arbitrator finds in the favor of AR, the Trustee shall pay into the Trust Account the amount withdrawn by the Trustee which the arbitrator found not to be compensation or expenses due under this Trust Agreement.

Section 9. Resignation And Removal Of The Trustee

(a) **Resignation of Trustee.** The Trustee may resign at any time by written notice to AR and BSB, which resignation shall be effective upon the latter of the appointment of a successor Trustee or thirty (30) days after receipt of such notice, unless AR, BSB and the Trustee agree otherwise.

(b) **Removal of Trustee.** The Trustee may be removed by AR and BSB upon the appointment of a successor Trustee as provided in Section 10(a), but in any event upon not less than thirty (30) days' notice, or upon shorter notice accepted by the Trustee.

(c) **Transfer of Assets to Successor.**

(i) Upon resignation or removal of the Trustee and appointment of a successor Trustee, all assets shall subsequently be transferred to the successor Trustee. The transfer shall be completed within sixty (60) days, after receipt of notice of resignation, removal or transfer, unless AR and BSB together extend the time limit, provided that (i) the Trustee is provided assurance by AR satisfactory to the Trustee that all fees and expenses reasonably anticipated will be paid and (ii) that the Trustee's administration of the Trust will be settled either judicially or non-judicially.

(ii) Upon settlement of the account and transfer of the Trust assets to the successor Trustee, all rights and privileges under this Trust Agreement shall vest in the successor Trustee and all responsibility and liability of the Trustee with respect to the Trust and assets thereof shall terminate subject only to: (a) the requirement that the Trustee execute all necessary documents to transfer the Trust assets to the successor Trustee; and (b) the provisions of Sections 7(b) and 13.

Section 10. Appointment Of Successor

(a) **Appointment of Successor.** If the Trustee resigns or is removed in accordance with Section 9(a) or Section 9(b), AR and BSB shall confer and together appoint a third party as a successor to replace the Trustee upon resignation or removal. AR and BSB hereby agree to take reasonable steps to name a mutually agreeable successor in a timely manner. The appointment shall be effective when accepted in writing by the successor Trustee, who shall have all of the rights and powers of the former Trustee. The former Trustee shall execute any instrument necessary or reasonably requested by AR or the successor Trustee to evidence the transfer.

(b) **Duty of Successor Trustee.** The successor Trustee need not examine the records and acts of any prior Trustee and may retain or dispose of existing Trust assets, consistent with its obligations under this Trust Agreement. The successor Trustee shall not be responsible for and AR shall indemnify and defend the successor Trustee from any claim or liability resulting from any action or inaction of any prior Trustee or from any other past event or any condition existing at the time it becomes successor Trustee.

Section 11. Amendment Or Termination

(a) **Amendment.** This Trust Agreement may be amended by a written instrument (i) executed by the Trustee and AR as deemed necessary or appropriate to meet the requirements of any change of law or circumstances affecting the intended treatment of the Trust, (ii) executed by the Trustee, AR and BSB to meet the requirements of any change in law or circumstances affecting the modification of the Costs, or any change in the authorized business purposes or powers of AR, BSB or the Trustee, (iii) executed by AR and BSB with respect to any amendment of or change to the Investment Guidelines, provided, that no such amendment may be made that alters the Trustee's rights or obligations under this Agreement without the Trustee's written consent, and (iv) with respect to any other matter, including any administrative, non-dispositive terms of this Agreement, by written instrument executed by AR, BSB and the Trustee.

(b) **Termination.** The Trustee is hereby directed to terminate the Trust as soon as practicable following the receipt of notice pursuant to Section 1(c) and the distribution of the Trust assets as provided in Section 2(a)(viii).

Section 12. Miscellaneous

(a) **Severability.** Any provision of this Trust Agreement prohibited by law shall be ineffective to the extent of any such prohibition, without invalidating the remaining provisions hereof.

(b) **No Assignment of Benefits.** Except as authorized under Section 4(v), amounts payable under this Trust Agreement may not be assigned (either at law or in equity), alienated, pledged, encumbered or subjected to attachment, garnishment, levy, execution or other legal or equitable process.

(c) **Notices.** All notices or other communications required to be given to Trustee, and BSB hereunder shall be in writing and shall be sufficiently given and shall be deemed given when provided by facsimile, and delivered or deposited in the United States First Class mail with postage fully prepaid and addressed as follows:

If to Trustee: Travis W. Gibboney, or Successor
Vanguard National Trust Company
PO Box 709, MS T-21
Valley Forge, PA 19482-0709

If to AR: Gavin Scally or Successor
Atlantic Richfield Company
317 Anaconda Road
Butte, MT 59701

If to BSB:

City and County of Butte-Silver Bow
155 West Granite
Butte, MT 59701
Attn: Chief Executive

(d) **Governing Law.** The principal place of administration of the Trust shall be Montana. This Trust Agreement and its enforcement shall be governed by and construed in accordance with the laws of the State of Montana.

(e) **Survival.** The provisions of Sections 7(b) and 13 of this Trust Agreement shall survive termination of this Trust Agreement.

(f) **Conflict with the Obligations.** The rights, duties, responsibilities, obligations and liabilities of the Trustee are as set forth in this Trust Agreement, and no provision of any other document shall affect such rights, responsibilities, obligations and liabilities. If there is a conflict between this Trust Agreement with respect to any subject involving the Trustee, including but not limited to the responsibility, authority or powers of the Trustee, the provisions of this Trust Agreement shall be controlling.

Section 13. Remedies

(a) **Disputes between AR and BSB.** AR and BSB agree that all controversies that may arise between AR and BSB under this Agreement shall be resolved pursuant to the procedures and remedies set forth in Article XX of the Allocation Agreement.

(b) **Disputes between Trustee, AR and BSB.** AR, BSB and the Trustee agree that all controversies that may arise between any of them in connection with the Trust, including, but not limited to, those involving any transactions, or the construction, performance, or breach of this or any other agreement between any of them, whether entered into prior to, on, or subsequent to the date hereof, shall first be the subject of informal dispute resolution. In the event the controversy cannot be resolved through informal negotiations, the parties may elect to resolve the controversy by mediation or arbitration under a format agreed upon at that time; provided however, AR and Trustee agree that any dispute regarding compensation or expenses of the Trustee invoiced to AR under Section 8 shall be required to be arbitrated, if not resolved informally or by mediation. Judgment upon the award of arbitrators may be entered in any federal or state court having jurisdiction. In the event the Parties are unable to resolve any controversy (other than a dispute regarding compensation or expenses of the Trustee) by agreement upon an alternative form of dispute resolution as provided above, any Party may commence an action concerning the subject matter of such controversy in any court of competent jurisdiction located in Montana.

Section 14. Effective Date

The effective date of this Trust Agreement shall be _____, 2006.

IN WITNESS WHEREOF, AR, BSB and the Trustee have executed this Trust Agreement each by action of a duly authorized person.

Atlantic Richfield Company

By: [Signature]

Robin Bullock
Northwest Region Manager

Vanguard National Trust Company

By: _____

Name/Title:

The City and County of Butte-Silver Bow

[Signature]

PAUL DAVID BABB
CHIEF EXECUTIVE

ATTEST:

[Signature]
MARY M. McMAHON
CLERK AND RECORDER

APPROVED AS TO FORM:

[Signature]
ROBERT M. McCARTHY
COUNTY ATTORNEY

STATE OF MONTANA)

:ss.

County of Silver Bow)



this 21st day of December, 2004, before me,
MOLLIE A. MAFFEI, a Notary Public for the State of Montana, personally
appeared PAUL DAVID BABB and MARY M. McMAHON, known to me to be the Chief
Executive and Clerk and Recorder, respectively, of the City and County of Butte-Silver Bow, a
municipal corporation and political subdivision of the State of Montana, and acknowledged to me
that they executed the written instrument on behalf of said municipal corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal
the day and year in this certificate first above written.

Mollie A. Maffei
PRINTED NAME Mollie A. Maffei
NOTARY PUBLIC FOR THE STATE OF MONTANA
RESIDING AT BUTTE, MONTANA
MY COMMISSION EXPIRES 8-24-2008

Exhibit A

[copy of Allocation Agreement]

Exhibit B

Initial Deposit, pursuant to Section 1(b)

\$1,813,000.00

Exhibit C

Initial BSB Superfund Programs Budget

Exhibit D

Investment Guidelines

1. The investment objective for the Trust is to achieve a 7% return. This target objective will apply to all long-term assets. It is understood and acknowledged by the Parties that the actual return on investments held in the Trust will vary from year to year. The trustee will employ a long term approach that utilizes a diversified portfolio of domestic and international equity and fixed income funds, diversified across industry segments and time durations to achieve the investment objective for the fully funded Trust. For assets that are not deemed to be long-term in nature, the primary investment objectives are preserving capital and generating income.
2. The Trustee is specifically authorized to invest in and vote securities with the management of mutual funds affiliated with *The Vanguard Group, Inc.* ("*Vanguard*") even if such mutual funds will comprise the entire Trust estate, In addition, Trustee is specifically authorized to engage the services of and transact Trust business with any *Vanguard* affiliate.

Exhibit E

Fee Schedule for Trust Administration

This Trust is one of five trusts for which *Vanguard National Trust Company* shall serve as trustee under the terms of the Allocation Agreement and the five separate trust agreements among the Trustee, AR and BSB that are described in the Allocation Agreement.

The five trusts are:

- Superfund Programs Trust Agreement
- Superfund Management Trust Agreement
- Multi-Pathway Programs Trust Agreement
- Capital Purchase, Repair and Replacement Trust Agreement
- Ground Water Treatment System Capital Repair and Replacement Trust Agreement

This Exhibit E sets forth the Fee Schedule for Trust Administration applicable to the Trust and each of the other four trust agreements described above. This Fee Schedule shall remain in force for the duration of the Trustee's management of the Trust, and may only be amended by written instrument executed by Trustee and AR:

1. Fiduciary Fee – A Fiduciary Fee of \$1,250 per trust per year shall be invoiced to and paid by AR via quarterly deductions from each trust, as described in Paragraph 3 below; provided however, Trustee will waive the quarterly installment of the Fiduciary Fee for each trust whenever the aggregate assets under management (the sum of the assets of all trusts then under Trustee's management) exceeds \$20 million during the quarterly fee calculation. If the aggregate assets under management fall below \$20 million on any subsequent quarterly fee calculation, then the quarterly installment of the Fiduciary Fee will apply for that quarter.
2. Minimum Asset Requirement – There is no minimum asset requirement for the Trust; provided however, AR shall deposit and maintain a minimum \$2,500,000 in long-term investment assets year over year that is distributed among the trusts under management.
3. Asset Management Fee – Trustee shall provide full discretionary asset management services and full fiduciary trust services for an annual fee that shall be calculated based on the assets under management within each trust according to the schedule which follows.

Whenever the aggregate assets under management for all trusts during a quarterly fee calculation is \$5,000,000 or more, the quarterly fee shall be calculated (as provided below) on the total assets under management for all trusts and prorated among the trusts; provided however, the minimum annual fee of \$4,500 per trust is waived if the \$5,000,000 threshold is met. In the event the aggregate assets under management for all trusts during a quarterly fee calculation is less than \$5,000,000, the quarterly fee

shall be calculated individually for each trust under management, based upon the assets held in each trust.

*First \$1 to \$1,000,000.....0.75%

\$1,000,001 - \$2,000,000 = \$7,500 Plus 0.35% of assets over \$1 million

\$2,000,000 - \$10,000,000 = \$11,000 Plus 0.20% of assets over \$2 million

Over \$10,000,000 = \$25,000 Plus 0.15% of assets over \$10 million

Over \$30,000,000 = \$55,000 Plus 0.10% of assets over \$30 million

Over \$50,000,000 = \$75,000 Plus 0.05% of assets over \$50 million

* Minimum annual fee is \$4,500 per trust in addition to any applicable Fiduciary Fee.

The annual fee is calculated at the end of each calendar quarter. The Method of Payment for both the variable Asset Management Fee and the fixed Fiduciary Fee is by deduction of the calculated fee, on a quarterly basis from a separate money market account with a unique account number within the Trust and the other four trusts that is used solely for payment of fees ("Fee Account").

At the end of each quarter, Trustee shall prepare and transmit to AR an invoice for the quarterly fee for payment by AR by withdrawal from the Fee Account established for the Trust. All quarterly fees will be deducted from each trust approximately 14 days after the end of each calendar quarter. In addition to the quarterly invoices, Trustee shall provide an annual account statement for each Fee Account. At AR's sole discretion, AR may elect to pre-fund the fees by deposit of funds to any Fee Account in advance of the date for payment of any quarterly fee.

4. Mutual Fund Expenses – The Fiduciary Fee and Asset Management Fee are in addition to the internal expense ratio of Vanguard mutual funds. The internal expenses of Vanguard mutual funds apply to all investors, whether they are managing the investments themselves or if they have hired Vanguard National Trust Company to manage their assets for them.
5. Transaction Fees – The Trust shall utilize, if available, the Automated Clearing House (ACH) (or similar service in its stead) to periodically transfer funds from the Trust to the Butte Silver Bow bank account as required by the Trust Agreement. No transaction fees shall be invoiced to AR for this service. ACH transfers can be scheduled in advance (with two business days minimum).

Exhibit "16"
(Initial Capital Purchase, Repair and Replacement Budget)

Exhibit 16
Initial Capital Purchase Repair and Replacement Budget

Account No	Line Item (*)	Task Account	July 1, 2006 to June 30, 2007						FY 2007 Next Year Estimate
			Annual Total	Q1 Total Jul - Sept	Q2 Total Oct - Dec	Q3 Total Jan - Mar	Q4 Total Apr - Jun		
5310-200-4306-38	930	Repair/Replace Storm Sewers (**)	\$175,000	\$25,000	\$75,000	\$35,000	\$40,000	\$475,000	
2276-200-4110-34	940*	Storm Water Equipment Vac Truck	\$300,000	\$0	\$300,000	\$0	\$0	\$0	
2276-200-4110-34	940*	Equipment	\$140,000	\$0	\$140,000	\$0	\$0	\$0	
2277-200-4401-10	350	Multi-Pathway Program Truck	\$30,000	\$0	\$30,000	\$0	\$0	\$0	

Notes:

* See attached budget backup information for Line Item detail.

** Task includes funding for Engineering Evaluation of Storm Water Systems (See Exhibit 20 to Allocation Agreement)

Exhibit "17"
(Initial Superfund Management Budget)

Exhibit 17
Initial Superfund Management Budget

Account No	Line Item (*)	Task Account	July 1, 2006 to June 30, 2007					FY 2007 Next Year Estimate
			Annual Total	Q1 Total Jul - Sept	Q2 Total Oct - Dec	Q3 Total Jan - Mar	Q4 Total Apr - Jun	
2252-200-4110-54	Several *	Land Management (**)	\$110,000	\$27,500	\$27,500	\$27,500	\$27,500	\$112,200
2276-200-4110-34	Several *	Water Quality District	\$55,000	\$13,750	\$13,750	\$13,750	\$13,750	\$56,100
2277-200-4401-10	350	Health Studies/Report	\$65,000	\$32,500	\$32,500	\$0	\$0	\$0

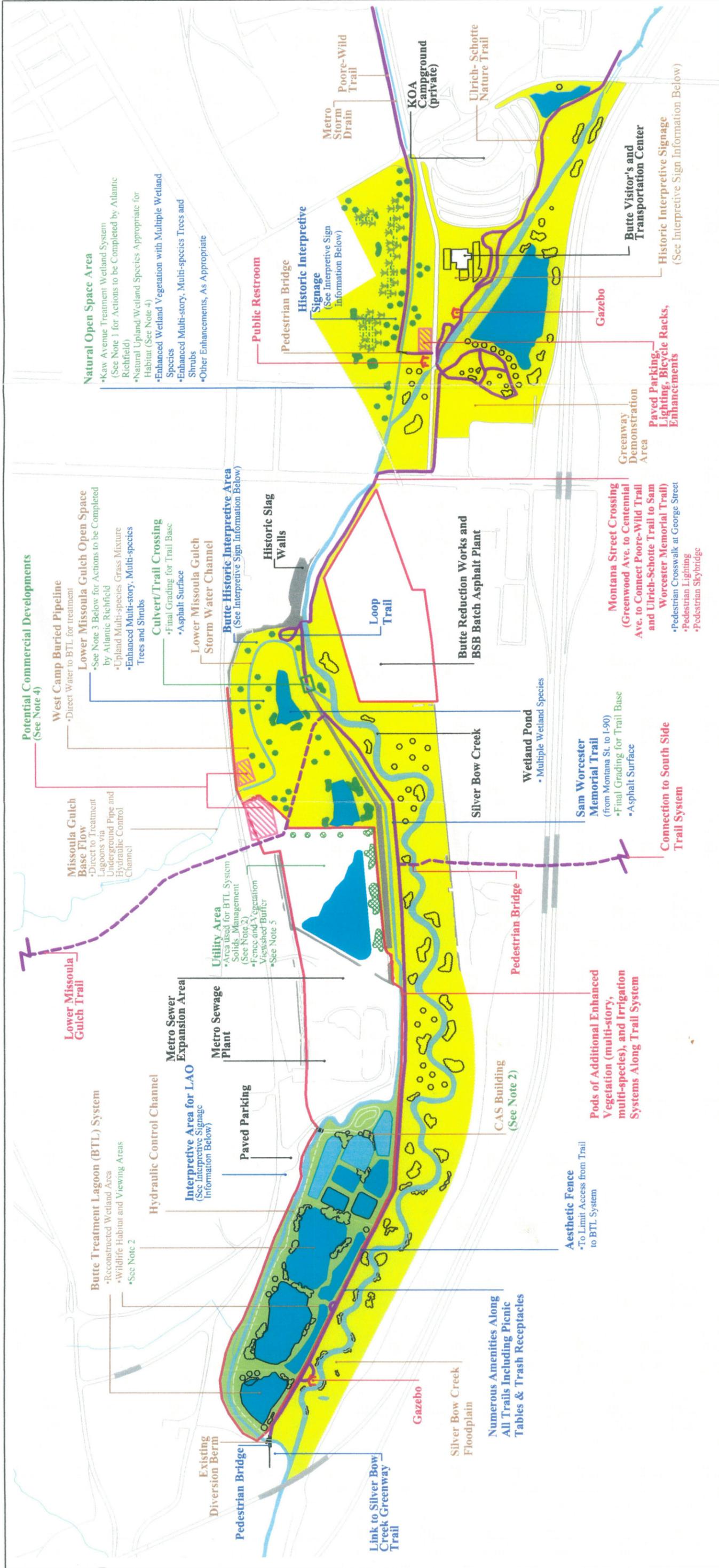
Notes:

- * See attached budget backup information for Line Item detail.
- ** Task includes GIS, database management and real property management.

Exhibit "18"

[Deleted pursuant to Addendum No. 3]

Exhibit "19"
(LAO Surface Enhancement and Land Use Plan)



Natural Open Space Area

- Raw Avenue Treatment Wetland System (See Note 1 for Actions to be Completed by Atlantic Richfield)
- Natural Upland/Wetland Species Appropriate for Habitat (See Note 4)
- Enhanced Wetland Vegetation with Multiple Wetland Species
- Enhanced Multi-story, Multi-species Trees and Shrubs
- Other Enhancements, As Appropriate

Potential Commercial Developments (See Note 4)

- West Camp Buried Pipeline
- Direct Water to BTL for treatment
- Lower Missoula Gulch Open Space by Atlantic Richfield
- See Note 3 Below for Actions to be Completed
- Upland Multi-species Grass Mixture
- Enhanced Multi-story, Multi-species Trees and Shrubs

Metro Sewer Expansion Area

- Metro Sewer Plant
- Area used for BTL System Solids Management (See Note 2)
- Fence and Vegetation Viewshed Buffer (See Note 5)

Interpretive Area for LAO (See Interpretive Signage Information Below)

- Paved Parking
- CAS Building (See Note 2)

Utility Area

- Area used for BTL System Solids Management (See Note 2)
- Fence and Vegetation Viewshed Buffer (See Note 5)

Missoula Gulch Base Flow

- Direct to Treatment Lagoons via Underground Pipe and Hydraulic Control Channel

West Camp Buried Pipeline

- Direct Water to BTL for treatment

Lower Missoula Gulch Open Space

- See Note 3 Below for Actions to be Completed
- Upland Multi-species Grass Mixture
- Enhanced Multi-story, Multi-species Trees and Shrubs

Culvert/Trail Crossing

- Final Grading for Trail Base
- Asphalt Surface

Lower Missoula Gulch Storm Water Channel

Butte Historic Interpretive Area (See Interpretive Sign Information Below)

- Historic Slag Walls
- Loop Trail
- Butte Reduction Works and BSB Batch Asphalt Plant

Wetland Pond

- Multiple Wetland Species

Sam Worcester Memorial Trail (from Montana St. to I-90)

- Final Grading for Trail Base
- Asphalt Surface

Connection to South Side Trail System

Montana Street Crossing (Greenwood Ave. to Centennial Ave. to Connect Poore-Wild Trail and Ulrich-Schotte Trail to Sam Worcester Memorial Trail)

- Pedestrian Crosswalk at George Street
- Pedestrian Lighting
- Pedestrian Skybridge

Pods of Additional Enhanced Vegetation (multi-story, multi-species), and Irrigation Systems Along Trail System

Aesthetic Fence

- To Limit Access from Trail to BTL System

Numerous Amenities Along All Trails Including Picnic Tables & Trash Receptacles

Link to Silver Bow Creek Greenway Trail

Existing Diversion Berm

Pedestrian Bridge

Silver Bow Creek Floodplain

Gazebo

KOA Campground (private)

Ulrich-Schotte Nature Trail

Poore-Wild Trail

Metro Storm Drain

Greenway Demonstration Area

Paved Parking, Lighting, Bicycle Racks, Enhancements

Historic Interpretive Signage (See Interpretive Sign Information Below)

Butte Visitor's and Transportation Center

Public Restroom

Historic Interpretive Signage (See Interpretive Sign Information Below)

Gazebo

Paved Parking, Lighting, Bicycle Racks, Enhancements

Historic Interpretive Signage (See Interpretive Sign Information Below)

Butte Visitor's and Transportation Center

Public Restroom

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Gazebo

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Public Restroom

Exhibit "20"

[Deleted pursuant to Addendum No. 3]

Exhibit "21"
(Schedule, Priorities and Objectives for Storm Water System improvement Plan)

Exhibit 21

Schedule, Priorities and Objectives for Storm Water System Improvement Plan

The allocation agreement provides funding to allow Butte-Silver Bow County (BSB) to repair or replace a significant portion of its storm sewer infrastructure within the Butte Priority Soils Operable Unit (BPSOU) boundary. This document outlines the components for a detailed Storm Water System Improvement Plan to be prepared by BSB and identifies specific criteria for evaluation and prioritization of storm sewer repair/replacement projects.

BSB will develop a detailed draft Storm Water System Improvement Plan no later than one year upon availability of funds following the effective date of this Agreement. BSB shall develop a final Storm Water System Improvement Plan no later than 18 months following the effective date of the Allocation Agreement and provide to Atlantic Richfield (AR) for AR's review and concurrence, which concurrence shall not be unreasonably withheld. As part of the detailed plan, BSB will perform an engineering evaluation, which will provide specific information regarding the storm water system. The plan will include the following components and priorities:

1. Engineering Evaluation

An engineering evaluation of the system within the BPSOU will be performed, with the following evaluation objectives:

- Condition of Conveyance Structures
- Functionality of System, including sediment or other obstructions
- Environmental conditions, including surrounding solid material, sediment in structure and water which contribute to storm water quality or loading concerns
- Rehabilitation design optimization
 - Rehabilitation in place, and
 - Replacement
- Construction cost estimates: and
- Construction schedule based on priorities and funding.

2. Infrastructure Improvement Priorities

- Segments of the storm water system, as identified by the Engineering Evaluation, which would affect its function as a storm drain or storm water loading, consistent with the prioritization criteria listed in Item 3 – Prioritization Criteria below, are recommended first for the following sub-drainages:
 - West Side,
 - Missoula Gulch,
 - Buffalo Gulch,
 - Anaconda,
 - Warren Avenue, and
 - Grove Gulch

3. *Prioritization Criteria*

Criteria for prioritizing the projects recommended in the Storm Water Improvement Plan are presented below. Water Quality and Infrastructure Condition, described below, are threshold criteria that will be the primary priorities with those other identified criteria when evaluating storm water projects:

- **Water Quality Criteria**

- Areas with Significant Metals Loading to Silver Bow Creek.
 - Priority should be given to projects in areas where storm water quality is known to be impaired such that the ability to meet water quality standards in Silver Bow Creek is potentially compromised.

- **Infrastructure Condition Criteria**

- Storm Water Pipelines or Tunnels in Poor Physical Condition
 - Priority should be given to storm sewer repair/replacement projects in locations where the existing storm sewer infrastructure is in poor physical condition and subject to failure.

- **Location Criteria**

- Areas within BPSOU and draining to Silver Bow Creek
 - Priority should be given to storm sewer repair/replacement projects located within the BPSOU boundary that drain to Silver Bow Creek over projects that do not drain to Silver Bow Creek
- Areas topographically higher in the drainages
 - Consideration should be given to storm sewer repair/replacement projects that are topographically higher in the storm water drainages to reduce the potential that new storm sewers lower in drainages receive sediment with metals from upgradient storm sewers that have not yet been repaired or replaced if loading is influenced by upgradient sediment conveyance issues.
- Areas near mine waste sites
 - Priority should be given to storm sewer repair/replacement projects that are near or downgradient of mine waste sites, reclaimed or not, where sediment with elevated metals concentrations potentially have or could drain to the storm sewer system.

- **Coordination with Other Projects Criteria**

- Ability to Implement Other BMPs
- Coordinate with Repair/Replacement of Adjacent Infrastructure
 - Priority should be given to storm sewer repair/replacement projects that can be combined with repair or replacement of adjacent subsurface infrastructure such as potable water pipelines, etc.

4. *Schedule and Cost*

- Schedule

- The schedule will be determined by the development of the detailed plan and design and implemented accordingly.
 - The highest priority projects, as determined by the Engineering Evaluation, shall be planned for completion within ten years of the Effective Date of the Allocation Agreement, to the extent practicable (referred to as the "Priority Projects").
 - Projects of lower priority under the foregoing criteria in the engineering evaluation will be planned for completion by year 2028.
- Cost
 - A cash flow will be provided which is consistent with the project priorities, schedule and overall funding available for the project.

Exhibit "22"
(Excavation and Dirt Moving Protocols)



Butte-Silver Bow County

Excavation and Dirt-Moving Protocols For All Dirt-Work to be Performed In or Near Butte Area Superfund Sites

FINAL

June 22, 2009

U.S. EPA and MDEQ Approved June 22, 2009

**Butte-Silver Bow County
Planning Department
155 West Granite Street
Butte, Montana 59701**

Introduction

These **Excavation and Dirt-Moving Protocols** have been developed for and are **applicable to All Public, Private and Commercial projects**. Private residents and private property owners are required to use these same common-sense protocols.

Butte's long history of underground and open-pit mining, milling and smelting has resulted in widespread contamination of metals, such as lead, arsenic, copper and others. The EPA's selected remedy of leaving these "wastes-in-place" has left large volumes of mine wastes and mineral processing wastes in-place throughout Butte and the surrounding areas. The purpose of these protocols is to provide all persons with **plans to minimize the spreading of contaminated soils**, through the identification and proper handling of mine wastes. Community compliance with these protocols will assure protection of both human health and the environment.

Simple Goals

The simple goals of these protocols are to make sure that;

- Soils contaminated with mine-wastes are **not imported** to a clean site;
- Soils contaminated with mine-waste are **not exported** to any site, other than the Repository,
- Soils contaminated with mine-waste are **properly capped** with soils and vegetation (or other caps);
- human health and the environment are protected.

Background

Butte, Montana has a long history of underground and open-pit mining, dating back to the 1860s. Mine, mill and smelter wastes are found throughout many areas of Butte and the surrounding areas of Butte-Silver Bow County (B-SB).

Processing the ores required the construction of mills (crushers) and smelters, both of which had their separate types of waste products. Mining and mineral processing wastes include waste rock, mill tailings, smelter slag and other forms. These materials are collectively referred to as, "mine-wastes." Mine-wastes have historically been widely used in the Butte area to backfill open gulches, to build railroad foundations, building foundations, and as general backfill.

The U.S. Environmental Protection Agency (EPA) and the Montana Department of Environmental Quality (MDEQ) along with B-SB, have been actively overseeing environmental reclamation and restoration of the Butte Hill for more than 20 years. These Excavation and Dirt-Moving Protocols are **applicable in the entire Silver Bow Creek Watershed**, which includes all parts of Silver-Bow County, which directly or eventually drain to Silver Bow Creek.

Contamination and Sampling

It is not possible to **visually** determine if soils are "contaminated" above or below regulatory cleanup standards. If you have any suspicion of mine waste contamination, County personnel should be contacted and sampling can be arranged **FREE of Charge** to the excavator / dirt-mover. Please allow several days to a week for results from the analytical laboratory. The EPA standards for soil cleanup actions in Butte are:

	Residential Properties	Commercial and Industrial Properties	Recreational and Open Space Property
Lead	1,200 ppm	2,300 ppm	2,300 ppm
Arsenic	250 ppm	500 ppm	1,000 ppm
Mercury	147 ppm	n.a.	n.a.

ppm - means Parts per Million

n.a. - means Not Applicable

Soils with lead or arsenic below these EPA standards are considered, "Below Action Levels" and do not require any special considerations for excavation or dirt-moving.

NOTE that the types and levels of contamination become much more restrictive near **Silver Bow Creek and its stream banks**. In addition to lead, arsenic and mercury, stream contaminants of concern include copper, zinc, iron, aluminum and cadmium. If your excavation or dirt-moving project is located above or near Silver Bow Creek, any storm water gulch or storm water structure, and/or any stream banks, you should contact County personnel at the contact information provided below, prior to any dirt work.

EPA Remedy

The remedy implemented in Butte by the EPA and MDEQ is to cap the "**wastes-in-place**". Large volumes of mining wastes remain throughout Butte and have simply been "capped" with clean soils and vegetation (mostly grasses) to protect both human health and the environment. It is very important that the soil caps and the vegetation not be disturbed without a good plan for clean soils repair and revegetation.

County Residential Metals Abatement Program (RMAP)

The Butte-Silver Bow County Health Department operates the Residential Metals Abatement Program (RMAP). The RMAP investigates residential properties (both interiors and exteriors) for metals contamination and then cleans, removes or otherwise abates the problem(s). If you have any concerns that a residential property has been contaminated with lead, arsenic, mercury or other heavy metals, please contact the B-SB Health Department for assistance at the contact information provided below.

Materials Transportation

The goal of these **Dirt-Moving Protocols** is to make sure that mine-waste contaminated soils are not further spread throughout the Butte area. Accordingly, vehicles used to transport soils contaminated with mine-wastes need to be properly chosen and properly operated. These measures may be as simple as **securing a tarp** over the contaminated materials to prevent wind-blown dusts and particulates from leaving the truck. Hauling wet and/or muddy mining contaminated materials is more complicated and may require using **bed-liners** and/or side-dump trucks which can not leak.

Trucks leaving a mine-waste contaminated site (dry or muddy) should be washed down (both tires and the truck under-carriage) before leaving the site onto County roads. This common-sense protocol is advisable even on un-contaminated excavation sites.

Mine Waste Repository

A Mine Waste Repository has been established to provide a final destination for all mine-waste contaminated soils excavated from the Butte area. The Repository is available, **FREE of Charge**, to home owners, private citizens, contractors, utilities and other excavators who need a location to dispose of mine-waste contaminated materials and associated mine-waste contaminated debris from eligible areas.

The Mine Waste Repository is locked until needed. Please contact the B-SB Planning Department at the contact information provided below to gain access to the Repository.

The Mine Waste Repository is located directly north of Butte, and immediately east of Walkerville. A Street Map of the Repository is attached as Appendix C for directions to the Repository.

County Solid Waste Landfill in Rocker

The County owns and operates a Class II Solid Waste Landfill located in Rocker, Montana, approximately 5 miles west of Butte. The Landfill has been established to provide a final disposal destination for municipal solid wastes. The County Landfill has established hours of operation when the public can dispose of solid wastes. Please contact the B-SB Landfill Office at the contact information provided below to confirm their hours of operation and to answer any specific questions about the types of wastes they are allowed to accept. A Street Map of the Landfill is attached as Appendix D for directions to the Rocker Solid Waste Landfill.

Illegal Dumping

Please be advised that it is illegal to dump any materials on public or private property without the owners permission. Butte-Silver Bow County has made available a Class II Solid Waste Landfill for the disposal of uncontaminated solid waste. Additionally, Butte-Silver Bow County has made available a Mine Waste Repository for disposal of metals contaminated materials. Illegal dumping on public and/or private property will be investigated by the Police Department and criminal charges may be prosecuted.

Excavation and Dirt-Moving Protocols

Step One: As always, **CALL BEFORE YOU DIG** to identify and locate all underground utilities. **Montana State Law requires** that everyone planning to excavate (or otherwise disturb the ground) must first call the state-wide One-Call Notification Center at least two (2) business days, but not more than ten days, before the work is scheduled to start.

The applicable Montana State Law is; Montana Code Annotated (MCA), 2006, Title 69, Public Utilities and Carriers, Chapter 4, Utility Lines and Facilities, Part 5 - Excavations Near Underground Facilities. This Montana State Law defines an "Excavation" as follows;

(4) (a) "**Excavation**" means an operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means or use of any tools, equipment, or explosives. The term includes but is not limited to grading, trenching, **digging**, ditching, drilling, augering, tunneling, scraping, and cable or pipe plowing and driving.

Copies of the complete State Law are available from County personnel.

The Utility Location Service is a service provided **completely FREE to everybody**. Buried utilities typically marked include electric, gas, oil, fuel, telecommunications including fiber-optic cables, potable water, sanitary sewers and storm sewers. Note that private buried utilities, e.g., propane fuel lines, may not be identified unless informed by the property owner. **Call any time, any day, Toll Free 1 - (800) 424 - 5555.**

Step Two: Check with the County Planning Department and GIS Department for maps of reclaimed and unreclaimed areas to determine whether or not the proposed work area is impacted, or likely to be impacted, with contaminated mine-wastes. Mine wastes are found extensively throughout Butte and the surrounding areas of Butte-Silver Bow County.

Step Three: If the area **is in a reclaimed area**, the following steps must be taken:

- Any excavated mine-wastes must be disposed at the Mine Waste Repository or replaced in its own void and properly covered, or capped with two-inches of limerock or a geotextile liner (if applicable, see EPA Protocols below) and clean cover soil. Residential and commercial properties require only 12 inches of cover soil while open-space areas require 18 inches of clean cover soil.
- If the excavation is going to be paved (asphalt, concrete or similar) or have a structure built on top of it, the building and/or pavement will serve as an adequate "cap".

- Following construction, if there are any remaining disturbed areas outside of the pavement and/or building areas, the disturbed areas need to be capped with clean soils.
- An account of how many cubic yards or truckloads were hauled to the Repository should be submitted to the County Reclamation Manager for record-keeping purposes.
- During excavation activities, until such time as the excavated materials can be disposed of or replaced, onsite erosion and storm water control measures must be employed to prevent runoff from stormwater carrying the materials off-site. Excavators are urged to use **Best Management Practices** to control storm water runoff from the excavation site. The **Montana Sediment and Erosion Control Manual** is available from the Montana Department of Environmental Quality. Additionally, the U.S. EPA can provide the manual, **Stormwater Management for Construction Activities**.
- Once the excavation void has been filled and re-capped, the surface must be reclaimed and revegetated. EPA Reclamation and Revegetation Protocols are provided below. The excavated areas must be reseeded with the EPA required seed mix (see Appendix B) or grass sod and protected with proper erosion control measures. Determining factors for erosion control measures include size of area, slope, and proximity to municipal stormwater system inlets and/or residences.
- Exceptions to these capping requirements, as determined by the County Planning Department, may apply if end land use dictates other measures are more appropriate and applicable.
- Post-excavation site inspection by County Planning Department personnel, if necessary.

Step Four: If the development area is identified as **not being a reclaimed area**, the following steps must be taken:

- Request a Site Evaluation by County Planning personnel for mine wastes before construction activities begin and again prior to site closure.
- If deemed necessary by County personnel, soil testing to identify whether or not metals contamination is present. County Planning personnel will collect samples at no cost to the excavator / contractor / homeowner.
- If sample results come back high in levels of contaminants (lead, arsenic, mercury and/or low pH) the excavator shall revert to the protocols in **Step Three** above.
- If sample results come back below EPA Action Levels for lead, arsenic, mercury and/or low pH, the excavator shall proceed with conventional excavation and dirt-moving methods employed on uncontaminated sites.

EPA Reclamation and Revegetation Protocols

County personnel can assist you in planning reclamation and revegetation actions. Small-scale disturbances can be reclaimed fairly easily. Larger excavations may require considerably more planning, materials and equipment.

Remember, the **goals are** to make sure that;

- Soils contaminated with mine-wastes are **not imported** to a clean site;
- Soils contaminated with mine-wastes are **not exported** to any site, other than the Repository,
- Soils contaminated with mine-wastes are **properly capped** with soils and vegetation (or other caps); and
- human health and the environment are protected.

The EPA protocols for re-capping and re-vegetation are too long to be included in this document. County personnel can provide you with the complete specifications upon request. The following is a brief summary of the EPA specifications.

Surface slopes should be graded and contoured to slopes **no steeper than 3:1**. That is 3 horizontal feet for every 1 foot in vertical drop.

If the underlying mine waste materials are **acidic** (pH less than 5.5) a **two inch (2") layer of lime** must be placed on the acidic wastes prior to capping with clean soils. The lime must have a calcium equivalent content of not less than 65%, and must be less than one inch (1") in diameter.

A **"cap" of clean soils** must then be placed over the contaminated soils. The cap of clean soils must be **at least eighteen inches (18") thick**, and reasonably free of trash, rocks, stumps brush and other debris. The clean soils should also be free of noxious weed seeds, such as spotted knapweed. Residential caps need be only twelve inches (12") thick.

In order to stabilize the soil cap, vegetation (grasses) must be re-established by sod or seed. The final EPA approved **Butte Hill Seed Mixture** is attached as Appendix B. Generally, this custom blend of seeds is not readily available in Butte as an "off-the-shelf" product. Large quantities can be ordered from commercial seed companies. County personnel will assist you in locating bulk suppliers of the above seed mix. Smaller volumes can be purchased at cost from County Departments.

Note that **alternative vegetation** and/or seed mixes may be considered depending on known future land uses. The primary purpose of the grasses and other vegetation is to protect the integrity of the soil cap and thereby be protective of human health and the environment.

=====

County Assistance

Butte-Silver Bow County has limited funds available to assist home owners, excavators, contractors and/or property owners with these various steps. B-SB Planning Department personnel are available to provide technical assistance and to take samples to be analyzed. The sampling and analysis are provided **FREE to the Excavator**. The County will also permit contaminated waste materials to be disposed of at the Mine Waste Repository if appropriate, **at no cost to the excavator**.

All ground disturbances are the responsibility of the property owner(s) and/or the excavator(s). The property owners are also required to apply for and obtain any applicable building, construction, demolition and/or other permits from the County or other regulatory agencies.



APPENDIX A

CONTACTS

B-SB Contacts: Planning Department (Excavation and Dirt-Moving Assistance)

Tom M. Malloy, Reclamation Manager
County Courthouse Building
Office: (406) 497 - 6257 or
Cell: (406) 490 - 4286

Health Department

Residential Metals Abatement Program (RMAP)

Eric Hassler, Program Manager
25 West Front Street
Office: (406) 497 - 5020 or
Cell: (406) 490 - 5794

GIS Department (Maps)

Pat Riordan, Manager
County Courthouse Building
Office: (406) 497 - 6257 or
Cell: (406) 490 - 4286

County Extension Service (MSU)

Extension Agent
307 West Mercury Street
Office: (406) 723 - 0217 or
Cell: (406) 579 - 5541

County Solid Waste Landfill in Rocker

Landfill Office: (406) 782 - 1463
Gary Keeler, Manager
County Courthouse Building
Office: (406) 497 - 6521

Butte Silver Bow County

Courthouse
(406) 497-6161

Agency Contacts:

U.S. Environmental Protection Agency (EPA), Butte

Ms. Sara Sparks 782 - 3264

MT DEQ Remediation Division, (MDEQ), Butte

Mr. Joe Griffin 841 - 5042 cell 560 - 6060

APPENDIX B

Butte Hill EPA Seed Mix

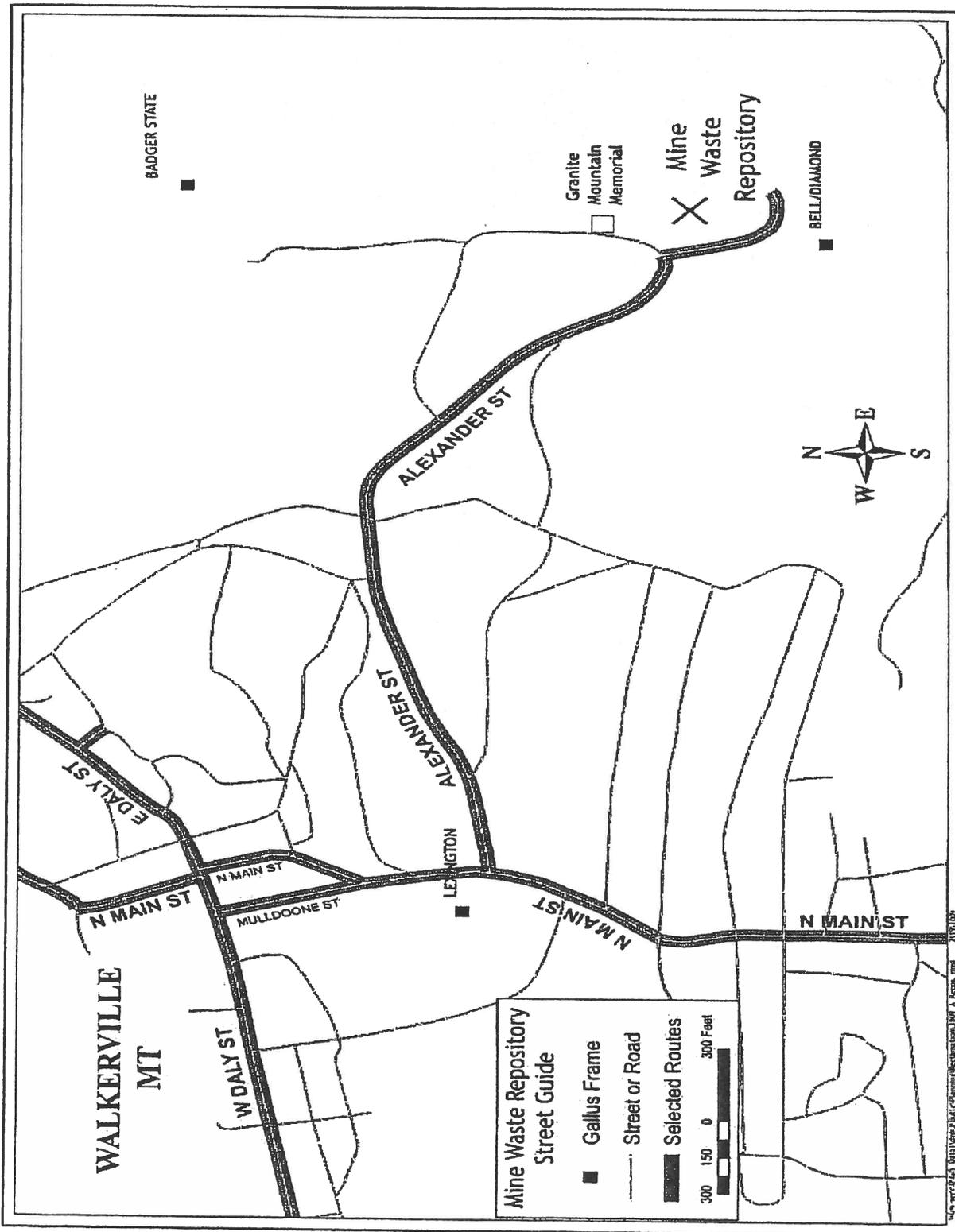
U.S. EPA Butte Priority Soils Operable Unit (BPSOU)
Butte Hill Revegetation Specifications

Seed Mixture	Application Rate # P.L.S. / Acre
Slender Wheatgrass	3.0
Thickspike Wheatgrass	2.0
Crested Wheatgrass	1.0
Sheep Fescue	2.0
Ladak Alfalfa	1.0
Red Clover	2.0
Canada Bluegrass	1.0
Birdsfoot Trefoil	1.0
TOTAL	13.0

County personnel will assist you in locating bulk suppliers of the above seed mix. Smaller volumes can be purchased (at County cost) from County departments.

Note that alternative seed mixes may be considered depending on known future land uses. The primary purpose of the grasses and other vegetation is to protect the integrity of the soil cap and thereby be protective of human health and the environment.

APPENDIX C Street Map to Mine Waste Repository



APPENDIX D

Street Map to Rocker Solid Waste Landfill

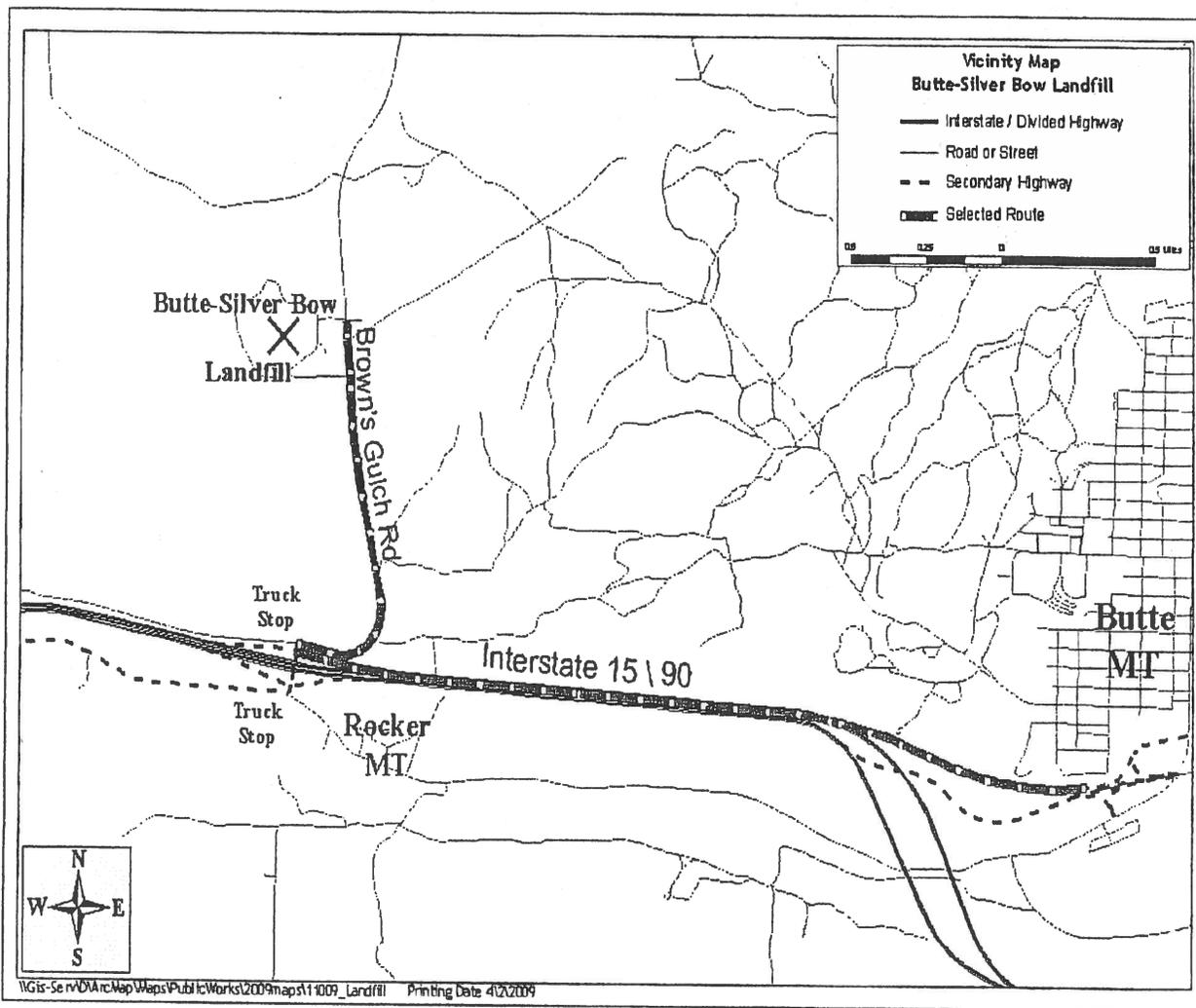


Exhibit "23"
(Criteria for Storm Water Management Ordinance)

EXHIBIT 23

BUTTE-SILVER BOW COUNTY CRITERIA FOR STORMWATER MANAGEMENT ORDINANCE

1. Objectives. Establish procedures and minimum requirements to control potentially adverse effects of storm water runoff associated with existing and future land development in Butte-Silver Bow County ("BSB"). The objectives of stormwater management are to:
 - a. Assist in attainment and maintenance of water quality standards to the reasonable extent possible;
 - b. Provide an enforcement process to ensure compliance with storm water management requirements and to meet these objectives;
 - c. Minimize maintenance requirements on the newly installed components of the stormwater system;
 - d. Minimize run-off of stormwater from reclaimed areas;
 - e. Ensure a functional drainage system;
 - f. Protect public and private property;
 - g. Reduce the effects of development on land and stream channel erosion; and
 - h. Reduce local flooding.

2. Minimize Storm water Impacts. BSB will continue to require itself and other property owners/developers in BSB to follow prescribed requirements, including but not limited to interception and infiltration on site, to minimize storm water impacts from existing development or from land disturbing activities that disturb one acre of land or more. The ordinance principles will identify BMP's and other requirements consistent with local, federal and state stormwater programs.

3. Applicability of Ordinance. The ordinance should be comprehensive in its approach to storm water management to cover active (e.g., development, infrastructure improvement, snow removal) and passive sources (e.g., slope erosion, stormwater from parking lot runoff) regulated under applicable federal or state storm water regulations which contribute sediment or pollutants to the storm water system.

4. BSB Good Housekeeping Practices. BSB will require of itself "good housekeeping practices" on properties it owns and/or controls by developing and adopting an operation and maintenance/training program with the goal of preventing or reducing storm water runoff from municipal operations. The program should include maintenance activities and long-term inspection procedures for the municipal storm water system. The program would include measures for reducing or eliminating the discharge of pollutants from BSB operation and maintenance activities areas within the BPSOU.

5. Private Property Owners. Private property owners and governmental agencies shall be responsible for maintenance of real property in that entity's ownership or control, including the use of Best Management Practices (BMPs) to mitigate and control storm water run on and runoff from real property to the storm water system. BMPs shall apply to existing and

future development. Any entity with ownership or control of real property contributing sediments or pollutants to the existing storm water system shall be responsible for the cost of such maintenance, including BMPs, to mitigate and control storm water.

6. Enforcement. The stormwater ordinance shall provide for periodic inspection and applicable enforcement by BSB personnel to ensure compliance with stormwater control measures.

7. Public Education and Outreach on Stormwater Impacts. BSB will develop and distribute materials to its citizens on a periodic basis describing the impacts of stormwater discharges on surface water bodies generally and identifying specific impacts of concern in the Butte area specifically. The materials should also include a description of steps that can be taken by residents to reduce stormwater pollution.

Exhibit "24"
(Controlled Groundwater Areas Submittal Schedule)

Exhibit 24
Controlled Groundwater Areas Submittal Schedule

The following table identifies the anticipated timeframe for the application of Controlled Groundwater Areas (CGA) in Silver Bow County by the Butte-Silver Bow government.

Controlled Groundwater Area	Aquifer Designated	ROD Status	Application Date¹
Butte Priority Soils Alluvial Aquifer	Alluvium	Anticipated 2006	2007
Montana Pole	Alluvium	Issued in 1993	As requested by EPA, State or AR
Butte West Side Soils	Alluvium	uncertain	If requested by EPA, the State or AR, but no sooner than 2007

Footnotes:

1. The schedule is based on the following assumptions:
 - CGAs petitions are filed for individual operable units.
 - Butte-Silver Bow will provide a draft of the petition for Atlantic Richfield's review three months prior to the application date.

2. Subsequent to submittal of a CGA petition, BSB shall have a continuing obligation to seek approval and implementation of the CGA.

Exhibit "25"
(BSB Memorandum of Coverage)

CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)
November 18, 2006

PRODUCER
MONTANA MUNICIPAL INSURANCE
AUTHORITY
PO BOX 6669
HELENA, MT 59604-6669
(406) 443-0307

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

INSURED
Butte-Silver Bow County
155 W Granite
Butte MT 59701

COMPANY LETTER	A	Montana Municipal Insurance Authority
COMPANY LETTER	B	
COMPANY LETTER	C	
COMPANY LETTER	D	
COMPANY LETTER	E	

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSION AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY	1122RP	July 1, 2006	July 1, 2007	GENERAL AGGREGATE	
	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY				PRODUCTS-COMP/OP AGG.	
	<input type="checkbox"/> C.A.M.B. MADE <input checked="" type="checkbox"/> OCCUR				PERSONAL & ADV. INJURY	750,000
	<input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT.				EACH OCCURRENCE	1,500,000
	<input checked="" type="checkbox"/> Public Entity Liability				FIRE DAMAGE (Any one fire)	
A	<input checked="" type="checkbox"/> Professional Liability	1122RP	July 1, 2006	July 1, 2007	MED. EXPENSE (Any one person)	
A	AUTOMOBILE LIABILITY	1122RP	July 1, 2006	July 1, 2007	PROPERTY DAMAGE (Per Person)	750,000
	<input checked="" type="checkbox"/> ANY AUTO				PROPERTY DAMAGE (Per Occurrence)	1,500,000
	<input checked="" type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per Person)	750,000
	<input type="checkbox"/> SCHEDULED AUTOS				BODILY INJURY (Per Occurrence)	1,500,000
	<input type="checkbox"/> HIRED AUTOS				EACH OCCURRENCE	10,000,000
	<input type="checkbox"/> NON-OWNED AUTOS				GENERAL AGGREGATE	10,000,000
	<input type="checkbox"/> GARAGE LIABILITY					
	EXCESS LIABILITY					
	<input checked="" type="checkbox"/> UMBRELLA FORM	3QX120753 00	Jan 1, 2006	Dec 31, 2006	For coverages not subject to the limitations on governmental liability for damages in tort under Montana Law Sec. 2-9-108, MCA.	
A	WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY	N/A	July 1, 2006	July 1, 2007	STATUTORY LIMITS	X
	OTHER				EACH ACCIDENT	
					DISEASE-POLICY LIMIT	
					DISEASE-EACH EMPLOYEE	

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

CERTIFICATE HOLDER

ARCO
Butte MT 59701

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES

Weta Wilkerson
AUTHORIZED REPRESENTATIVE

Exhibit "26"
(Funding Spreadsheet)

Exhibit 28 - Funding Spreadsheet - Allocation and Settlement Agreement

Exhibit 28(a) sets forth the dollar amounts of AR's funding obligation for each Trust Account that is established under the procedures described in the Allocation Agreement. Exhibit 28(b) is a second spreadsheet that illustrates certain budget assumptions for each Task Account and the total funding projected for each Task Account under those assumptions.

Trust Account - ID	Task Account - ID	Task Account Initial Budget	Total Task Account Funding ²	Total Principal Funding by AR ²	AR Funding Year 1 ³	AR Funding Year 2 ³	AR Funding Year 3 ³	AR Funding Year 4 ³	AR Funding Year 5 ³	Allocation Agreement Section Reference Obligation/Use
Superfund Programs Trust Account	Source Areas Reclamation/O&M	\$120,000	\$4,650,082	\$10,890,373	\$ 125,000	\$ 250,000	\$ 450,000	\$ 650,000	balance plus interest accrued at 7% per year	3.6 Reclamation of Mine Waste Source Area by BSB 3.7 Operation & Maintenance Activities for Mine Waste Source Areas 5.2 Operation & Maintenance Activities for Superfund Storm Water Structures 7.1 Reclamation of Mine Waste Repository
	Mine Waste Repository and Expansion Reclamation	\$0	\$90,006							7.2 Reclamation of Expansions of Mine Waste Repository - Costs included in Item 7.1 7.3 O&M for Mine Waste Repository 7.4 Authorized Disposal of Mine Waste
	Water Treatment In Expanded Lagoon System*	\$0	\$6,150,285							4.2 Operation & Maintenance Activities for Expanded Lagoon Treatment System
	Multi-Pathway Program	\$216,758	\$6,880,502	\$6,880,502	\$ 220,000	\$ 451,000	\$ 505,000	\$ 515,000	balance plus interest accrued at 7% per year	6.1 Multi-Pathway Program - Includes Increase over Terms Sheet for expedited sampling
Superfund Management Trust Account	Water Quality District	\$27,500	\$1,065,644	\$3,416,734					balance plus interest accrued at 7% per year	4.5 Groundwater Areas 4.6 Establishment of Controlled Groundwater Areas 4.7 Controlled Groundwater Area Orders 5.4 Enforcement of Storm Water Management Ordinance
	Health Studies/Report	\$65,000	\$219,802							6.2 Conduct of Health Studies ¹
	Land Management	\$55,000	\$2,131,288							8.1 GIS / operate and maintain 8.2 Provide GIS Services / Maps 8.3 Reclamation Database and Data 9.1 Conveyance and Use of Developable Properties 9.2 Conveyance and Use of Dedicated Properties 9.3 Survey and Conveyance of BSB Kelley Mine Yard Properties 9.4 Conveyance of Superfund Storm Water Properties 9.5 Additional Conveyances of Developable and Dedicated Use Properties 9.6 Conveyances of After Acquired Property to BSB 9.7 Conveyance of Developable and Dedicated Use Properties to Third Parties 9.11 Reconveyance of Dedicated Use and Developable Properties 9.12 Enforcement of Reclaimed Areas Guidebook Ordinance 9.13 Enforcement of Zoning Ordinance and Compliance with Growth Policy
					\$ 100,000	\$ 155,000	\$ 835,000	\$ 850,000	balance plus interest accrued at 7% per year	5.3 Improvements to Storm Water System 12.5 Capital Purchase, Repair and Replacement (Purchase of \$330,000 vacuum truck in Years 0, 10 and 20) 12.5 Capital Purchase, Repair and Replacement (Purchase of \$33,000 truck in Years 0, 10 and 20) 12.5 Capital Purchase, Repair and Replacement (\$140K every 10yrs)
Capital Purchase, Repair and Replacement Trust Account			\$10,558,394							
Redevelopment Trust Account				\$15,000,000	\$5,000,000	\$0	\$0	\$0	\$10,000,000 plus interest accrued at 7% per year	14.3 Authorized Uses of Redevelopment Trust Funds
	Groundwater Treatment System Capital Repair and	\$5,000,000	\$15,000,000							13.3 Authorized Uses of Groundwater Treatment System Capital Repair and Replacement Trust Account
Cashout Items			\$1,383,449	\$1,383,449	\$0	\$0	\$0	\$0	\$0	
TOTAL Principal Funding by AR			\$851,794	\$851,794						
				\$48,981,246						

Notes:
 * AR to operate the treatment system until July 1 2008, and post-shakedown. Funding for BSB operation of treatment system will initiate in 2008.
 1 \$65,000 study and report will be prepared by BSB every 5 years for 30 years with first report due in Year 1 following the Effective Date of the Agreement.
 2 Values shown are net present values.
 3 AR to fund the individual Trust and Cashout Items over a period of 5 years with interest at 7%. Annual funding amounts will be sufficient to allow BSB to perform required activities within budgets. AR may prepay any fund, and thereby adjust the NPV amount.
 4 Yearly budget assumptions and calculations for the trust accounts are for demonstration purposes only. The actual yearly budgets and the number of years the programs operate are subject to the Consent Decree negotiations and the level of work ultimately required.

Atlantic Richfield--Butte/Silver Bow Global Settlement

Butte Priority Soils Operable Unit

Exhibit 26(a) sets forth the dollar amounts of AR's funding obligation for each Trust Account that is established under the procedures described in the Allocation Agreement. **Exhibit 26(b)** is a second spreadsheet that illustrates certain budget assumptions for each Task Account and the total funding projected for each Task Account under those assumptions. **Yearly budget assumptions and calculations for the trust accounts are for demonstration purposes only. The actual yearly budgets and the number of years the programs operate are subject to the Consent Decree negotiations and the level of work ultimately required.**

Cost Item	Program Duration (*)	Total		Total Discounted Program Cost (5% NPV)
		Undiscounted Program Cost	Inflated Program Cost (2% inflation)	
Superfund Programs Trust Account				
Water Treatment	100 years	\$34,323,520	\$109,735,246	\$6,150,285
Source Areas/Storm Water - Annual O&M - includes MWR	100 years	\$24,389,000	\$76,375,915	\$4,740,088
Multi-Pathway Program Trust Account				
Residential - Lead/Attic Dust Program	30 years	\$12,629,351	\$16,585,542	\$6,880,502
Superfund Management Trust Account				
Water Quality District - Annual Ops	100 years	\$5,500,000	\$17,344,505	\$1,065,644
Health Studies/Report	30 years	\$390,000	\$506,707	\$219,802
Land Management	100 years	\$11,000,000	\$34,689,009	\$2,131,288
Capital Purchase, Repair and Replacement Trust Account				
Replace Storm Sewers, Dis and Catch Basins	23 years	\$17,060,628	\$21,726,547	\$9,540,509
StW Equipment- Vac Truck (10-yr replacement)	30 years	\$900,000	\$1,095,571	\$597,241
Lead Program Truck (yr 0, 10 & 20)	30 years	\$90,000	\$109,557	\$59,724
Equipment (\$140k every 10yrs)	100 years	\$1,540,000	\$4,910,945	\$360,920
Groundwater Treatment System Capital Repair and Replacement Trust Account				
Capital repair and Replacement fund	100 years	\$6,677,398	\$25,988,055	\$863,752
Cashout Items				
	100 years	\$1,359,000	\$1,991,535	\$851,794
Totals		\$115,858,897	\$311,059,133	\$33,461,548

Exhibit 26(a) sets forth the dollar amounts of AR's funding obligation for each Trust Account that is established under the procedures described in the Allocation Agreement. *Exhibit 26(b)* is a second spreadsheet that illustrates certain budget assumptions for each Task Account and the total funding projected for each Task Account under those assumptions. *Yearly budget assumptions and calculations for the trust accounts are for demonstration purposes only. The actual yearly budgets and the number of years the programs operate are subject to the Consent Decree negotiations and the level of work ultimately required.*

2.0% inflation factors 1.000 1.020 1.040 1.061 1.082 1.104 1.126 1.149 1.172 1.195

procedures described in the Allocation Agreement. Exhibit 26(b) is a second spreadsheet under those assumptions.

Year	1	2	3	4	5	6	7	8	9	10
Annual program spend (uninflated/inflated)										
0	0	0	175,120	350,240	350,240	350,240	350,240	350,240	350,240	350,240
0	0	0	182,195	371,677	379,111	386,693	394,427	402,316	410,362	418,569
0	120,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000
0	120,000	244,800	249,696	254,690	259,784	264,979	270,279	275,685	281,198	286,822
0	216,758	433,515	483,700	483,700	595,830	595,830	595,830	595,830	595,830	595,830
0	216,758	442,185	503,241	513,306	644,946	657,844	671,001	684,421	698,110	712,072
0	27,500	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000
0	27,500	56,100	57,222	58,366	59,534	60,724	61,939	63,178	64,441	65,730
0	65,000	0	0	0	0	65,000	0	0	0	0
0	65,000	0	0	0	0	71,765	0	0	0	0
0	55,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000
0	55,000	112,200	114,444	116,733	119,068	121,449	123,878	126,355	128,883	131,460
0	100,000	150,000	800,506	800,506	800,506	800,506	800,506	800,506	800,506	800,506
0	100,000	153,000	832,847	849,503	866,494	883,823	901,500	919,530	937,921	956,679
300,000	0	0	0	0	0	0	0	0	0	300,000
300,000	0	0	0	0	0	0	0	0	0	358,528
30,000	0	0	0	0	0	0	0	0	0	30,000
30,000	0	0	0	0	0	0	0	0	0	35,853
140,000	0	0	0	0	0	0	0	0	0	140,000
140,000	0	0	0	0	0	0	0	0	0	167,313
0	0	0	0	80,000	21,006	0	0	0	0	135,083
0	0	0	84,897	22,738	0	0	0	0	0	161,436
0	0	133,000	613,000	33,000	0	0	0	0	0	0
0	0	135,660	637,765	35,020	0	0	0	0	0	0
470,000	584,258	1,121,515	2,477,326	2,152,446	2,172,582	2,216,576	2,151,576	2,151,576	2,151,576	2,756,659
470,000	584,258	1,143,945	2,577,410	2,284,193	2,351,673	2,447,279	2,423,024	2,471,485	2,520,914	3,294,462

Annual uninflated spend
Annual inflated spend

	1.219	1.243	1.268	1.294	1.319	1.346	1.373	1.400	1.428	1.457	1.486	1.516	1.546	1.577	1.608	1.641
11	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240
	426,941	435,479	444,189	453,073	462,134	471,377	480,804	490,421	500,229	510,234	520,438	530,847	541,464	552,293	563,339	574,606
	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000
	292,559	298,410	304,378	310,466	316,675	323,008	329,469	336,058	342,779	349,635	356,627	363,760	371,035	378,456	386,025	393,745
	595,830	595,830	595,830	331,130	331,130	331,130	331,130	331,130	331,130	331,130	331,130	331,130	331,130	331,130	331,130	331,130
	726,373	740,840	755,657	428,352	436,919	445,657	454,571	463,662	472,935	482,394	492,042	501,883	511,920	522,159	532,602	543,254
	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000
	67,045	68,386	69,753	71,148	72,571	74,023	75,503	77,013	78,554	80,125	81,727	83,362	85,029	86,729	88,464	90,233
	65,000	0	0	0	0	65,000	0	0	0	0	65,000	0	0	0	0	65,000
	79,235	0	0	0	0	87,481	0	0	0	0	96,587	0	0	0	106,639	0
	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000
	134,069	136,771	139,507	142,287	145,143	148,046	151,006	154,027	157,107	160,249	163,454	166,723	170,058	173,459	176,928	180,467
	800,506	800,506	800,506	800,506	800,506	800,506	800,506	800,506	800,506	800,506	800,506	800,506	800,506	800,506	800,506	800,506
	975,812	995,329	1,015,235	1,035,540	1,056,251	1,077,376	1,098,923	1,120,902	1,143,320	1,166,186	1,189,510	1,213,300	1,237,566	1,262,300	1,287,528	1,313,151
	0	0	0	0	0	0	0	0	0	300,000	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	437,043	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	30,000	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	43,704	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	140,000	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	203,954	0	0	0	0	0	0
	0	0	0	0	0	0	0	30,000	0	400,000	0	0	0	0	0	0
	0	0	0	0	0	0	0	42,007	0	582,724	0	0	0	0	0	0
	2,216,576	2,162,165	2,151,576	1,886,876	1,993,664	1,951,876	1,886,876	1,916,876	1,886,876	2,939,071	1,951,876	1,886,876	1,886,876	1,096,959	1,727,851	1,151,370
	2,701,994	2,688,381	2,728,779	2,440,875	2,630,598	2,626,968	2,590,277	2,684,089	2,694,924	4,281,672	2,900,385	2,859,875	2,917,072	1,729,794	2,779,139	1,888,945

	1.673	1.707	1.741	1.776	1.811	1.848	1.885	1.922	1.961	2.000	2.040	2.081	2.122	2.165	2.208
27	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240
28	586,098	597,820	609,776	621,972	634,411	647,100	660,041	673,242	686,707	700,441	714,450	728,739	743,314	758,180	773,344
29	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000
30	401,620	409,653	417,846	1,117,006	434,727	443,421	452,290	461,336	470,562	479,973	489,573	499,364	509,352	519,539	529,930
31	331,130	331,130	232,750	232,750	216,758										
32	554,119	565,201	405,223	413,328	392,627										
33	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000
34	92,038	93,879	95,756	97,671	99,625	101,617	103,650	105,723	107,837	109,994	112,194	114,438	116,726	119,061	121,442
35	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
36	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
37	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000
38	184,076	187,758	191,513	195,343	199,250	203,235	207,299	211,445	215,674	219,988	224,388	228,875	233,453	238,122	242,884
39	0	0	0	140,000	0	0	0	0	0	0	0	0	0	140,000	0
40	0	0	0	248,618	0	0	0	0	0	0	0	0	0	303,064	0
41	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	300,572	0	0	0	0	21,127	10,589	0	0	0	182,195	0
	0	0	0	533,769	0	0	0	0	41,423	21,177	0	0	0	394,406	0
	0	0	0	0	0	0	30,000	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	56,536	0	0	0	0	0	0	0	0
1,086,370	1,086,370	987,990	1,817,562	971,998	1,760,640	1,395,373	1,479,817	1,451,746	1,522,204	1,531,574	1,540,605	1,571,417	1,602,845	2,332,372	1,667,600
1,817,951	1,854,310	1,720,115	3,227,708	1,760,640	1,395,373	1,479,817	1,451,746	1,522,204	1,531,574	1,540,605	1,571,417	1,602,845	2,332,372	1,667,600	1,667,600

	2.252	2.297	2.343	2.390	2.438	2.487	2.536	2.587	2.639	2.692	2.745	2.800	2.856	2.913	2.972
42	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240
43	804,587	820,679	837,092	853,834	870,911	888,329	906,096	924,217	942,702	961,556	980,787	1,000,403	1,020,411	1,040,819	
44	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000
45	551,339	562,365	573,613	585,085	596,787	608,722	620,897	633,315	645,981	658,901	672,079	685,520	699,231	713,215	
46	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000
47	126,348	128,875	131,453	134,082	136,764	139,499	142,289	145,135	148,037	150,998	154,018	157,098	160,240	163,445	
48	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000
49	252,697	257,751	262,906	268,164	273,527	278,998	284,578	290,269	296,075	301,996	308,036	314,197	320,481	326,890	
50	0	0	0	0	0	0	0	140,000	0	0	0	0	0	0	0
51	0	0	0	0	0	0	0	369,434	0	0	0	0	0	0	0
52	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
53	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
54	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
55	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
56	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
755,240	776,246	755,240													
1,700,952	1,734,971	1,769,670	2,060,293	1,841,165	1,877,988	2,018,496	1,953,859	5,821,577	2,032,795	2,073,451	2,114,920	2,157,218	2,261,563	2,244,370	

	4.000	4.080	4.161	4.244	4.329	4.416	4.504	4.594	4.686	4.780	4.875	4.973	5.072
71	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240	350,240
72	1,400,805	1,428,821	1,457,398	1,486,546	1,516,277	1,546,602	1,577,534	1,609,085	1,641,267	1,674,092	1,707,574	1,741,725	1,776,560
73	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000
74	959,894	979,092	998,674	1,018,647	1,039,020	1,059,801	1,080,997	1,102,616	1,124,669	1,147,162	1,170,105	1,193,508	1,217,378
75													
76													
77													
78													
79													
80													
81													
82													
83													
	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000
	219,976	224,375	228,863	233,440	238,109	242,871	247,728	252,683	257,737	262,891	268,149	273,512	278,982
	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000
	439,951	448,750	457,725	466,880	476,218	485,742	495,457	505,366	515,473	525,783	536,298	547,024	557,965
	0	0	0	0	0	0	0	0	0	140,000	0	0	0
	0	0	0	0	0	0	0	0	0	669,178	0	0	0
	0	10,589	0	0	990,964	0	0	0	0	182,195	0	0	0
	0	43,198	0	0	4,290,130	0	0	0	0	870,863	0	0	0
	0	0	0	0	0	0	0	30,000	0	0	0	0	0
	0	0	0	0	0	0	0	137,827	0	0	0	0	0
	755,240	765,829	755,240	755,240	1,746,204	755,240	755,240	785,240	755,240	1,077,435	755,240	755,240	755,240
	3,020,626	3,124,237	3,142,660	3,205,513	7,559,763	3,335,016	3,401,716	3,607,577	3,539,145	5,149,969	3,682,127	3,755,769	3,830,885

	5.174	5.277	5.383	5.491	5.600	5.712	5.827	5.943	6.062	6.183	6.307	6.433
84	350,240											
	1,812,091	1,848,333	1,885,299	1,923,005	1,961,466	2,000,695	2,040,709	2,081,523	2,123,153	2,165,616	2,208,929	2,253,107
	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000	240,000
	1,241,725	1,266,560	1,291,891	1,317,729	1,344,083	1,370,965	1,398,384	1,426,352	1,454,879	1,483,977	1,513,656	1,543,929
	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000
	284,562	290,253	296,058	301,979	308,019	314,179	320,463	326,872	333,410	340,078	346,880	353,817
	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000	110,000
	569,124	580,507	592,117	603,959	616,038	628,359	640,926	653,745	666,820	680,156	693,759	707,634
	0	0	0	0	0	0	140,000	0	0	0	0	0
	0	0	0	0	0	0	815,724	0	0	0	0	0
	10,589	21,006	0	0	0	0	300,572	0	0	0	0	21,006
	54,787	110,857	0	0	0	0	1,751,313	0	0	0	0	135,134
	0	0	0	0	0	0	0	0	0	30,000	0	0
	0	0	0	0	0	0	0	0	0	185,497	0	0
765,829	776,246	755,240	755,240	755,240	755,240	755,240	1,195,812	755,240	755,240	785,240	755,240	776,246
3,962,290	4,096,510	4,065,365	4,146,673	4,229,606	4,314,198	4,488,492	6,967,519	4,488,492	4,578,262	4,855,324	4,763,223	4,993,622

Exhibit "27"
(BSB Position Paper)

Butte-Silver Bow Position Paper

Butte Priority Soils: A Proposed Solution

Prepared by:

**Butte-Silver Bow
Technical Review Committee/Environmental**

**Draft Number 3
October 5, 2004**

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Butte-Silver Bow Position Paper

Butte Priority Soils: A Proposed Solution

(October 2004)

Introduction

At the request of the Butte-Silver Bow Chief Executive and Council of Commissioners, this position paper has been drafted (first draft, January 2004, second draft, June 2004, final draft, October 2004) to provide a starting point for a community decision-making process related to the Butte Priority Soils Superfund Site, which is generally described as a five square-mile area that covers the better part of the Butte Hill from Walkerville to Silver Bow Creek. For the purposes of this paper, this Superfund site will occasionally be called simply the "Butte Hill."

The position paper begins with a brief description of a number of facts and assumptions that have been the basis of Butte-Silver Bow's Superfund policy and program development efforts over the last 15 years. A basic understanding of this policy provides a context for the evolution of Butte-Silver Bow's involvement in Superfund activities and its recommendations on the Butte Hill site.

Following this section, we present an annotated outline of Butte-Silver Bow's draft recommendations on the various components of the Butte Hill cleanup, including the technical scope of the cleanup activity and the process/procedures to manage the Butte Hill site in perpetuity. This outline is intended to clarify Butte-Silver Bow's position on the pertinent parts of the cleanup decision (so-called Record of Decision) – a position that will be formally submitted to EPA and DEQ prior to the release of their proposed plan in the Fall 2004.

Section III outlines a number of pertinent issues that will need to be addressed to integrate the selected remedy for the Butte Hill with efforts to establish an effective environmental and health protection program in perpetuity. Also presented is preliminary cost information associated with the successful implementation of the proposed solution.

I. Policy Development

Butte-Silver Bow has been involved with the Superfund Program for the past 15 years. Over that period, a number of facts and circumstances have led to the policies that have guided the City-County's efforts. It is important to review and understand these points when considering Butte-Silver Bow's proposed solution for the Butte Hill.

A) Seat at the Table

In 1991, Butte-Silver Bow determined a need to be more fully represented in the Superfund decision-making process. In light of chronic problems with the alternative – that of a passive bystander in the regulatory battles among the Atlantic Richfield Company (Arco), Montana Resources, other mining companies, the U.S. Environmental Protection Agency (EPA) and the Montana Department of Environmental Quality (DEQ) – Butte-Silver Bow decided to get directly involved and work *within* the elaborate Superfund process. The resulting effort to work cooperatively with all interested parties has created unique dynamics for the local government.

Whether its taking a position on a cleanup decision or taking responsibility for implementing some or all of a particular cleanup, Butte-Silver Bow's effort has been designed to achieve three objectives: 1) keep the process (and cleanups) moving forward; 2) find an appropriate balance between environmental/health protection and community development; and 3) address our legal liabilities under the law (see PRP Status, below).

This preference to participate has led to Butte-Silver Bow's efforts to draft formal position statements on the major cleanup decisions (e.g., Montana Pole, Rocker, Berkeley Pit, Streamside Tailings, and various emergency actions within the Priority Soils area) and the Natural Resource Damage Lawsuit. The local government, through its staff and Council, has made a substantial effort to provide meaningful input in the decision making process, and manage the conflicts associated with formulating a community position on controversial issues. This latest position paper is presented in that context.

B) PRP Status

Butte-Silver Bow is a Potentially Responsible Party, or PRP, on the Butte Hill Cleanup. In the late 1980's, the EPA named Butte-Silver Bow as a PRP (with Arco and several others) because, according to the unique liability provisions of the Superfund law, Butte-Silver Bow owns the storm water system, which is the "transporter" of the heavy metals that reach and pollute the Silver Bow Creek drainage.

Two points should be noted: 1) Butte-Silver Bow's PRP status for the Priority Soils area encompasses the greater part of the Butte Hill from Walkerville to the Silver Bow Creek drainage spanning from the mining concentrator to the Colorado Tailings. 2) It is important to understand that Butte-Silver Bow is NOT a PRP on any other cleanup sites like the Berkeley Pit, or the Streamside Tailings; although not being named a PRP at these other areas tends to ease our legal burdens, it complicates our relationship with Arco.

This position paper does not address the issue of whether it was fair to be named a PRP, nonetheless, it is important to understand the implications and specific legal dilemmas associated with being straddled with this PRP status. There are many legal ramifications, but perhaps the most burdensome is the concept of "strict, joint and several liability" which basically means any and all PRP's named for a site are totally responsible for any and all costs of that site's cleanup. Nationally, the law is designed to make sure a party with sufficient financial resources can be tapped to pay for the full cleanup, particularly if the other parties are unable to pay. Technically, though, the law means every entity named as a PRP at a site is responsible for everything at that site, which is why the PRP's with substantial financial resources (and sometimes the EPA) are often compelled to sue the little guys for their proportionate shares.

Butte-Silver Bow Joins "BPSOU PRP Group"

After being named a PRP in the late 1980's (despite considerable resistance from the local government), Butte-Silver Bow had a choice: We could have contested our case with the EPA, pleaded a position on our "proportionate share" of the cleanup, and confront the financial burdens of paying that share and potential legal challenges from Arco and other PRP's who may have disagreed with our allocation. Or, we could join a "PRP Group" and work cooperatively with Arco and the other PRPs to get the Priority Soils areas cleaned up.

Butte-Silver Bow chose the latter - presumed to be the more positive route - and in 1992 signed a Consent Decree with all parties and joined the BPSOU/PRP Group. Butte-Silver Bow accepted responsibility to contribute its fair share of support to finding the solutions to help get the cleanup job done. To date, however, Butte-Silver Bow has managed to "pay" all of its proportionate share and contributions to the Priority Soils PRP Group effort with *in-kind services* -- essentially the staff work and cooperation involved in the cleanup effort. Tasks have included providing or securing access to cleanup areas, maintenance work on storm water facilities, providing administrative support to manage funds which have been collected and spent to do the studies and investigations, and most grueling, participating in the meetings to formulate the decisions on how to do the cleanup. By comparison, Arco's cost, including all the studies and cleanups already underway (like Lower Area One, Missoula Gulch, several source areas), has exceeded \$75 million on just the Butte Hill areas and it is clear that substantially more expenditures are necessary to finish the job.

C) Institutional Controls (a.k.a., management programs)

In light of these first two reference points that have guided policy development, Butte-Silver Bow has embraced the concept of taking a certain level of responsibility for a (so-called) Institutional Controls Program (ICP), which has been a combination of efforts to 1) implement cleanup action (e.g., the Lead Poisoning Prevention Program), 2) to maintain the cleanup work that has been completed (e.g., O&M programs on the Butte Hill), and 3) establish "controls" to protect the completed remedial actions (e.g., groundwater control areas, storm water ordinance, zoning for redevelopment). Since 1990, Butte-Silver Bow involvement with these efforts has led to the development of many programs, projects, and tasks, funded through a variety of contracts and grants (see Appendix A).

Butte-Silver Bow policy on institutional controls has been guided by the following points:

- 1) **No perfect remedies.** It is both practical and realistic to acknowledge that there are no "perfect" remedies to the cleanup problems in Butte, Montana, or any other major Superfund site in the United States. Consequently, final decisions (i.e., Record of Decision or ROD) on how to do a site cleanup most effectively are most often a hybrid of engineering solutions and management compromises.

The engineers determine suitable means to clean the air, water and soil, for example, how to build retention ponds or rebuild the drainages and creek channels, how to build and maintain the soil/vegetative caps, etc. These engineering solutions are designed carefully and implemented to meet defined performance standards. To the maximum extent possible, the "engineered remedy" is expected to be permanent, practical to maintain, and maximize protection of human health and the environment.

But the engineered remedy, no matter how permanent, must be managed and maintained in perpetuity, i.e. be complemented by long-term stewardship to ensure the environment and human health are protected long after the initial cleanup activity is implemented. In this regard, the PRPs and regulatory agencies are required to work together to develop management solutions to provide the best way to take care of these engineering controls in the future and to make sure the controls continue to do what they were designed to do. These management solutions are called "institutional controls" (IC's), and there are few, if any remedies implemented in the country that do not require some level of institutional controls.

- 2) **Community control.** It is Butte-Silver Bow's position that, if the engineering solutions indeed require a long-term management program, it should be the community, through its local government, that has the control over the program since it will be the community that will have to face problems as they arise, e.g., when a remedy fails and must be repaired or replaced. Experience to date has proven that when there is a problem, the general public will expect the local government to take action, not the federal government, not the State government, and not Arco. This expectation is created by the similarity of tasks, for example, maintaining a storm water catch basin installed under a Superfund action and cleaning out a catch basin that's been part of the municipal system for decades. In that regard, the local government has the greatest incentive to take good care of the reclaimed areas in perpetuity.
- 3) **Financial resources.** When the time came to get involved with the Superfund process, Butte-Silver Bow simply did not have the resources to deal with Superfund issues and activities. The participation in the Arco-and grant-funded ICP has provided for staff time and operating funds to sustain the capability and skills to be meaningfully involved in the decision-making process without strapping existing budgets supported by general tax dollars. The same model is proposed in the long-term, given the concept of perpetuity: a trust fund must be established with a sufficient amount of money so that interest from the fund can provide a constant source of funds to pay annual operations and maintenance costs of existing reclamation solutions as well as cover the cost of any additional reclamation projects which Butte-Silver Bow may need to manage in the future. Any settlement agreement with Atlantic Richfield would include assurances to spend settlement funds to fulfill obligations in the perpetual benefit of the remedy.
- 4) **Community benefits.** By taking control and responsibility for the management programs, there have been tangible and intangible benefits accrued to the community that might otherwise not have been achieved. For example:
- ★ Under the ICP, the **Water Quality District** staff to monitor our water resources and manage protection programs in Superfund areas; at the same time, the same staff are available to provide technical services in non-Superfund areas, like gathering ground water samples to help assess the merits of subdivision development or on-site waste water treatment; the cost of these services would otherwise have been paid by user fees; Under a Superfund initiative, a **Lead Poisoning Prevention**

Program was established to remove lead in soil where children resided or areas where children were known to play; however, through cooperation with Atlantic Richfield and the agencies, our Lead Program staff, under the ICP, are also authorized to respond to and mitigate lead, arsenic and mercury problems from all pathways (interior and exterior lead paint, dust, etc.), using financial resources that may not otherwise have been available to protect our children; today, Butte-Silver Bow's program is a national model and relies on a diversified number of funding sources;

- ★ To support Superfund work, Butte-Silver Bow has developed, using funding from Atlantic Richfield, a **Geographic Information System (GIS)**, e.g., to keep track of where children live and may be in proximity to lead soils, to manage O&M records for reclaimed areas, to map ground water control areas, etc.; in addition to those tasks, the GIS and experienced staff have helped automate and update County maps for better land records to assist police, fire, public works (water, sewer, roads) and other departments conduct their business.
- ★ **Recreational, cultural and community facilities**, including the Alice Knob Park, the Regional Historic Preservation Plan and related projects (i.e., the Anselmo and Steward mineyard tours, the Granite Mountain Memorial, among others), the Butte Hill Rails to Trail project, the Missoula Gulch ballfields, the Tullamore Affordable Housing project, the Butte Visitor's Center (Chamber offices), the Copper Mountain Recreational Complex, and the Lower Area One trail and wildlife area, among others, have all been by-products of Butte-Silver Bow's participation in Superfund programs.

These are just a few examples to illustrate the benefits to the City-County. Through its involvement in the management programs, Butte-Silver has tried to identify and derive benefits from the linkages among three objectives -- 1) our preference, as a stakeholder, to get involved in the decision-making process, 2) our obligation, as a PRP, to participate in cleanup solutions, and 3) our responsibility, as a local government, to build and enhance programs designed to protect and develop the natural resources of our community.

Thus far, results have been encouraging. Arco funding for the management programs coupled with other grant programs have offset what could have been major expenditures for the local government and taxpayers. Perhaps as many as 10 mills per year could have been required to hire additional staff to deal with work associated with the Superfund process and to develop environmental protection programs in response to new state regulations.

II. Butte Hill Remedy Recommendations

In this section, Butte-Silver Bow presents a set of recommendations about the cleanup decisions associated with the Butte Hill, officially known as the Butte Priority Soils Operable Unit of the Silver Bow Creek/Butte Superfund Site.

A. Preliminary Parameters

1. Scope of the cleanup area.

The first thing to know about "Priority Soils" is the scope of this cleanup action. Perhaps the best explanation: All the Butte Hill mine dumps and all the water drainages weaving down the Hill to Silver Bow Creek. The cleanup job is two-fold: 1) eliminate exposure to the mine tailings and waste materials to protect human health; and 2) prevent the heavy metals in those mine waste materials from getting into storm water and groundwater and finding their way to Silver Bow Creek, thereby protecting the environment (i.e. fish in the stream).

2. Butte Hill separate from other cleanup actions.

It's also important to understand that the final decision on the Butte Hill work and the associated liabilities are separate from the other cleanup projects in the Butte area. It's separate from the Montana Pole cleanup, which is wholly the responsibility of the Montana DEQ after settling on a cash-out with a number of parties. It's separate from the Berkeley Pit and underground mine flooding project, which is the solely the responsibility of Arco and Montana Resources. It's separate from the Streamside Tailings project along Silver Bow Creek, which is the responsibility of Montana DEQ after the State's settlement with Arco.

The Butte Hill project is also separate from the natural resource damage claim lawsuit. In the big picture, the cleanup and restoration activities will have to fit together, and from Butte-Silver Bow perspective, the Butte Hill remedy and future restoration work should be integrated to the maximum extent possible. But for the purposes of understanding the Butte Hill remedy, it stands alone.

3. Work already complete.

Substantial cleanup work has already been completed or partially completed on the Butte Hill. Projects include: the Alice Pit/Dump area; the Walkerville yards and attics program; the Missoula Gulch, Buffalo Gulch and Kelley storm water management

facilities (a system of ditches and retention ponds); the Timber Butte cleanup; the railroad corridors in the Lower, Middle and Upper Yards; Butte Hill rail corridor; the "Source Area Removal" program, which has resulted in capping about 175 mine dumps; the Butte residential yards program, which has addressed more than 200 yards and established the Butte-Silver Bow Childhood Lead Poisoning Prevention Program; the Lower Area One project, which includes the reconstructed Silver Bow Creek channel, the Colorado Tailings removal, and the Clark Tailings project (with the Copper Mountain Recreational Complex).

4. Major Work Still to Come.

There are a few major cleanup decisions yet to be decided, for example, how to reclaim the Metro Storm Drain corridor (i.e., address the Parrot Tails); how to reclaim the expansive area north of the Kelley Mine (i.e., the Granite Mountain Memorial Interpretive Area cleanup plan); and what type of water treatment system will be used for groundwater, surface waters and storm waters. Another major component of the Butte Hill Record of Decision will be to determine whether the projects already completed were done satisfactorily, or whether additional work is needed.

5. "Waste-in-place."

Because so much work has already been done on the Butte Hill it seems fairly clear that a significant volume of the wastes on the Butte Hill will be left in place as a part of the final cleanup decision. The logic behind this decision will likely be based on two things: 1) preliminary results that indicate much (not all) of the completed work has been successful in protecting human health and the environment, and 2) the practical difficulty of the "total removal" alternative – attempting to shave off six or even sixteen feet of the Butte Hill to remove "all" the tailings which test too high (i.e. in excess of action levels for lead, arsenic, etc.) for heavy metals. Butte is called the Richest Hill on Earth for a reason, and it may simply be impractical to dig down far enough before finding clean substrates without metals in it.

Approximately 200 or so waste dumps and former mine sites have been formally identified and designated as contaminated areas within the Butte Hill Superfund boundary. In addition, there are many other areas where contaminated soils are likely present. Because of the several decades prior to any Superfund cleanups in Butte when these contaminated wastes would run downhill during storm and snowmelt events, and because these materials were also commonly used as fill for building sites, yards, road bases and railroad grades, there is no accurate way to determine the extent or locations of their presence. This fact even further complicates the practicability of a "total removal" cleanup option for the Butte Hill.

Given the reality that waste materials would be left in place, the "cleanup" job, thus far, has generally consisted of building a system of protective caps over the mine dumps – placing 18" of clean, nutrient-rich soil materials over the wastes and planting native vegetation to hold the caps in place and minimize erosion. To complement the caps, a system of storm water management facilities – new drainage ditches, a series of retention ponds, diversion pipelines and channels to the Berkeley Pit – has been installed to manage flows reaching Silver Bow Creek.

6. Community return for wastes in place.

As a community knowledgeable about mining and the risks associated with mining wastes, Butte may be willing to tolerate a decision to implement a remedy that would leave wastes in place. However, when compared to a total-removal strategy, it is clear that the waste-in-place with caps solution has reduced clean-up costs by millions of dollars. Thus, there are two essential, absolute conditions to achieve community acceptance:

- a) **There must be a premium on the long-term maintenance of these caps and water management facilities.** There must be absolute assurance that sufficient resources are put in trust to take care of, even rebuild these protective caps and water treatment/management systems in the long-term. (Butte-Silver Bow's status as a PRP will be relevant with regard to its relationship with Arco.); and
- b) **The end result of the cleanup project must accommodate, even promote the beneficial re-use and development of the reclaimed properties.** Thus far, the concept of redevelopment of reclaimed property has been successful, e.g., several great projects and community assets, along with the preservation of many historic resources that are important to the fabric of our community. It will be critical for the selected remedy to recognize redevelopment as an integral part of the solution and provide the requisite resources to that end.

In one sense, the community has already paid its share by considering the waste in place remedy – a level of cooperation worth millions (i.e., by one estimate, \$128-232 million, depending on where the wastes would be disposed). Thus, our citizens should be protected from bearing any more share of the cleanup and maintenance costs, and it is time to figure out how much effort and money it will take to protect the reclaimed areas and waste management facilities. There should be no quibbling about the standards for how well the areas should be maintained or how much it will cost. Whatever it takes; the citizens deserve no less.

B. Components of Butte-Silver Bow's Proposed Solution

The objective of this section is to present an annotated outline of Butte-Silver Bow's draft recommendations on the various components of the Butte Hill cleanup. Through the outline, we hope to communicate our view of the technical scope of the cleanup activity and the process/procedures to manage the Butte Hill site in perpetuity. This outline is intended to clarify Butte-Silver Bow's position on the pertinent parts of the cleanup decision, and will ultimately, after public review and Council action, be submitted to the EPA and DEQ, who plan to release their Proposed Plan and Record of Decision for the Butte Hill site cleanup in the Fall 2004 and Spring 2005, respectively.

The outline is organized by the two basic components of the remedy - those associated with **1) Soils, and 2) Waters**. In each of the two major sections, we also present the permanent management programs that would be needed to complement the remedy in the long term.

1. Soils

The decision on "Soils" is split into three major parts: a) **soils in residential yards and play areas, and attic dust**, therefore, associated more with the protection of human health; b) **soils in non-residential areas, often called "source areas,"** where there is less direct interaction with people and children, and therefore, associated more with protection of the environment, specifically water resources; and c) **perpetual management and maintenance programs**, which are absolute necessities to ensure the solutions are effective forever.

a) Residential Yards, Play Areas and Attic Dust

The current **Multi-pathway Lead Poisoning Prevention Program** has been in operation for eight years and has addressed more than 200 yards and structures in those yards. The Multi-pathway Program was the product and result of an extensive community process (from 1992-1994) where a group of concerned citizens formed an advisory committee to develop recommendations on how to respond to the problem of high blood lead in Butte children. After an extensive testing and screening program (1990-1992) it was found that the number of children in Butte testing high in blood lead was well above the national average. The Advisory Committee produced a set of recommendations that still govern program activities.

The program provides a surgical approach to deal with, initially, sources of lead that present direct threats to the most sensitive populations - children under the age of six and pregnant mothers - and eventually everyone who may be at risk. The program was designed and implemented to address **ALL** sources of lead contamination, rather than just lead in soils, which would otherwise be the case under the strict interpretation of the Superfund law.

Qualified staff at the Butte-Silver Bow Health Department – engineers, sanitarians, technicians and nurses – have the ability to assess the people and the properties within the Butte Hill site for lead exposure. Nurses offer blood-testing services that determine if people have been exposed to lead, provide education to the public on ways to reduce exposures to the various sources of lead in the environment, and also give counseling on nutrition and a healthy diet which is so important in reducing the effects of lead exposure.

Engineers, sanitarians and technicians offer environmental testing that is critical in identifying the sources of lead contamination whether these sources are in yards, attics, paint, water, or other areas. After identification, lead abatement services are provided, including removal or encapsulation of contaminated soils and attic dust, removal or repair of lead paint, and other abatement strategies that provide people with a *lead safe* property. Any soils and contaminated materials removed during abatement are disposed at the Mine Waste Repository.

As part of the final remedy for Priority Soils, this Lead Program must be included, coupled with greater emphasis in three areas:

- 1) Expanded abatement services for a more aggressive approach to the presence lead and/or arsenic in attic dusts; increase monitoring to identify dust in attics, verify exposure and associated health risks, i.e., residences where there are or will be, as the result of building remodeling or changes in use in a property, potential exposure of their residents to elevated metals, and perform abatements as necessary; essentially, apply a similar priority system used in the Lead Program, with increased emphasis on risk assessment;
- 2) Long-term health assessment and monitoring; in response to input from the Health Board, the Citizens' Working Group and others, resources are needed to perform comprehensive long-term assessments of public health as related to the presence of mining wastes; as part of the Priority Soils remedy, a program must be implemented to document the effectiveness of public health protection, i.e., at least every five years, follow-up testing of people and properties should be conducted, as part of a community-wide health assessment and study.
- 3) Maximum flexibility to address site specific conditions, again in response to input from the Health Board, the Citizens' Working Group, and comments from the public forum on attic dust; flexibility in the Superfund process is paramount to the success of the Butte-Silver Bow Lead Program and analysis of site- specific conditions is important to determine whether or not specific and significant environmental and public health changes are occurring in our community. A formal third party review will assess whether or not these changes are occurring and, if they do occur, EPA will be expected to modify its original decision based on scientific evidence. Flexibility also gives local staff the authority to determine removal actions in individual homes.

Absolute Conditions to Implement and Maintain the Program

Butte-Silver Bow's recommended position on residential soils and attic dust is contingent upon two absolute assumptions that 1) the program outlined above will be administered and implemented by Butte-Silver Bow, with full control, responsibility and flexibility, and 2) there will be sufficient financial resources provided through the Record of Decision and Consent Decree. In the absence of Butte-Silver Bow's control of a fully-funded program, there is no confidence the proposed approach to address the potential health problems would be effective in the long term. In particular, there is substantial public interest to increase the commitment to conduct health assessments that will provide assurances that everything possible will be done to protect the public in terms of exposure to mine wastes.

b) Non-residential Soils (a.k.a. Source Areas)

The non-residential soils section is divided into two groups. The first group of sites comprises those that have not been reclaimed to date. Butte-Silver Bow recommends that reclamation of these sites must be included in the EPA's proposed remedy and addressed as described herein as part of the remedial action.

The second group of sites comprises those that have already been reclaimed – those often described generally as “previous actions.” In certain cases, Butte-Silver Bow recommends that many are satisfactory in meeting the EPA's criteria of protecting human health and the environment. The challenge with these sites will be to maintain them effectively forever and to this end, there is a need to implement additional reclamation measures based on end-land uses where appropriate and practical.

For both previously reclaimed and unreclaimed sites, the EPA should require as part of the final remedy, the implementation of a Berm and Curb Program, which prevents storm water runoff from entering onto source areas and which prevents sediment and storm water runoff from entering the County's storm water collection systems. The entire concept of using engineering caps and leaving wastes-in-place is based upon, among other things, the ability to maintain the caps and prevent the migration of contaminants from reaching Silver Bow Creek. Evidence on the Butte Hill clearly shows that management of storm water is a significant challenge. Several small curbs have already been installed around the Butte Hill to divert rushing waters away from waste caps. These small, inexpensive structures have proven tremendously valuable and effective in keeping rushing storm waters off of previously reclaimed sites and in protecting the caps. Likewise at the toe of the wastes, be they reclaimed or unreclaimed, there should be a similar berm and/or curb which prevents storm waters and sediments and contaminants from leaving their designed locations and from entering the County's storm water collection systems, thereby protecting Silver Bow Creek. Berms and curbs are recognized as important tools in any reclamation plan addressing storm water run-on

and storm water run-off. These devices are typically considered an integral part of "Best Management Practices", or BMPs. We believe a Berm and Curb Program should be required and implemented throughout the entire Operable Unit as part of the EPA's final remedy for leaving extensive wastes-in-place.

For both previously reclaimed and unreclaimed sites, the EPA should require as part of the final remedy, a re-evaluation of all Superfund fences in the Operable Unit. Many fences have been installed throughout the communities of Butte and Walkerville where none are necessary or appropriate. Likewise, fences have not been installed where they are necessary and appropriate. In several instances, one property was reclaimed in one year, while the adjacent property was reclaimed several years later. When both reclamation plans specified property fencing, redundant parallel fences have been installed. Additionally, the final remedy should consider alternative fencing measures. For example, one specific style of fencing may be more acceptable to the community than another, where both styles are effective. We suggest a planning committee be established with extensive input from the local citizenry to re-evaluate the need for any fence at all, and if fences are deemed necessary and appropriate, significant input from the local community should be gathered as to the style of acceptable fences. We believe a re-evaluation of all Superfund fencing should be required and implemented throughout the entire Operable Unit as part of the EPA's final remedy for leaving extensive wastes-in-place throughout the residential neighborhoods of Butte and Walkerville. This re-evaluation should likewise address installation of community access control measures, such as gravel walking trails and signage.

Butte-Silver Bow believes the original reclamation work, in some cases, was not done effectively; and we believe these sites must be upgraded as necessary to: a) fit applicable end land-uses; b) meet satisfactory criteria for protecting human health and the environment, including successful vegetation which is protective of the caps; and c) be maintained in perpetuity. The "reclaimed" sites in this latter category are under the jurisdiction of Butte-Silver Bow's current maintenance regime, but are and will continue to be maintained at a much higher cost premium than what it takes to maintain sites done properly in the first place.

Unless these greater costs are recognized in the permanent trust fund, or, in the alternative, additional work is performed up-front as part of the EPA's remedy, it will become cost-prohibitive to maintain these sites effectively in a long-term scenario, contributing to an increased, overall failure rate of previously reclaimed sites on the Butte Hill over time.

For the purposes of this document, a detailed map is not provided. However, the B-SB Planning Department and the EPA and the State of Montana all have maps with all of these sites identified. It is important to realize that the following listing does not mean the previously reclaimed areas have "catastrophically failed". However, additional work is necessary on all or some portion of these areas in order to bring them up to proper and final reclamation standards prior to them being accepted as part of the EPA's final remedy. At a

minimum, we would expect all or portions of the following reclaimed sites to be reevaluated for compliance with the EPA's current reclamation protocols, vegetation standards and ARARs compliance:

-- the Otisco Dump, the Ophir Dump, the Colorado Mine Yard, the Belmont Mine yard (south side), the Minnie Irvine Dump, the Butte New England Dump (south side), the Original Mine Yard, the Steward Mine Yard, the Black Bird Dump (south side), the Moscow Dump, the West Ruby Dump, the Mountain Con 2 Dump, the Wake Up Jim, the Parrott Dump (south west side), the Missoula Mine Yard (west side along road), the Anderson Shaft, the Child Harold 2 Dump, the Buffalo South Dump, the Josephine Shaft (south side highwall), the Corra 2 Dump (storm channel), the LaPlatta (vegetation), the Rising Star East (vegetation), the Rising Star West (vegetation), the Magna Charta (vegetation), Upper Missouls Gulch (vegetation), the Anselmo Mine Yard (along rail bed), the Mandan Park Play Area (from the park area north to the new walking trail), the Anselmo Timber Yard (both the north side slopes above the new walking trail and the south west corner of the Timber Yard), Waste Dump #37 (east side).

Finally, Butte-Silver Bow believes the final remedy on all non-residential source areas should be designed and constructed to comply with all Applicable or Relevant and Appropriate Requirements (ARARs) of the State of Montana (as listed by the EPA in the Final Feasibility Study). Among other requirements, these ARARs require (in part):

...that the revegetation goals are to establish a diverse, effective vegetative cover of the same seasonal variety native to the affected area, and capable of self-regeneration and plant succession at least equal to the natural vegetation of the area. These Requirements specifically address the inclusion of native grass and woody species, trees, shrubs, and half-shrubs, and that the reclaimed areas be measured against local un-mined reference areas, and establish performance standards for vegetation production, cover, diversity, density and utility.

Based on our interpretation of these requirements and other information included in the Feasibility Study (Section 6.0, 6.1.1.2), Butte-Silver Bow believes the final remedial design on all non-residential source areas should be "appropriately designed and constructed" to comply with the subject ARARs.

1) Unreclaimed areas

- Granite Mountain Memorial Interpretive Area

West of Memorial: Cora-2 Dump, Corra Shaft, Rock Island Dump, Silver Queen Dump, Penrose Dump, East Gray Rock Dump, Mountain Con Mineyard, Mountain Con-1 Dump; these sites, generally west of the Memorial must be reclaimed as part of

the remedial action under the ROD to meet criteria for protecting human health and the environment and to allow for all future-end land uses consistent with applicable zoning and growth policies (both Butte-Silver Bow and Walkerville, as well as the *Regional Historic Preservation Plan*).

East of Memorial: Belle Dump, Waste Dump 098, and other unnamed dumps, generally located east of the Memorial are to be left "as is," as part of the larger concept to preserve the historic mining landscape, as outlined in the Regional Historic Preservation Plan. "As is," for all practical purposes means the dumps will not be reclaimed and would only include necessary drainage improvements and construction of limited access trails leading to interpretive areas, where signs or kiosks are needed to direct users. These waste sites have been studied thoroughly (i.e., Granite Mountain Addendum to the Feasibility Study) and have been judged to a) pose no threats to human health or the environment via air pathways and b) do not pose a threat to any surface or groundwater systems outside the Berkeley Pit. Based on these findings, and the assurance of long-term air monitoring to verify the lack of any airborne threats, coupled with a substantial redevelopment investment at the Memorial, the Mountain Con, and other historic resources in this area, Butte-Silver Bow feels it is appropriate to leave the dumps "as is" as part of the site-specific, historic mining landscape concept.

- **Syndicate Pit**

Boundary Buffer/Enhancement: Given that the Syndicate will likely be used in the long-term as one of the main sediment basins in Missoula Gulch, one goal of the remedial action in this area should be to provide an effective buffer to the surrounding residential neighborhood. A large earthen berm planted with a barrier of large conifers along the western boundary of the pit should be constructed to shield the unsightly eastern high walls from the west. In addition, drainage measures should be taken to route surface water from a widened and improved Clark Street into the pit.

Montana Tech Underground Miner Training Facility: At present, the defined use of the pit area itself (exclusive of the sediment basin and tree-lined berm) is a staging area for the Training Facility and the portal to the Lexington Tunnel, which is also planned for historic underground mining tours in the future. As part of the training program, it is expected that a large area of the eastern high walls would be filled in and reclaimed over time; additional reclamation improvements would be made on the hillside above the Lexington Tunnel portal and slope reclamation on the eastern side of the tree-lined berm will also be implemented. In addition to improving the residential viewshed, the tree-lined berm will also help to reduce any noise issues associated with the training facility, although none have been reported at this time. Greater public participation from neighboring residents is critical prior to finalizing the reclamation and land-use

plan for the Syndicate Pit area, including some level of assurance from Montana Tech about the long-term viability of the Training Center.

- **Additional Unreclaimed Sites**

For the purposes of this document, a detailed map is not provided. However, the B-SB Planning Department and the EPA and the State of Montana all have maps with all of these sites identified.

Many of the following sites have been previously identified by the EPA as mine waste dumps and "Source Areas" where it was determined that no additional work was necessary. Work is necessary on all or some portion of the following areas in order to bring them up to proper and final reclamation standards prior to them being accepted as part of the EPA's final remedy. At a minimum, we would expect all or portions of the following sites to be reevaluated for compliance with the EPA's current reclamation protocols, vegetation standards and ARARs compliance. This list includes, but is not limited to:

-- the Moose Dumps, Waste Dump 25 (along roadway), the Goldsmith Dumps, the Surprise Dump, the Twilight West Dump, the Jennie Dell, the Abandoned RR Bed west of Corra Terrace (#22), the north and west portions of the Kelley Mine Yard which drain directly onto North Wyoming Street must be reclaimed; the entire gulch immediately south and east of the Copper Mountain Recreational Complex must be remediated as it contains extensive amounts of mill tailings (immediately down gradient from the Clark Mill), the Lexington Mine Yard, and other unnamed dumps and source areas (specified in the 1997 Field Survey of Unreclaimed Areas).

At a minimum, these sites should be reclaimed per criteria for meeting human health and environmental protection standards, including vegetation standards for cap protection, and to allow for all future end land uses consistent with applicable zoning and growth policy (both Butte-Silver Bow and Walkerville, as well as the *Regional Historic Preservation Plan*).

Additionally, the EPA's Record of Decision should allow for flexibility in the prescribed remedy, allowing for the discovery of additional unreclaimed source areas, which are discovered during the remediation and/or remedial design processes. It would be entirely inappropriate to leave major sources of contamination unremediated, simply because it was not identified prior to an arbitrary bureaucratic deadline.

- **Mine Waste Repository**

The Record of Decision must include regrading and reclamation (i.e., final closure) of the existing repository (southeast of the Granite Mountain Memorial), consistent with applicable zoning and growth policy (both Butte-Silver Bow and Walkerville, as well as the *Regional Historic Preservation Plan*). The EPA's remedy must also specify the siting and construction of an entirely new repository and reclaiming that new site when its effective lifespan is met. As a result of leaving wastes in place throughout the Butte Hill and throughout the Operable Unit, it is anticipated that potentially large volumes of mine wastes and related materials may eventually be hauled to the repository as a result of residential, commercial, industrial and governmental excavations. Additionally, it is known that the Butte Hill is highly mineralized. As part of the Institutional Controls protocols of the County, suspected or potentially contaminated excavation materials will likewise be hauled to the repository. The new repository, therefore, must be large enough to handle large volumes of material from throughout the Priority Soils Operable Unit for many years to come.

- **Green Mountain Shaft**

The Green Mountain Shaft located east of the Mountain Con Mine is being used as an access point to deliver significant volumes of storm water runoff from the surface to the underground mine works and eventually to the Berkeley Pit. Presently, the shaft collar is completely covered with sediments and accumulated rain water slowly seeps into the mine through the sediment. Eventually, the shaft and collar will collapse. This process will be accelerated by the routing of water over the collar and down the shaft. The shaft should be located on surface and a properly designed storm water inlet structure constructed over the shaft. An adjacent sediment basin should be constructed which allows access for periodic removal of accumulated sediments. Additionally, a backup design should be prepared as part of the current remedy (and contingency funding set aside) which anticipates the eventual failure of the Green Mountain Shaft as an effective water conduit.

2) Reclaimed Areas (proper O&M and Management of what's been done)

- **Operation and Maintenance of Reclaimed Areas Program**

Repair, improvements and standard maintenance of all reclaimed areas, which will ultimately include over 250 dumps and railroad grades throughout more than 400 acres on the Butte Hill. This program has been ongoing for the past eight years. Routine activities include repair of eroded areas/areas damaged by illegal off-road vehicle use; placement and management of access control measures (i.e. signs, trails, fences);

vegetation and/or cap improvements (additional soils and/or organics; reseeding; site edge work and drainage improvements; more trees and shrubs; native species plantings); weed control; insect control (e.g., West Nile Virus); odor control from standing water; fertilizing; mowing; stormwater ditch, channel and basin maintenance; trail maintenance and trash/debris cleanup.

Use of the Butte Reclamation Evaluation System (BRES) to monitor all reclaimed sites and prescribe corrective actions on an annual basis. Data from BRES monitoring would continue to be updated in the Butte Reclamation database to document the maintenance history of each reclaimed site. As is currently the case and as part of a regular routine, any BRES-identified sites requiring maintenance would be addressed by an appropriate action (e.g. additional reclamation and/or removal or necessary repairs) to ensure permanence of the remedy.

- **Management of Mine Waste Repository**

The O&M Program must include a new large repository and properly constructed access roads, managed by Butte-Silver Bow. Management tasks include proper covering after new wastes are added; site security; access control, including tipping fees for any wastes disposed that come from outside the Priority Soils site; surveying and tracking wastes; any required reporting with EPA/DEQ; final reclamation at such time the facility is no longer needed or reaches maximum capacity.

- c) **Permanent Soils Management Programs**

Butte-Silver Bow's recommended position on residential soils and non-residential soils alike is contingent upon certain assumptions:

- a. A fully funded Operations and Maintenance of Reclaimed Areas Program, consistent with the Program in place for the past 8 years and described above;
- b. A fully funded Land Management Operations Program to effectively and adequately track and control all activities regarding maintenance, ownership and redevelopment of Butte's Superfund areas;
- c. A substantial Redevelopment Trust Fund, documented through the Record of Decision, to provide sufficient resources to appropriately address mine wastes encountered during future development of reclaimed areas, consistent with applicable zoning and growth policies (both Butte-Silver Bow and Walkerville, as well as the *Regional Historic Preservation Plan*); and
- d. The availability of insurance products that will reduce risk exposure to the City-County, should any aspect of the remedy or maintenance of the remedy be more costly than reasonably expected at the time of the Consent Decree.

Community control and participation, coupled with sufficient trust funds, provide the incentives and the opportunities to ensure the selected remedy for Priority Soils remains perpetually protective of human health and the environment, and does not hinder desirable development of reclaimed areas.

1) Operation and Maintenance of Reclaimed Areas Program

Butte-Silver Bow believes it is the most appropriate entity to undertake this program for several reasons: a) has qualified and experienced personnel; b) is the owner of record for a majority of the reclaimed sites, giving it sole authority over maintenance activities, in addition to added authority in compelling other landowners to perform their required site maintenance; c) is the local governing body in charge of zoning and development of all property in Butte-Silver Bow County, including all of the reclaimed areas. The City-County's permanent presence is invaluable in ensuring the long-term maintenance and/or redevelopment of all reclaimed Superfund areas.

2) Land Operations and Management Program

The land management operations program is actually a combined effort of a number of Butte-Silver Bow departments, including:

- Geographic Information System (GIS) Division, Planning Dept., which creates maps and maintains a comprehensive database of all Superfund information;
- Land Records Division, Clerk and Recorder's Office, which oversees all transfers of county property, including reclaimed Superfund sites, to private individuals and which updates all county land ownership records;
- Planning Department, which administers all development permits and improvements of property within the county to be consistent with applicable zoning and growth polices (both Butte-Silver Bow and Walkerville, and the *Regional Historic Preservation Plan*);
- the County Attorney's office is also an integral part of the land management program, in that its staff provides necessary legal counsel in matters of liable party determination, land ownership disputes, enforcement of applicable municipal codes and any necessary conservation easements, deed restrictions or restrictive covenants.

A properly managed and funded land operations program is necessary to the effective communication and cooperation between each department's experienced personnel specialized in dealing with Superfund matters. Butte-Silver Bow feels this program is necessary in properly managing all the complications of a waste-in-place remedy in perpetuity.

3) Redevelopment Trust Fund

Full opportunity to redevelop its reclaimed areas is the only way Butte can accept a remedy for Priority Soils that leaves wastes in place. The shortcomings of engineered caps over wastes and relying on institutional controls can be overcome with good management techniques and tools, and a commitment to local control. Likewise, it is imperative to include a redevelopment trust fund to cover any costs or conditions that might otherwise negatively impact the future economic development of our community. The Redevelopment Trust, albeit not a Superfund requirement, is a tool that must also be available to provide incentives for growth as well as to maintain and improve the remedy.

Incremental Construction/Development Costs. The Trust would be used so that any development project on reclaimed property would be able to proceed without having to incur incremental costs to deal with mining wastes. Any type of development – subdivisions for residential housing, commercial or industrial sites – would be insulated from costs associated with managing any wastes left in place, such as:

- soil sampling and analysis;
- excavation and removal of waste to the repository;
- hauling in of clean fill;
- design/construction measures to deal with wastes and/or underground subsidence;
- improvements (to individual, redeveloped properties) beyond standard cap vegetation to include trees, shrubs, and sod for landscaping purposes.

Cap Enhancement. The Trust would also ensure all of the Butte Hill's Superfund areas have effective caps that go beyond baseline Superfund requirements and are consistent with the end land use in Butte and Walkerville's Growth Policies, the Regional Historic Preservation Plan, and/or any development plan developed by and supported by the residents, and adopted by the governing body. Measures that would fall into this category would include but not be limited to:

- additional material added to caps to promote growth of trees and other native woody species in open space areas;
- addition of topography features to improve the reclaimed landscape (e.g. tree mounds, landscape boulders, dozer basins, etc.);
- necessary measures to promote a nursery for the propagation of native species suited to planting in Butte's site-specific habitat;
- implementing additional components of the Copperway Heritage Park, e.g., improvements to the Anselmo, Steward, Original, Mountain Con mineyards, the Granite Mountain Memorial (including the access road), the trail system connecting the sites, etc., as outlined in the Regional Historic Preservation Plan;

Butte-Silver Bow feels strongly that this combination of redevelopment tools and strategic

improvements for the Butte Hill's Superfund areas are the key to community acceptance of any remedy that allows mining wastes to be left in place. Full opportunity to redevelop its reclaimed areas is the only way Butte can accept a remedy for Priority Soils that leaves wastes in place. Community concerns associated with poor monitoring or maintenance or the inappropriate use of areas with engineered caps over wastes and relying on institutional controls can be overcome with good management techniques and tools

4) Environmental Insurance Protection (Liability/Risk Management)

An increasingly used tool to manage the risk associated with the long-term stewardship of Superfund sites and reclaimed areas is environmental insurance. There are several different types of insurance to consider. For example, **Cost Cap Insurance** is designed to cover "extra costs" if the remedy is more expensive to implement than was expected, or if standards are not achieved with the selected remedy, and new work is ordered through the regulatory process. Such a policy could be used at the Butte site with regard to the water treatment technology or to reduce risks associated with predicting the future costs or effectiveness of long-term operations and maintenance.

Another product called **Pollution Legal Liability** is designed to protect against environmental risks other than cost overruns. For example, coverage is used to pay for cleanup of pre-existing and new contamination found in the implementation of a remedy, or third party claims, business interruption, and diminution of property values. For the Butte Hill site, Pollution Legal Liability coverage would be useful to reduce unknown risks associated with dealing with the attic dust issue or ground water pollution.

2. Water

The decision on the "Water" component is split into four major parts: a) storm water and surface water management activities; b) groundwater management activities; c) the treatment of all water sources in the Butte area; and d) the permanent management program for all sources.

a) Surface/Storm Water

There are four major components to Butte-Silver Bow's recommendation on how to manage storm water and surface water.

1) Storm Water Management Program – Best Management Practices

The Best Management Practices, or BMP approach, as defined by the EPA in the

Feasibility Study, can be an effective approach to storm water management if managed with local control. As presently defined, this approach involves a system of diagnostic testing over a 3-4 year period before any additional pollution control measures are implemented, and as such, takes too long between actions and is therefore ripe for failure without dedicated attention to detail. Management by Butte-Silver Bow would allow the effective and efficient integration of storm water management for both Superfund actions as well as those facilities under the jurisdiction of the City-County.

Since 1995, several significant storm water improvements have been made within the Butte Hill site through the use of TCRA's, Voluntary clean-ups and EPA orders. For example, stormwater conveyance structures have been installed in Missoula Gulch, Buffalo Gulch, near the Kelley Mine, Metro Storm Drain, and the railroad yards in the southern end of Butte Hill site. Additionally several catch basins have been installed to catch sediment during storm events and keep these sediments from reaching Silver Bow Creek.

Butte-Silver Bow believes certain completed storm water improvements were properly designed and constructed. However, we believe others were inadequately designed and/or constructed, and we believe these must be upgraded as necessary to a) meet criteria for protecting human health and the environment; b) fit applicable end land-uses; c) protect the engineered caps; and d) be economically maintained in perpetuity.

In the FS Detailed Analysis of Remedial Alternatives, Section 6.3.2.2 discusses how each remedial alternative complies with ARARs. In evaluating the compliance of the engineered waste caps with ARARs, the FS repeatedly emphasizes the need for "properly designed storm water conveyance channels" as an integral component of any remedy that relies on engineered caps, in order for the caps remedy to also comply with ARARs.

Regarding the "proper design" of storm water conveyance channels, the Feasibility Study (page 126 and Footnote 9) states, in part:

"...it is assumed that the largest flow rate collected for treatment would be equivalent to the 10-year, 24-hour storm. This size storm was selected for evaluation...because it is consistent with storm water actions already implemented ..., which typically have been designed to contain the 10-year, 24-hour storm event, and to convey the 25-year, 24-hour storm event. ...This storm event represents about the upper limit of flow that can be detained within the (site), taking into account physical constraints for construction of detention features. ...Use of the 10-year, 24-hour storm event in all FS alternatives ensures consistency when comparing the alternatives. A different design storm event may be selected during remedial design."

Butte-Silver Bow believes the final remedy must carefully re-evaluate and determine the appropriateness of these design criteria, which will account for the probability of cap failure, specific to Butte and Walkerville, Montana. Of the referenced storm water actions already implemented on the Butte Hill site, numerous problems have occurred, requiring significant and frequent repairs to both the catch basins and the conveyance channels. Accordingly, it is anticipated that routine O&M costs will be excessive unless and until these design and/or construction deficiencies are corrected as part of the final remedy. Thus, to ensure the long-term stability of any remedy where substantial wastes will be addressed with engineered caps, and to minimize the need for foreseeable and unreasonable O&M actions (i.e., costs), it is critical that all storm water conveyance channels be "properly designed, constructed and maintained" as described in the FS.

Butte-Silver Bow believes further that the design criteria for storm water conveyance channels and capture basins should allow for storm intensity, which is typical of Butte precipitation patterns. We've all observed strong "gully-washers" in Walkerville while the Airport remains dry, and vice versa. In June of 2004, we witnessed a relatively small precipitation event, estimated to be a 5 or 6 year storm event, completely destroy a conveyance structure which was allegedly designed and built to convey a 25 year event (lower Missoula Gulch).

In order to establish a precipitation data base which accurately represents the size, duration and intensities of Butte storm events, B-SB believes several continuous recording rain gauges should be installed in the BPSOU which are capable of measuring short term storm intensity. We recommend one gauge at the top of the hill in or near Walkerville, a second gauge should be located at mid-Hill, perhaps at the County Courthouse and a third rain gauge at the southern portion of the BPSOU, perhaps at the Copper Mountain recreational facility. These three gauges will capture long-term precipitation data which more accurately reflects the size and intensity of Butte storms. The precipitation data will be used to assess the adequacy of previously constructed channels and basins and will provide real data to be used for future design and construction efforts when and if other structures are destroyed, as we predict they will, and as we've seen happen already.

Likewise, in order for completed improvements to continue working, Butte Silver Bow will have to institute a fully funded, annual Operation & Maintenance of Stormwater System, including both the underground municipal storm sewer system and the facilities constructed under the Superfund Program over the past several years. Funding must be available to rapidly repair damages from storms which exceed the design criteria.

2) Reclamation of Additional Source Areas

A preliminary list of 25 (+/-) unreclaimed source areas (provided to EPA, DEQ, and

Atlantic Richfield) on the Hill must be addressed "up front" (as part of the Record of Decision) rather than waiting to determine if the areas, in fact, contribute to pollution reaching Silver Bow Creek. Butte-Silver Bow believes that the best way to prevent storm water from being contaminated is to make sure that it doesn't come in contact with mine waste in the first place. Thus, all wastes that have the potential to come in to contact with storm water must be capped or removed, and effective reclamation of these areas must be part of the comprehensive remedy for the Butte Hill.

3) Replacement of Missoula Gulch Storm Sewer Section (Empire to Iron Street)

Butte-Silver Bow was named a Superfund "Potentially Responsible Party (PRP) by EPA because mine waste was transported to state waters via the community storm water system. In Missoula Gulch for example mine waste is still in contact with our storm sewer system and in fact contaminated water continues to enter the system. Because this water is acidic it is destroying the storm sewer pipe. Atlantic Richfield committed to replace this section of pipe in 1997. The replacement was delayed however in order to accomplish other portions of the Time Critical Removal Action. This particular storm sewer consists of about 1200 linear feet of pipe. The replacement of this pipe is a major component of the Butte-Silver Bow Plan and resources should be made available to address the problem.

4) Long-Term Storm Sewer Improvements Program

In Butte, there are still numerous turn-of-the-20th century storm water conveyance facilities that require upgrade. There must be an ongoing, long-term, capital improvement program to repair and replace the municipal storm water system within the Priority Soils cleanup site. It is likely that mining wastes have adversely impacted all ~40 miles of underground infrastructure, and the entire system must be evaluated and replaced, as necessary. As a result, any sources of waste that may contribute to contaminant loading to state waters can be identified. This upgrade should be implemented by Butte-Silver Bow as part of their Public Works program.

b) Groundwater

There are two major areas associated with groundwater: 1) collection and routing of contaminated groundwater to a treatment facility, and 2) buried wastes beneath the upper section of the historic Silver Bow Creek, also known as the Metro Storm Drain corridor, and the Lower Area One west of Montana Street, where the old Colorado Smelter and Butte Reduction Works were operated.

1) Collection and Routing of Contaminated Groundwater to Treatment Facility

- Metro Storm Drain "French Drain"; pumping station/pipeline to Lower Area One;
- Missoula Gulch Base flow Diversion (which has been installed around Sediment Basins 8 and 9), below Iron Street;
- Lower Area One groundwater collection system; Hydraulic Control Channel and collection lagoon and routing to treatment facility;
- Evaluation and sampling for additional contaminated groundwater sources (i.e. LAO; Grove Gulch; Buffalo Gulch, and others);
- Failure insurance (and/or Improvements Trust Fund) – insurance product to cover costs to replace and/or upgrade/expand any existing or remedy-constructed groundwater collection and/or routing systems; for example, if it becomes necessary to replace the current collection system in Lower Area One and/or the Metro Storm Drain area with interception wells and pumps.

2) Buried Wastes beneath Metro Storm Drain/Lower Area One

Removal of tailings 'from waters way' has been a fundamental tenet of Butte-Silver Bow's position for all proposed plans and remedial actions associated with the Upper Clark Fork River Superfund Sites and Operable Units. Likewise, Butte-Silver Bow's environmental cleanup policy has consistently embraced the notion that removing sources of pollution where possible, particularly when adverse impacts to precious water resources can be reduced or eliminated, should always be the goal of cleanup remedies.

With respect to the wastes buried in the historic Upper Silver Bow Creek corridor, Butte-Silver Bow staff remains frustrated that experts and consultants for the EPA and for the State of Montana remain at odds over the appropriate remedial action for wastes in these areas. We have carefully considered all available data and information on the subject, as well as the input received from the public. In summary, despite the volume of credible information and logical scientific arguments, there are conflicting data and divergent conclusions on the technical merits of removing the materials versus leaving the wastes in place. Likewise, there is credible yet contradictory information and logic on the costs and benefits of removal. There are opposing views on everything from the time frame predicted before any beneficial uses of the aquifer will ever be realized to the availability of cost effective disposal procedures.

Given the absence of consensus among the technical experts, and rather than recommending the selection of one specific remedial alternative over another (e.g., "Total Removal" versus "Maximum Practicable Removal" versus "Partial Removal" versus "No Removal"), any of which could preclude related options that could be beneficial to the community, Butte-Silver Bow has established a set of criteria for the MSD and LAO remedy to meet, fully recognizing that the EPA may yet specify any number of removal options in its Preferred Remedy:

- Mandate the use of cost-effective, community acceptable measures, such as:
 - ✓ the use of haul routes which minimize impacts on city streets, for example railroads and/or existing haul roads on or near adjacent mining properties;
 - ✓ the siting of an appropriate disposal area (rather than using truck haulage to the current Mine Waste Repository);
 - ✓ reduced backfill requirements that consider the use of constructed wetlands and/or sediment basins and/or fish ponds, ice skating rinks, walking trails and/or other community acceptable facilities.
- Mandate that all contaminated groundwaters be collected and treated at a central facility and made available to Butte-Silver Bow for beneficial reuse. Groundwater treatment shall continue in perpetuity or until the aquifer meets Montana Water Quality Bureau-Circular 7 (WQB-7) water standards, thus ensuring the long-term protection of Silver Bow Creek and downstream water resources.
- Mandate that a series of groundwater monitoring wells be installed to accurately define and characterize the current size, shape and location of the contaminated groundwater plumes, as well as their flow rate, flow direction and level(s) of contamination. In the event it is determined from monitoring that groundwater plumes are continuing to spread, the Record of Decision must mandate additional remedial actions be taken to prevent any further spreading of the contaminated groundwater plumes, such as the installation of a curtain of groundwater extraction wells.
- If no waste removal is selected by the EPA as its Preferred Remedy, it is incumbent on EPA to stipulate the loss of use of the aquifer to the Butte community, AND the State of Montana must ensure that any and all compensation from Natural Resource Damages for this area be set aside for use solely in Butte.
- With or without removals, it is imperative the Record of Decision mandate that sufficient resources be made available to properly manage and maintain the resource and the remedy in perpetuity.
- The final result of any remedy implementation must be aesthetically pleasing to the community and enhance the ongoing work to return the historic Silver Bow Creek Channel to as natural state as possible.

c) Treatment of Contaminated Water

It may be necessary to treat both groundwater and surface/storm water as part of the final solution for the Butte Hill, particularly if reclamation efforts on the Hill do not eliminate contaminants from reaching the creek during storm events. Butte-Silver Bow recommends that all sources of water should be treated at the same facility.

Arco has been operating a treatability demonstration of a lagoon system, located near the Metro Sewer Treatment Plant. Although Atlantic Richfield believes that the system is and will continue to be effective for treating groundwater and baseflow from the Butte Hill, there does not yet appear to be sufficient evidence that the lagoons system will be effective, either in the short term when all water sources are routed to the system, or in the long-term as contamination accumulates in the lagoons. Given the uncertainty, but rather than demanding the use of one specific treatment process (e.g., mechanical treatment system), which could preclude related options that could be beneficial to the community, Butte-Silver Bow has established a set of criteria for the selected treatment process to meet, as follows:

- Meets Montana Water Quality Bureau-Circular 7 (WQB-7) water standards, thus ensuring the long-term protection of Silver Bow Creek and downstream water resources;
- Provides aesthetics (i.e., look good from afar, particularly from the Interstate) so as not to degenerate into the same "Colorado tailings mess" present for decades;
- Allows for the maximum reuse of the Lower One Area, including a pleasant walking trail, wildlife viewing areas, interpretive displays, and even space for a fairgrounds;
- Ensures a facility that is practical to maintain and operate; and
- Includes a trust fund to operate/maintain/monitor/upgrade facility in perpetuity.

As for the current experiment with the "Treatment Lagoons in a Wetland Setting," a test that has been ongoing for several years, Butte-Silver Bow recommends that EPA/DEQ must declare prior to Proposed Plan if the lagoons system is the preferred option for combined-waters treatment. The experiment cannot be conducted in perpetuity, and there should be no further classification of the treatment lagoons technology as a "Treatability Study" thus delaying or postponing EPA/DEQ's declaration on the suitability of the technology. Again, the selected technology for water treatment must meet the criteria stated above.

d) Permanent Management of Contaminated Water

For any proposed solutions associated with contaminated waters to be accepted by the community, Butte-Silver Bow recommends, again, that the community control the process. If institutional controls are needed, the local government should implement these measures under existing authorities or the adoption of new regulations. If trust funds or insurance products are selected to assure success in the long-term, these tools should be implemented through a governing board of citizens, to be created for the specific purpose therein.

1) Permanent Management of Surface/Storm Water

It is imperative that the surface/storm water on the Butte Hill be managed effectively. One of the tools from the Institutional Controls toolbox is a Storm Water Ordinance. This ordinance can only be put in place and enforced by the local government. Butte-Silver

Bow has written but has not yet codified a Storm Water Ordinance. The purpose of the ordinance is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased storm water runoff associated with both future land development and existing developed land within Butte-Silver Bow.

Proper management of storm water runoff will minimize damage to public and private property, ensure a functional drainage system, reduce the effects of development on land and stream channel erosion, assist in the attainment and maintenance of water quality standards, enhance the local environment associated with the drainage system, reduce local flooding, maintain as nearly as possible the pre-developed runoff characteristics of the area, and facilitate economic development while mitigating associated flooding and drainage impacts.

Additionally, it is imperative that a storm water capital improvement fund, described above, be established. This fund will provide for the replacement of storm water infrastructure as needed, e.g. Superfund structures, municipal storm sewers, catch basins, and conveyance structures.

2) Permanent Management of Groundwater

It is also imperative that our precious groundwater resources be conserved, protected and improved whenever possible. Another tool from the institutional controls tool box are Groundwater Control Areas. The process of protecting human health and the environment from using groundwater that has become contaminated begins when the local Health Department petitions the State of Montana (Department of Natural Resources and Conservation) to establish a Groundwater Control Area. The Groundwater Control Area puts limits on how water within the aquifer can be used. For example, in some cases groundwater may not be used for drinking water but may have limited use for irrigation or industrial/commercial uses. This is another example of an institutional control that can only be put in place by our local government.

Butte-Silver Bow believes the near surface subdrain under the reconstructed Upper Silver Bow Channel may not adequately contain, i.e., reduce the mobility of contaminated ground water from the deeper portions of the aquifer. The deeper portions of the aquifer are known to be highly contaminated and are known to be migrating. Regardless of the fate of the Parrott Tailings and associated mine wastes on surface, the Record of Decision should mandate that a series of monitoring wells be installed to accurately define and characterize the current size, shape and location of the contaminated groundwater plume(s), as well as it's flow rate, flow direction and level(s) of contamination. Likewise, the ROD should mandate that a long term monitoring plan be implemented to verify that the plume is

contained so that it is not migrating and contaminating additional alluvium and additional ground waters or surface waters, such as Blacktail Creek and/or Silver Bow Creek.

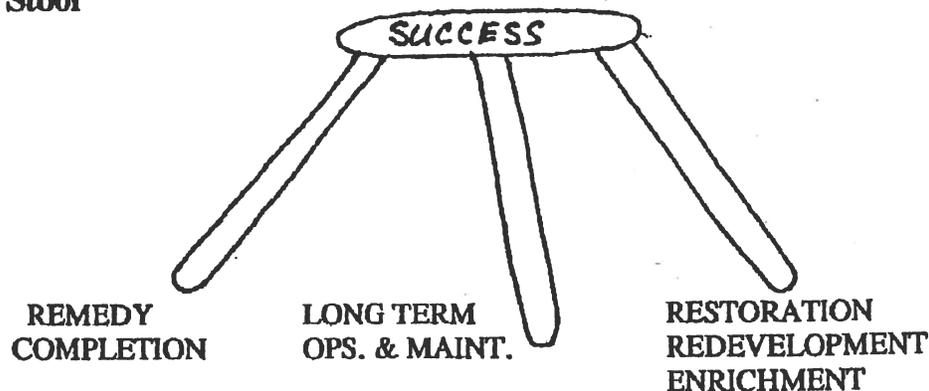
In the event it is determined from monitoring that the groundwater plume is continuing to spread, regardless of the fate of the Parrott Tailings and associated mine wastes on surface, the Record of Decision must mandate additional remedial actions be taken to prevent any further spreading of the contaminated groundwater plume(s) from contaminating additional ground waters and/or additional subsurface alluvium and to protect Blacktail Creek and Silver Bow Creek from future degradation, and to protect the portions of the Butte Basin aquifer which are not yet contaminated. Butte-Silver Bow offers as a preliminary engineering design suggestion that a series of groundwater interception and extraction wells could be installed to capture and contain the groundwater plume(s) beneath the Upper Silver Bow Channel and Lower Area One. The number of extraction wells and their distribution should be adequate to assure containment and capture of the contaminated plume(s). The extraction wells should be installed to such a depth that the deep contaminated waters are captured and contained. Additionally, the Record of Decision must specify that whatever treatment system is selected to treat extracted groundwater (e.g., lagoons and/or conventional) must be sized to treat this additional flow from the deeper portions of the aquifer. A series of monitoring wells should be installed to verify and assure that the extraction wells are performing as designed and that the plumes are not spreading. The Record of Decision may be flexible in allowing alternative engineering remedies, as long as they are proven effective and long term monitoring is provided to prove their effectiveness.

Another key provision of the Butte-Silver Bow Plan is the implementation of a groundwater trust fund. This trust fund would provide funding to pay for alternative groundwater resources and replacement or construction of municipal water lines.

III. Integration Strategy: How to Implement the Solution

This section presents a basic approach to implement the solution proposed and explores a number (albeit not all) of the pertinent issues that will need to be addressed to establish an effective, long-term Superfund program in Butte.

Three Legs, One Stool



Butte-Silver Bow proposes that it may be most efficient, even necessary, to reach general agreement on a) the selected remedy, b) how to take care of that remedy, and c) related actions associated with restoration, before making any formal agreement on any of these three legs of the same stool. For example, ultimate agreement on the best remedy for Priority Soils depends critically on assurances that the components will, in perpetuity, sustain performance in protecting human health and the environment. Such assurances depend critically on the implementation of the best management practices and the availability of sufficient financial resources (trust funds) to take care of those components (i.e., the O&M part). If agreement can be reached on the "sufficient amount" there would be much less risk related to one or another component of the remedy failing or needing repair.

Likewise, there remain three unsettled claims in the Natural Resource Damage Program, one of which is in Butte, called the "Area One" claim, which is essentially a claim for damages to Butte's alluvial (shallow) groundwater. (The other two, unsettled claims are the Anaconda Uplands and the Clark Fork River.) This "Area One" is generally the corridor between the Parrott Tailings/Civic Center area and the Visitor Center area, along what was historically the upper part of Silver Bow Creek and then later (1930's) engineered into the Metro Storm Drain. Given its location, this "Area One" claim is directly connected to and part of the Butte Hill remedy, especially with respect to the groundwater and storm water components designed to keep metals out of Silver Bow Creek.

Given the connections between the three legs of the cleanup solution, Butte-Silver Bow believes it is reasonable to consider developing a solution or set of solutions that address them comprehensively. Unquestionably, each component would ultimately need to be formally "decided" through its own process with its own cast of stakeholders and legal proceedings. For example, the Priority Soils remedy, coupled with the O&M component, will be "decided" by the U.S. EPA, whereas any settlement on the Area One damage claim will be "settled or litigated" by the State of Montana (as Trustee), with serious involvement of the U.S. Department of Justice in both processes.

The community of Butte-Silver Bow will be one common denominator that links the three processes/decisions together. We know that community acceptance is one of EPA's nine decision-making criteria in a remedy selection process. We believe that the local government may be best suited to enforce any institutional controls and implement any maintenance tasks associated with the selected remedy. We also understand, based on experience with the Silver Bow Creek cleanup, that the State of Montana has every incentive to settle the Area One restoration claim in Butte's best interest, and in such a manner that adds value (and is integrated) to the selected remedy.

The other common denominator to achieving a comprehensive solution is the Atlantic Richfield Company, as the party expected to pay most if not all of the costs. Towards that end, Butte-Silver Bow and Atlantic Richfield (among others) are both PRP's for the Butte Hill cleanup; thus, it would appear that there is sufficient incentive and interest for Atlantic Richfield to entertain an integrated settlement as well.

A. Organization of the "Settlement" Process

From the outset, it will be understood that any negotiation process will operate under the explicit principle that any "Draft Plan" prepared at a negotiating table will require public acceptance and Council approval. Thus, this position paper has been DRAFTED for public review and input, for public debate and criticism, and as one of many steps to generate meaningful public involvement.

Butte-Silver Bow has relied on its governing body, the Council of Commissioners, to guide the discussions and provide a forum to present the information and gather public input. Presentations have been and will continue to be scheduled to explain the various sections of the solution, and there have been several opportunities to hear public comment. Public input has been incorporated into the final set of recommendations for submission to the EPA and DEQ.

The timing of any agreement is critical in terms of the involvement of the agencies. Since any negotiations between Atlantic Richfield and Butte-Silver Bow would constitute a settlement between two PRPs in a regulatory matter, the involvement of the respective state and federal

government agencies will be an important consideration. In terms of process, after the community and Council reach tentative agreement with Atlantic Richfield, it is anticipated that the agencies would have to formalize the settlement in a legally binding decree.

B. Establish "Governing Authority" for Perpetual Management

Should an agreement be reached whereby the community, through its local government, accepts the responsibility to implement the remedy, assume O&M in perpetuity, and manage the trust funds, it will be necessary to establish a governing authority that is independent of, albeit accountable to, the local government. Examples to draw from would include the Greenway Service District, the Health Board, the Planning Board, or the Airport Authority, where the Council has established quasi-governmental bodies to oversee a specific function with an appropriate level of independence.

Perhaps the best model to use is the Montana State Land Board, which is responsible for all decision and actions associated with the school trust lands. The State Land Board is made up of the Governor, Attorney General, Secretary of State, Auditor and Superintendent of Public Instruction. Similarly, a trust authority in Butte could be comprised of the Chief Executive, County Attorney, Clerk and Recorder, Auditor and School Superintendent, with the possible addition of the Council chair and/or citizen members with valuable expertise (e.g., CPA, banker, mining engineer, reclamation consultant, etc.) appointed by the Council, or the chair of the Planning Board and/or Health Board. With a majority of elected officials, there could be direct accountability to the voters/residents in Butte, and the composition would provide good representation of the involved parties, e.g., the County Attorney's office on legal matters, the Clerk and Recorder on land/property issues, the Chief Executive for budget/operations interfaced with County staff, etc.

Regardless of its ultimate composition, the independent nature of an agency to manage the Superfund-related programs would be needed to preserve the public confidence that long-term management will be achieved. For example, it is likely significant trust funds will be established as part of an agreement, and those trust funds will be set aside for a specific purpose, to be expended over several decades. It will be important to separate those trust funds from the general workings of local government to assure the funds will be available when needed by future generations.

Also, whatever model is used to establish a governing authority, it will be important to include procedures whereby citizens can be appointed or elected to serve as members of the decision-making board, or at the very least, have direct avenues of participation in the process. The highest level of involvement of qualified residents should be achieved, again, to provide the greatest assurance to the community that the goals of the environmental and health protection programs will be sustained in perpetuity.

C. Enforcement (in "Perpetuity")

To implement and maintain the solution for the Butte Hill, including any institutional controls, Butte-Silver Bow will have to adopt new or revised ordinances, such as development standards for reclaimed areas and storm water management controls. Again, the program needs to be structured with its own management controls, separate from the general workings of the local government (i.e., an independent board). Thus far, Butte-Silver Bow has been unwilling to formally adopt new laws or take on new tasks permanently unless and until an agreement is reached on adequate, long-term funding. From the regulatory perspective, however, assurances (in the form of these new laws) are needed so that the management controls are viable before finalizing trust funds and/or long-term maintenance agreements. All parties will need to continue their careful evaluation of proposed management controls to determine the appropriate costs and implementation tasks/procedures. For example,

- **Standards for engineering covers over reclaimed mining sites.** As of June 2004, there is still some disagreement (regardless of which entity maintains the sites) on performance standards for re-vegetation (like species density and diversity) and soil depth (a minimum of 18", not an average). It will be necessary to reach agreement on the use of the Butte Reclamation Evaluation System (BRES) and the performance standards therein prior to the ROD for Priority Soils, and this agreement will then derive a reasonable budget level for long-term O&M.
- **Ground Water Control Areas.** Butte-Silver Bow is authorized by the State of Montana to create a Water Quality District, which in turn can establish ground water control areas (GWCA) under delegated authority from the State. A GWCA is an example of an institutional control that Butte-Silver Bow can implement, and this capability could represent an in-kind contribution as a PRP. But the long-term costs to administer the program must be defined as well as the specific regulations to manage ground water uses.
- **Ownership as related to O&M of Reclaimed Sites.** Agreement must be reached as to when an institutional control applies to a property, in other words, when resources can be used to address the incremental costs of redevelopment of the reclaimed land. One major hurdle is how the controls will apply to property previously owned by other mining companies, and now under public ownership, i.e., through tax deed or other means. Some lands have subsequently become part of remedial action, e.g., the Syndicate Pit serving as a sediment basin in Missoula Gulch). However, no agreement has been reached regarding long-term O&M on the public lands. Atlantic Richfield's position is that once the remedy has been implemented, i.e., a removal or a cap with waste in place, the property owner must assume responsibility for maintenance of the reclaimed areas. Butte-Silver Bow contends that maintenance of engineered caps is distinct from standard property ownership responsibilities and funds should be provided for this type of O&M work. Likewise, Butte-

Silver Bow will argue that trust funds need to be provided to help ensure the redevelopment of those properties.

It will also be necessary to reconcile the enforcement at the local level with the enforcement stipulations in the Superfund law. The federal statutes mandate a "Five-Year Review" of all Superfund sites, and such reviews can result in additional orders for corrective measures to repair or replace remedies that are ineffective. It will be necessary to ensure that any costs associated with additional work under a five-year review are covered by the trust funds and do not present a long-term risk and liability to the community and taxpayers.

D. Dispute Resolution

A key issue will be how to handle disputes in the long-term, after a final decision is made and a settlement is made; for example, when disagreement arises over whether a component of the final remedy has "failed." Butte-Silver Bow might contend that the engineering was faulty, say a sediment pond was designed or installed poorly, or not built in a way that preventive maintenance was possible. Atlantic Richfield could contend that the failure is due to inadequate maintenance. Again, as stated in Section II.B, one emerging method to handle such problems is the use of insurance products, or bonds; should a problem arise, it could be covered by a claim against the insurance policy. As part of the trust fund, Butte-Silver Bow and Atlantic Richfield can agree to pay for the premium on the policy (in perpetuity) and the agreement could spell out exactly how any disagreements would be resolved and how the associated O&M/trust funds would be impacted.

E. Storm Water System

Storm water system improvements to reduce pollutants from reaching both Silver Bow Creek and the ground water are at the center of the Record of Decision for the Butte Hill, and at the center of any negotiations between Butte-Silver Bow and Atlantic Richfield. As previously discussed, the storm water system represents the one and only reason why Butte-Silver Bow was named a PRP at the Priority Soils site. Both parties, along with the regulatory agencies, share the goal to ensure an improved system to manage and control storm water meets performance standards, both for Superfund and other water quality compliance. Another mutual objective is to make effective reclamation investments in the first place to minimize long-term O&M costs. Among several key issues, as outlined in Butte-Silver Bow's proposed solution, are the level and type of investments to be made up-front in the storm water system infrastructure, the relative merits of the "best management practices (BMP)" approach proposed to deal with making those investments, the long-term cost of O&M for the system, and respective responsibilities to take care of the system in perpetuity.

F. Discharge Objectives/Silver Bow Creek

Another important topic has been to identify ways to integrate the ongoing cleanup of Silver Bow Creek with Butte-Silver Bow's historic use of the creek as the discharge point for treated municipal sewage effluent. There are performance standards under Superfund, and Butte-Silver Bow also faces increasingly stringent discharge standards under water quality laws, especially for nutrients in the summer time. It may be most effective to select an integrated approach to achieve both objectives – select a technology or set of technologies that address the metals contamination and nutrient problem as one.

G. Funding Levels and Staffing Requirements

Based on more than ten years of “hands-on” experience, it will require significant staff and funding to implement the remedy, to take care of the Hill in the long-term, and to promote redevelopment through the Superfund Program. The size of any settlement will depend on what elements are included in the agreement. For example, if Butte-Silver Bow agrees to take direct responsibility for implementing components of remedy, such as the Lead-Attic Dust Abatement Program, or oversight of the Syndicate Pit or Granite Mountain Memorial remediation plans, the funds will be significantly higher than if the agreement only covers O&M costs and institutional controls implementation. Regardless of the final scope, however, there will be millions of dollars included in an agreement, along with precise stipulations regarding the “cost of money,” discount rates, inflation rates, investment strategies for trust funds, etc., which will all need to be part of any agreement.

Thus far, Butte-Silver Bow and Atlantic Richfield have made considerable progress on defining the categories for which trust funds must be established, and the level of risk associated with each category, which in turn, quantifies the necessity for insurance products to minimize liability exposure to both parties. Both parties have accumulated a body of knowledge from implementing certain programs over the past ten years, and based on that experience, there is reasonable assurance total costs for various items can be quantified fairly and precisely. As Butte-Silver Bow has finalized this position paper for submittal to the EPA and DEQ, in-depth negotiations have also been ongoing between Butte-Silver Bow and Atlantic Richfield to achieve a basic level of agreement on program work plans and associated costs.

As of October 1, 2004, and based on the expectations of a remedy as generally described in Section II.B., cost estimates have been negotiated and grouped into four categories of trust funds, which may or may not be ultimately be combined or integrated, based on the judgment of trustees/governing authority:

- 1. Superfund Program Costs**
- 2. Superfund Management Costs**

- 3. Capital Costs
- 4. Redevelopment Trust

Category 1: Superfund Program Costs ~\$49 million (excluding treatment component until further notice)

Water Treatment O&M – no agreement on costs for O&M for the lagoon system; although Butte-Silver Bow will not oppose Atlantic Richfields's effort to gain approval for and implement the "expanded lagoon system," Butte-Silver Bow will continue to advocate for a treatment technology that meets certain criteria (as outlined in this position paper). To date, Atlantic Richfield has not provided documentation of quantifiable O&M costs of the expanded lagoons, and there is no demonstrated success of compliance at the higher GPM rates. Therefore, the allocation agreement will have to deal with the "treatment" as a contingency item, subject to further review, and no agreement is reached at this time.

Residential Soils (Lead and Attic Dust Abatement Program)
Total Estimate: \$12.99 to \$13.5 million

Subject to the provision of an adequate cost cap insurance policy, Butte-Silver Bow has proposed a 30-year program at a funding level of \$433,000 per year, excluding the 5-year health assessment costs (see Category 2, below). Assumes full flexibility in the number of homes per year and the use of funds for diagnostic assessments. There is one exception to final agreement, i.e., a new component to provide urine sampling for arsenic, which may cost more than anticipated and could require a budget adjustment, presently estimated at an additional \$17K per year.

Source Areas/Storm Water O&M Program
Total Estimate: Minimum of \$35.8 million

Again, subject to the provision of an adequate cost cap insurance policy, Butte-Silver Bow has proposed a 100-year program at a funding level of \$358,000 per year. The estimate is based on the 10-year history of the O&M work conducted by Butte-Silver Bow, and estimates of total acreage and number of storm water facilities that will ultimately be part of the program. There are two issues still under consideration that will effect the final budget estimate: 1) the scope and cost of monitoring tasks and 2) Atlantic Richfield conducting all remaining reclamation work that is ordered for the GMMIA, the Syndicate Pit and the Metro Storm Drain/Lower Area One areas.

Category 2: Superfund Management Costs ~ \$17 million

Water Quality District

Total Estimate: Minimum of \$5.5 million

Subject to the provision of an adequate Pollution Legal Liability insurance policy, Butte-Silver Bow has proposed a 100-year program at a funding level of \$55K per year. This estimate is based on a 10-year history of work to implement the controlled ground water areas (presently four separate areas expected for the Priority Soils site), and all monitoring tasks to be conducted by the USGS (not included in this budget). Tasks would also include enforcing a new storm water ordinance.

Community Health Assessment Studies

Total Estimate: Minimum of \$390,000

Based on community input, it will be necessary to conduct regular health assessments. An estimate is one every five years, at least six times over 30 years, at \$65,000 per assessment. The assessment will be subject to a work plan and full review/approval by the Butte-Silver Bow Health Board.

Land Management Operations

Total Estimate: Minimum of \$11 million

Again, based on adequate liability insurance, this component would provide \$110,000 per year for 100 years; includes support for GIS operations (in support of the Lead, Water, O&M program areas), as well as keep all property records organized to implement redevelopment or other activities conducted in the reclaimed areas. Issues to resolve: Atlantic Richfield needs to provide a fully-functional Reclamation Data Base to the Butte-Silver Bow for use; this system should be the best record of all data on completed reclamation activities and should be tied to geocode coordinates for compatibility to the GIS. The budget will also include support to the Land Records Office (Clerk and Recorder) and the County Attorney's Office for legal services.

Category 3: Capital Costs ~ \$19 million

Replace Storm Sewers

Total Estimate: Minimum of \$16,267,980

Replace all (~ 37 miles) lateral underground storm water pipelines on the Butte Hill, as well as catch basins at intersections. Butte-Silver Bow would prefer and has requested

that the implementation schedule be fewer than 30 years, since the estimate of \$542,000 per year may not be sufficient funding on an annual basis to conduct an efficient improvement program. Butte-Silver Bow's request is under advisement by Atlantic Richfield.

Equipment (for all programs)
Total estimate: \$2.7 million

All programs will require adequate equipment. For example, for the storm system maintenance, a new vacuum truck to clean catch basins would cost about \$300,000 and Butte-Silver Bow proposes to purchase a new truck every 10 years, at least three times under the program. Likewise, the maintenance of all reclaimed areas on the Hill would require tractors, dump trucks, implements, etc., and based on experience to date, Butte-Silver Bow has proposed a program for \$14,000 per year for 100 years. Finally, the need for vehicles to support the Water Quality District and Lead Program must be addressed out of the capital program. Butte-Silver Bow has proposed a front-end load where initial investments would be made in the first year of the program, and every 10 years thereafter for 10 decades, as follows:

\$500,000 in 2005: \$300K for vac truck, \$140K for O&M equipment, \$30K for Lead program and \$30K for Water Program.

\$500,000 in 2015: same expenditures

\$500,000 in 2025: same expenditures

\$170,000 in 2035: \$140K for O&M & \$30K for Water Program

...per decade, up to

\$170,000 in 2095: same expenditures.

Category 4: Redevelopment Trust Account ~\$20 million

BSB is prepared to execute a trust fund agreement establishing an interest bearing account to fund certain redevelopment activities, including but not limited to 1) assistance to developers and individual property owners to offset any increased cost associated with the development of reclaimed areas; 2) the construction of recreational and cultural amenities that will enhance efforts to maintain the selected remedy and contribute to Butte's revitalization; and 3) the implementation of the Regional Historic Preservation Plan, including the restoration of historic structures. This fund shall expressly EXCLUDE prior commitments to build interpretive features at Lower Area One, Butte Hill Trail, and GMMIA, which instead, have been agreed to separately and to be made final in the ROD and as an addendum to the 2nd Programmatic Agreement on Historic Preservation.

It is Butte-Silver Bow's position that some level of trust funds for redevelopment must be established as a prerequisite to signature on an allocation agreement, particularly to recognize the use of engineering caps on the Butte Hill and the associated waste left in place. However, Butte-Silver Bow is cognizant of Atlantic Richfield's position on the Parrott Tailings and possible excavation in the MSD. Thus, for purposes of moving the allocation agreement negotiations forward, Butte-Silver Bow has proposed to establish the total amount of funds in this account on a contingency, subject to the remedy selected for MSD, as follows:

If MSD excavation is ordered: Trust Fund set at a minimum of \$5 million
If MSD excavation is not ordered: Trust Fund set at a minimum of \$20 million

Butte-Silver Bow further understands that it may be necessary to consider alternate arrangements to address the contingency. For example, the additional funds (in the non-excavation scenario) could ultimately be conveyed to Butte-Silver Bow through an Atlantic Richfield settlement with the State on the Area One restoration claim. In that case, the funds would not be directly placed in the Redevelopment Trust under Butte-Silver Bow's direct management, but the settlement between Atlantic Richfield and the State must specifically direct said funds to projects in Butte-Silver Bow that are consistent with the redevelopment and restoration mission.

TOTAL; ~ \$90-105 million (2004 dollars) with insurances as noted. At present, there is no Butte-Silver Bow obligation on water treatment, and monitoring costs will need to be defined precisely before final agreement is proposed. Atlantic Richfield will be responsible for all remaining response actions, including GMMIA, Syndicate Pit and LAO/MSD, including the associated "non-reclamation" work, i.e., historic mitigation, etc., as already agreed in separate actions.

H. Community Benefits

As stated in the introduction to Section II, Butte-Silver Bow believes any agreement to take responsibility for the remedy must generate tangible benefits for the community. Thus far, Atlantic Richfield has been willing to discuss ways to provide amenities to the community (infrastructure investments, parks, etc.) in concert with remedy implementation, and their track record in Butte toward this goal is substantial.

Under Superfund, there is no legal obligation to conduct the cleanups in such a manner as to provide additional community benefits. But Atlantic Richfield's public message (Partners in Responsible Reclamation) expresses an ambition to ensure reclamation work leaves the community with tangible value beyond environmental cleanup. A direct settlement could define how effective remedies can be implemented that also provides community assets,

which, in turn, contribute to the effort to manage and improve the remedies.

The Clark Tailings Project was designed as a model for this type of partnership, although complications (i.e., irrigation water) somewhat diminished Butte-Silver Bow's return on the investment. Atlantic Richfield's job was to reclaim the Clark Tailings area and the Colorado Tailings area; they needed help from the community to make the project work, i.e., Butte-Silver Bow, as a community, supported the transfer of the Colorado Tailings to the Clark Tailings; Atlantic Richfield saved money; the Superfund cleanup of both areas was implemented effectively (i.e., met all performance goals) and much faster than the original plan would have allowed. In return, AR agreed to pay for the construction of a new recreation complex, in which case the maintenance of the complex would contribute to the long-term management of reclaimed areas.

Things do not always turn out as intended, however. In this case, Atlantic Richfield's willingness to build the facility came with an absolute limit (imposed after the fact) on the amount of their contribution to build the facility. As engineering problems (i.e. lack of irrigation water on-site) and construction delays ensued, costs went up. Consequently, to get the quality facility that was promised to the community when we agreed to leave the contaminated wastes in place (to Atlantic Richfield's benefit), Butte-Silver Bow has been forced to spend far more than was originally planned or intended.

Nonetheless, in terms of meshing remedy implementation with public objectives, there are a number of "community projects" that could become part of a long-term agreement. Butte-Silver Bow's highest priorities would likely be improvements to the storm water and sewage discharge systems (as described earlier). These are the two things that relate most directly to the cleanup effort and present excellent opportunities for integration. Likewise, investments in affordable housing in connection with the lead poisoning prevention program (attic dust) and in the transportation system as related to better access to parks or as a consequence of restricting access to certain reclaimed areas are worthy of consideration.

There has been an ongoing effort to integrate Superfund cleanup with implementation of the **Regional Historic Preservation Program**. The overall goal is to create a Heritage Park (the Copperway) that takes advantage of our historic mining resources. The connection between historic preservation and Superfund is defined by law: Any activity conducted under federal law (i.e. Superfund) must consider applicable historic preservation statutes. The linkages among cleanup, historic preservation, and economic development could continue through continued restoration of the four primary mine yards on the Hill – the Anselmo, Steward, Original, and Mountain Con – and the Granite Mountain Memorial Interpretive Area, including land for the Montana Tech Mine Training Center. A redevelopment trust would be instrumental to weave these historic sites together, linked by the Butte Hill pedestrian trail (another cooperative project), to create a Heritage Park as a tourist destination. This would provide a long-term community benefit.

Finally, more recreational improvements, such as trails, parks, and open space could be part of the trust. Among the higher priorities and continued amenities in Missoula Gulch, Lower Area One, the city-wide trail system, a new County fairgrounds, and enhancements to the engineered caps to establish more natural-looking areas. There are many other possibilities. The concept is to combine Superfund cleanups with community development.

Exhibit "28"

[Deleted pursuant to Addendum No. 3]

Exhibit "29"
(Map of AR and BSB Kelley Mine Yard Properties)

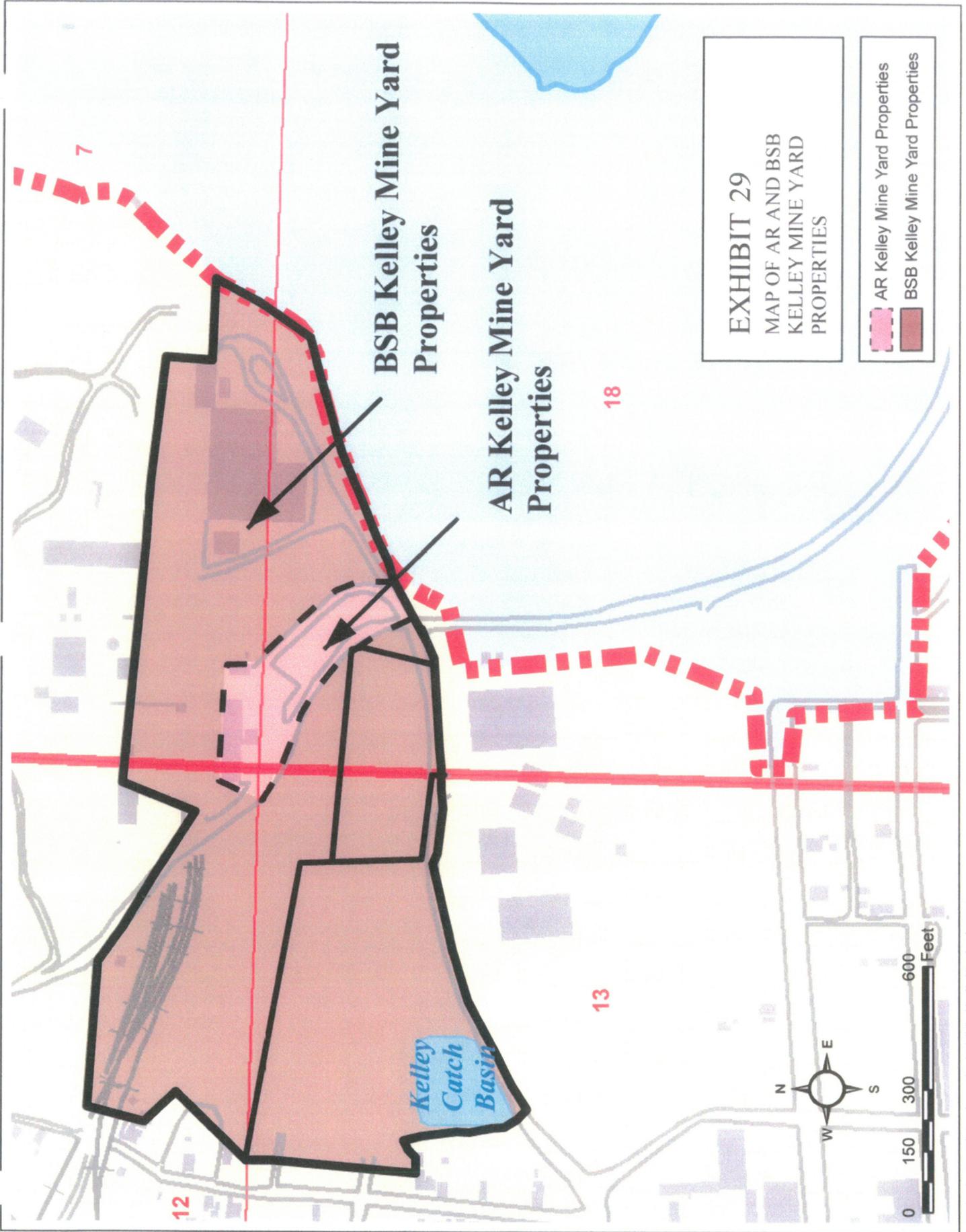


EXHIBIT 29

MAP OF AR AND BSB
KELLEY MINE YARD
PROPERTIES

- AR Kelley Mine Yard Properties
- BSB Kelley Mine Yard Properties

Exhibit "30"
(Map of Active Rail Road Properties and Rights-of Way)

Exhibit 30 - Map of Railroad Properties

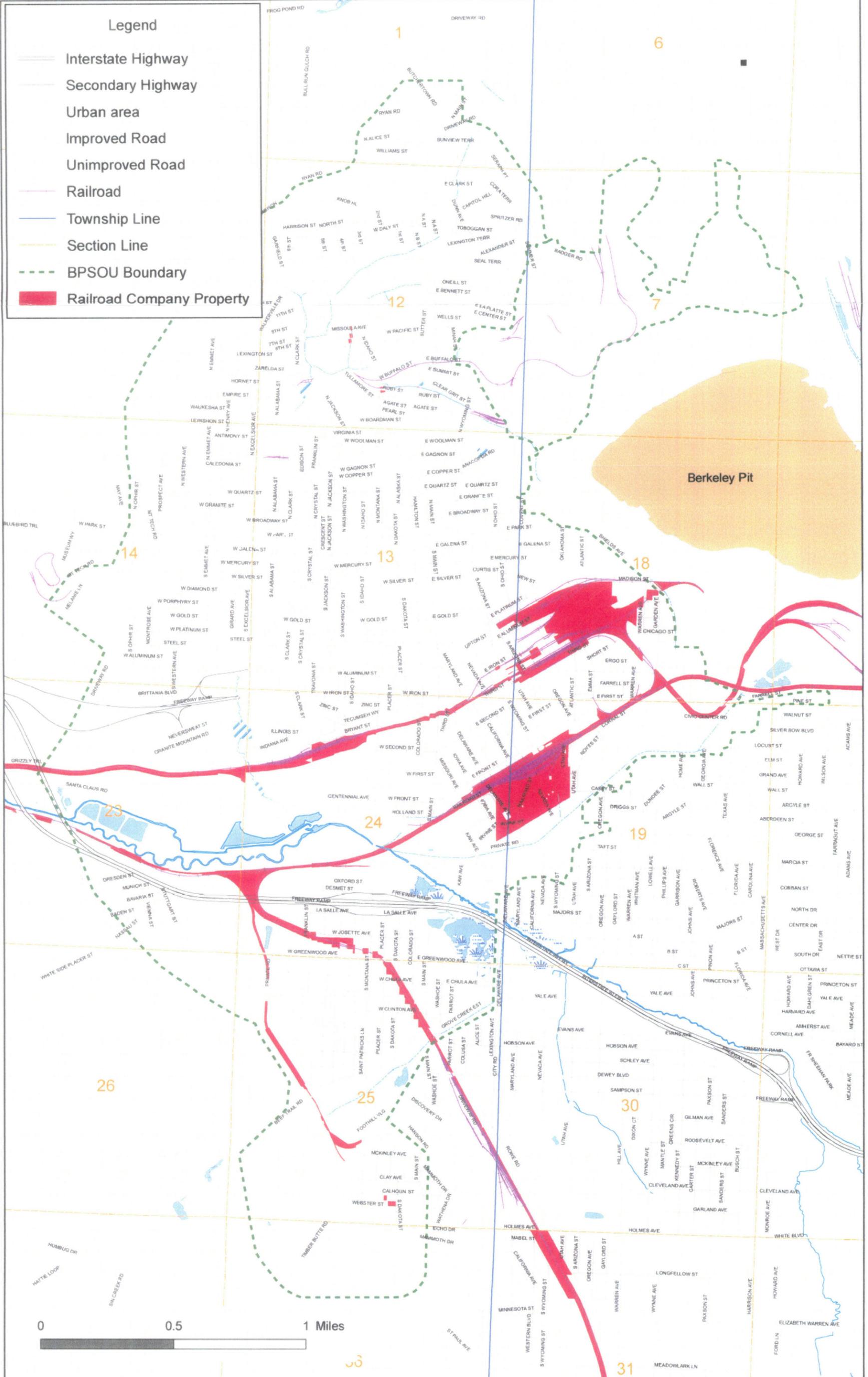


Exhibit "31"
(Potential After Acquired Properties Legal Description)

EXHIBIT 31
(Section 9.6--Potential After Acquired Properties Legal Descriptions)

Claim Name	Mineral Survey No.	Sec., TN, RW	Tax Parcel ID No.
Allie Brown lode	M.S. 89 (Lot 37-A)	12, 3N, 8W	390100
Alexander lode	M.S. 668 (Lot 112-A)	12, 3N, 8W	390100
Alexander lode	M.S. 668 (Lot 112-B)	12, 3N, 8W	390100
Wild Pat lode	M.S. 553	12, 3N, 8W	390100
Missoula lode	M.S. 615	12, 3N, 8W	390000
Delmonte lode	M.S. 614	12, 3N, 8W	390230
Auraria lode	M.S. 1031	12, 3N, 8W	389600
Badger State lode	M.S. 1032	7, 3N, 7W	387500
Boston lode	M.S. 1066	6, 3N, 7W	389400
Can Can lode	M.S. 1663	1, 3N, 8W	1905900
Chief Joseph lode	M.S. 1084	7, 3N, 7W	389550
Cottonwood lode	M.S. 1970	6, 3N, 7W	389400
Hall lode	M.S. 3366	6, 3N, 7W	389700
Jersey Blue lode	M.S. 793	6, 3N, 7W	389400
Kentucky lode	M.S. 1189	7, 3N, 7W	389500
Lizzie K lode	M.S. 5410	7, 3N, 7W	389500
Mary Ann	M.S. 799	24, 3N, 8W	1926910
Millview lode	M.S. 1112	7, 3N, 7W	389600
Miner's Union lode	M.S. 1097	7, 3N, 7W	389500
Moose lode	M.S. 769	12, 3N, 8W	389500
Poser lode	M.S. 672	7, 3N, 7W	389400
Ready Cash lode	M.S. 1698	1, 3N, 8W	389400
Reef Fraction lode	M.S. 1435	1, 3N, 8W	389400
Ridgly	M.S. 1645	12, 3N, 8W, 7, 3N, 7W	390200
Roosevelt lode	M.S. 7741	7, 3N, 7W	389500
Saukie East lode	M.S. 810	1, 3N, 8W	389700
Silver lode	M.S. 1778	7, 3N, 7W	389500
Silver City lode	M.S. 6298	7, 3N, 7W	389600
Thesus lode	M.S. 1746	1, 3N, 8W	389700
Valdemere lode	M.S. 467	7, 3N, 7W	389400
Violet lode	M.S. 6094	6, 3N, 7W	389400

Exhibit "32"
(MOU 119 Scope of Work)

EXHIBIT 32

MOU 119 Scope of Work

Since March 1995, Butte-Silver Bow (BSB) and the Atlantic Richfield Co. (AR) have been performing certain work and responsibilities under a Memorandum of Understanding (MOU), labeled MOU No. MT-119. The MOU sets forth several objectives for BSB, with AR funding support, to develop a program of institutional controls as part of the Superfund project for the BPSOU in Butte. Following is a Scope of Work associated with that MOU for reference in the Allocation Agreement as Exhibit 32.

1. Water Quality Controls

- **Storm Water Inspections.** Conduct weekly and/or as needed inspections of storm water arising from reclaimed and unreclaimed areas, as well as mining-impacted and non-impacted areas. Assist in the process to establish Storm Water Management Ordinance and enforcement activities.
- **Administer/Monitor/Enforce Ground Water Control Areas.** As per Exhibit 24 of the Allocation Agreement, Butte-Silver Bow will make the appropriate submittals to DNRC and enforce the approved Controlled Groundwater Areas and anticipated future Controlled Groundwater Areas, as required, including the Butte Bedrock Aquifer, the Rocker site, the Montana Pole Site, West Side Soils and the Butte Alluvial Aquifer
- **Monitor Septic Systems and Public Sewer System.** Conduct weekly and/or as needed inspections of sewer problems, both septic and public sewer arising from or affecting reclaimed and unreclaimed areas, as well as mining-impacted and non-impacted areas. Assist in the process to establish best management practices and enforcement activities.

2. Development Standards

- **Growth Policy Amendments.** Update Butte-Silver Bow Growth Policy, as necessary, to reflect changes relevant to the Superfund process.
- **Zoning/Building Code Changes.** Amend the zoning ordinance to adopt the applicable requirements and procedures associated with the *Guidebook for Reclaimed Areas* (see Exhibit 22). Amend or adopt zoning classifications within the Priority Soils Area, including Walkerville, as necessary, to reflect land uses in developable and dedicated use areas. Integrate any changes with other applicable permit processes, i.e. building permits, excavation permits, drainage/storm water rules, site contours, and final site plans.

Historic Preservation. Administer projects and work associated with the implementation of the *Second Programmatic Agreement for the Upper Clark Fork Basin Superfund Sites*, including the Regional Historic Preservation Plan (RHPP).

3. Land Management Operations

- **Geographic Information System (GIS).** Respond to all requests for digital mapping services and data for Superfund activities set forth in the Allocation Agreement, such as:
 - a) Update and improve BPSOU source area data by incorporating GPS data and data from other sources as needed to maintain the Reclamation Data Base and provide support to the O&M Program;
 - b) Update and maintain the Lead Abatement Program data and incorporate data into maps for use by BSB to display and track remediated yards;
 - c) Update storm water system data for use in the implementation of the storm water O&M and Improvements to Stormwater System. ;
 - d) Update and maintain data for mining-related features on the Butte Hill, and work with all available sources to improve the locational accuracy of existing data – as a critical service to the redevelopment of reclaimed properties.
 - e) Support to AR, EPA, DEQ, and contractors involved in the implementation of the ROD and oversight of the BPSOU;
- **Administer/Enforce Deed Restrictions.** Establish controls on the sale of BSB property (including properties acquired from AR through the Allocation Agreement) to third parties. Enforce deed restrictions, conditions and covenants, as required and presently incorporated into deeds at the time of transfer.

4. Source Area/Storm Water Operation and Maintenance

- ◆ **Butte Hill Reclamation Evaluation System (BRES).** Participate in the adoption of the BRES, as per the BPSOU ROD, and participate in the implementation of the BRES to monitor the Mine Waste Source Areas and plan maintenance tasks, as necessary.
- ◆ **Perform O&M Activities.** Task items include routine visual monitoring to assess need for O&M activities, weed control, mowing, fertilizing, re-seeding, importing fill/soil cover materials, performance of erosion repairs, sediment removal, trash removal, maintain site access control (including education/enforcement programs), and all other duties associated with protecting vegetative caps, Superfund Storm Water Structures and remediated sites. Record maintenance work on daily O&M forms, and input the information available to the Reclamation Data Base for future reference. Maintain inventory of seed mix and native plants, shrubs and trees.
- ◆ **Mine Waste Repository.** Manage the Mine Waste Repository, as outlined in the Allocation Agreement, including Operation and Maintenance, including access control, enforce standard protocols for use, and eventually Reclamation .

Exhibit "33"

[Deleted pursuant to Addendum No. 3]

Exhibit 34
(Map of BSB Sewage Treatment Effluent Line Extension)

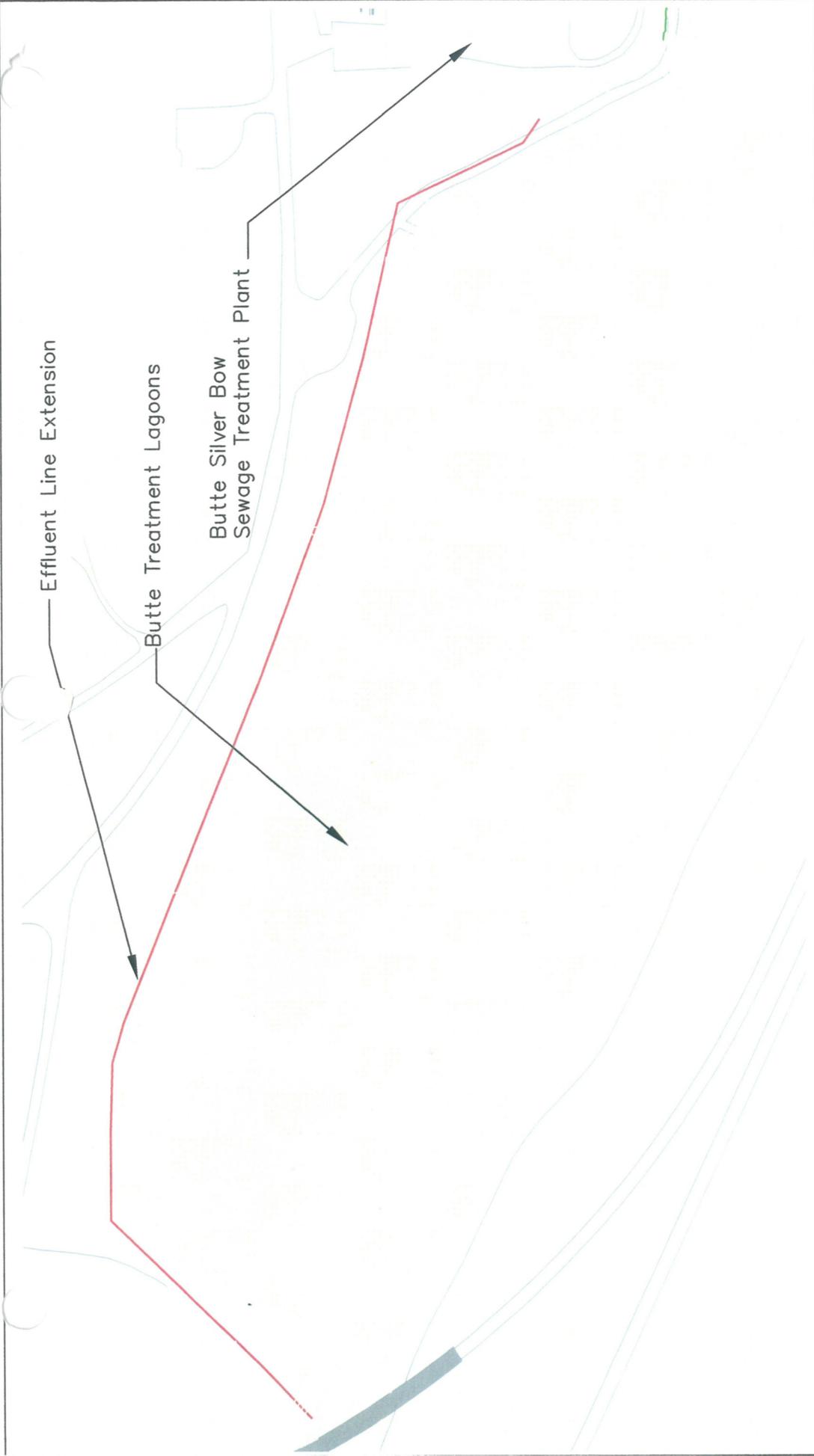


Exhibit 34

Map of Butte Silver Bow Sewage Treatment Effluent Line Extension



Date: September 12, 2006

Exhibit 35
(Multi-Pathway Program Trust Agreement)

MULTI-PATHWAY PROGRAM TRUST AGREEMENT

This Multi-Pathway Program Trust Agreement made 11-21, 2006, by and between Atlantic Richfield Company ("AR"), the City and County of Butte-Silver Bow ("BSB" and, together with AR, the "Parties" and each of them, a "Party") and Vanguard National Trust Company ("the Trustee").

WHEREAS, AR and BSB have entered into the Allocation and Settlement Agreement and Mutual Release of Claims effective 11-21, 2006 (the "Allocation Agreement" attached hereto as Exhibit A);

WHEREAS, pursuant to Section 11.1 of the Allocation Agreement, AR and BSB have agreed to establish the Multi-Pathway Program Trust Account and to execute this Trust Agreement;

WHEREAS, AR and BSB desire to execute this Trust Agreement and to establish the Trust created hereby to carry out the agreement provided in Article XI of the Allocation Agreement and to pay Multi-Pathway Program Costs incurred by AR in remedying a default by BSB upon a Multi-Pathway Program Obligation, as may be awarded by an arbitrator under Section 20.7 of the Allocation Agreement (all as defined in the Allocation Agreement) (collectively, the "Costs");

WHEREAS, the Initial Multi-Pathway Program Budget, including all Task Accounts and the approved budget amount for each Task Account (each as defined in the Allocation Agreement) has been prepared as provided in Section 11.7 of the Allocation Agreement, and BSB and AR have concurred with such budget;

WHEREAS, AR and BSB anticipate entering into negotiations with the U.S. Environmental Protection Agency ("EPA") and others for performance of EPA's selected remedial action for the Butte Priority Soils Operable Unit under a consent decree to which both BSB and AR are signatory parties (the "Consent Decree");

WHEREAS, the Parties and the Trustee contemplate this Trust Agreement may later be amended at the Parties' request by the Parties, the Trustee and EPA to confirm EPA's right to funds in the Trust in the event of a Work Takeover and to pledge Trust assets in satisfaction of financial assurance requirements under the Consent Decree;

NOW, THEREFORE, the parties do hereby establish the Trust and agree that the Trust shall be comprised, held and disposed of as follows:

Section 1. Establishment Of Trust

(a) **The Purpose.** This Trust Agreement is intended to fulfill the agreement of AR and BSB provided in Article XI of the Allocation Agreement. Accordingly, except as provided in Section 12(f) of this Trust Agreement, to the extent any provision hereof or obligation

hereunder conflicts with any provision or obligation provided in Article XI of the Allocation Agreement, the terms of the Allocation Agreement shall be controlling. Capitalized terms used but not defined herein shall have the meanings assigned to them in the Allocation Agreement.

(b) **Deposit of Funds.** AR hereby deposits with the Trustee in trust the amount of cash listed in Exhibit B, which shall become the principal of the Trust to be held in a separate account (the "Trust Account"), administered and disposed of by the Trustee as provided in this Trust Agreement. Said deposit is made in satisfaction of the initial funding requirement under Section 11.2.1 of the Allocation Agreement.

(c) **Revocability.** The Trust hereby established shall be revocable only upon written notification from AR and BSB to the Trustee that one of the following has occurred: (i) the Allocation Agreement has been terminated pursuant to Article XX of the Allocation Agreement; (ii) AR has assumed responsibility for the Multi-Pathway Program Obligations pursuant to Section 6.1; (iii) AR has assumed responsibility for the Multi-Pathway Program Obligations pursuant to Section 18.7 of the Allocation Agreement; or (iv) the Multi-Pathway Program Obligations for which funding is provided from the Trust have been completed to EPA's satisfaction, eliminating the need for the Trust.

(d) **Grantor Trust.** The Trust is intended to be a grantor trust, of which AR is the grantor, within the meaning of subpart E, Part I, subchapter J, chapter 1, subtitle A of the Internal Revenue Code of 1986, as amended, and shall be construed accordingly. All gains and losses from the investments of the assets of the Trust shall be recognized by AR, and the taxes thereon shall be paid by AR and shall not be recovered from the assets of the Trust.

(e) **Trust Assets.** The principal of the Trust, and any earnings thereon, shall be held by the Trustee separate and apart from other funds of AR or BSB and shall be used exclusively for the uses and purposes herein set forth.

(f) **Additional Deposits.**

(i) AR shall make certain additional deposits, in accordance with the applicable provisions of the Allocation Agreement and the Funding Spreadsheet attached thereto, with the Trustee in trust as and when required under Section 11.2.2 of the Allocation Agreement. The remaining principal balance of the funds required under the Allocation Agreement may be prepaid by AR at AR's election by deposit to the Trust, either in whole or in part, without premium or penalty, at any time prior to July 1, 2010 on the condition that AR shall pay all accrued interest calculated from the date of the last deposit to the Trust through and including the date of any prepayment on the amount of the then remaining principal balance of the funds outstanding at the time of each prepayment. AR's payment of interest so calculated shall be in addition to any prepayment of principal made by AR.

(ii) As provided under Section 18.7 of the Allocation Agreement, AR may elect to deposit additional funds to the Trust Account.

(iii) The Trustee shall not have any right or obligation to compel the collection of any such deposits or any additional deposits, nor for determining whether any such

deposits are calculated or deposited in accordance with the provisions of the Allocation Agreement.

(g) Preparation of Annual Budgets.

(i) BSB and AR have concurred on the Initial Multi-Pathway Program Budget, attached hereto as Exhibit C. As provided in Section 11.7 of the Allocation Agreement, on or before May 1 of each Fiscal Year hereafter for so long as the Allocation Agreement is in effect and BSB is obligated to perform Multi-Pathway Program Obligations, BSB shall prepare a Multi-Pathway Program Budget which specifies the dollar amount for each quarterly distribution to be made by the Trustee to BSB during that Fiscal Year by Task Account from the Trust Account (each, a "BSB Annual Budget").

(ii) Each BSB Annual Budget shall be provided to AR for AR's concurrence, which concurrence shall not be unreasonably withheld. In order to account for inflation, BSB may increase the approved budget amount set forth in the Initial Multi-Pathway Program Budget for each Task Account by 2% or less annually without the concurrence of AR, as illustrated in Exhibit C. All other proposed increases to the Initial Multi-Pathway Program Budget shall be concurred in by AR, which concurrence shall not be unreasonably withheld, and shall be accompanied by a narrative explanation of the reasons for each such proposed increase. A copy of the BSB Annual Budget, together with evidence of AR's written concurrence thereto, shall be provided to the Trustee by June 15 prior to the Fiscal Year to which such budget applies.

(iii) BSB shall not incur any charges, expenses, fees or other costs during a Fiscal Year in excess of or in addition to the total budget for a Task Account set forth in the BSB Annual Budget then in effect without the concurrence of AR, which concurrence shall not be unreasonably withheld. BSB may request AR's concurrence to incur charges, expenses, fees or other costs in excess of or in addition to the amount budgeted for the Fiscal Year in which the request is made, which concurrence shall not be unreasonably withheld by AR. If AR concurs in such a request, BSB shall provide a copy of the request and evidence of AR's written concurrence as soon as reasonably possible to the Trustee.

(h) Quarterly Accounting by Parties. As provided in Section 11.8 of the Allocation Agreement, BSB shall prepare and provide to AR, within forty-five (45) days of the end of each quarter for each Fiscal Year for so long as the Allocation Agreement is in effect, an accounting report of all amounts withdrawn by BSB from the Trust Account during the prior fiscal quarter ("Multi-Pathway Program Accounting Report"). The report shall include a budget reconciliation report which, separately for each Task Account and each budget amount for each Task Account set forth in the BSB Annual Budget that includes such fiscal quarter, compares the total amount actually incurred by BSB with the total budgeted amount. This Trust Agreement imposes no obligation or duty upon Trustee to perform any accounting of or otherwise verify the accuracy of any Multi-Pathway Program Accounting Report.

(i) **Annual Accounting by the Parties.** Forty-five (45) days following the start of the first quarter of each Fiscal Year, BSB shall deliver to AR and the Trustee a reconciliation that compares all amounts disbursed to BSB from the Trust Account during the prior Fiscal Year by Task Account with the total amount of Multi-Pathway Program Costs actually incurred by BSB for each Task Account during that prior Fiscal Year (“Annual Accounting”). BSB and AR shall meet and confer, as necessary, to reach consensus upon the dollar amount, if any, to be carried forward. If there is concurrence, BSB shall provide evidence of AR’s concurrence to the Trustee as soon as reasonably possible. Disputes between BSB and AR related to accounting shall be resolved pursuant to the procedures for mediation under Section 20.9 of the Allocation Agreement. This Trust Agreement imposes no obligation or duty upon Trustee to perform any annual accounting of or otherwise verify the accuracy of any Annual Accounting.

(j) **Books and Records of the Parties.** AR and BSB will keep, or cause to be kept, proper books of record and accounts separate from all other records and accounts, in which complete and correct entries shall be made of all of its transactions relating to the Trust Account. Such books of record and accounts shall be at all times during business hours subject to the inspection and audit of the other Party, at such other Party’s expense.

(k) **Books and Records of the Trustee.** Without limitation of AR’s and BSB’s rights and the Trustee’s obligations under Section 6, AR and BSB shall at all reasonable times and upon written notice to the Trustee, have access to all Trustee’s books, records, correspondence and related documentation for the Trust for the purpose of auditing and verifying the Trustee’s performance in accordance with the terms of this Trust Agreement.

Section 2. Payments in Satisfaction of the Costs

(a) **Payments by Trustee.** The Trustee shall disburse the funds and earnings thereon from the Trust Account within ten (10) business days from receipt of a written request and only in accordance with the following provisions:

(i) Unless otherwise provided in the relevant BSB Annual Budget or otherwise directed by BSB and AR, the amount BSB may request the Trustee to disburse to BSB from the Trust Account for each quarter for each Task Account shall be twenty-five (25) percent of the total annual budget for that Fiscal Year, as specified in the relevant BSB Annual Budget for that Task Account. BSB shall provide any documentation and information documenting the expenditure of such funds requested by the Trustee within forty-five (45) days following the last day of each quarter during which such funds were advanced by the Trustee.

(ii) In the event funds disbursed by the Trustee to BSB are not expended for Multi-Pathway Program Costs by BSB during the Fiscal Year such funds are received by BSB, as shown in the Annual Accounting for that Fiscal Year prepared and concurred in by AR and BSB under Section 1(i), said funds shall be carried forward by BSB and expended by BSB to pay Multi-Pathway Program Costs during the next Fiscal Year. The Trustee shall reduce the payments to BSB that are authorized under the BSB Annual Budget for the second quarter of the next Fiscal Year by the amount carried forward by

BSB from the prior Fiscal Year, and subsequent quarters until the balance of the total dollar amount carried forward for a Task Account is expended.

(iii) Upon written request of BSB for any amount not specifically provided for or in excess of the amount provided in the relevant BSB Annual Budget or any amount for an item specified in an BSB Annual Budget but in excess of the amount provided in the relevant Task Account of such BSB Annual Budget, the Trustee shall disburse funds to BSB upon receipt of a written request of BSB accompanied by AR's written consent to the disbursement of such amount.

(iv) Upon AR's submittal to the Trustee of a written arbitrator's award of costs incurred by AR in remedying a BSB default upon a Multi-Pathway Program Obligation under the Allocation Agreement, the Trustee shall pay AR the amount of the arbitrator's award and interest as calculated under Section 20.7 of the Allocation Agreement.

(v) The Trustee shall disburse funds in accordance with a request that does not otherwise comply with the requirements of this Section 2(a), provided that the Trustee receives written approval from both BSB and AR for the disbursement.

(vi) From and after receipt of written notice from AR and BSB that EPA has commenced a Work Takeover and for the duration of any Work Takeover under the Consent Decree of any Multi-Pathway Program Obligation under the Allocation Agreement to be funded under this Trust Agreement, the Trustee shall pay EPA's costs in performing any such Multi-Pathway Program Obligation upon EPA's presentation of a written demand for payment of its costs from the Trust Account as may be provided in an amendment to this Trust Agreement.

(viii) Upon written notice from AR and BSB that (i) AR and BSB have received written notice from the EPA that Multi-Pathway Program Obligations delegated to BSB under the Allocation Agreement are complete or (ii) there has been a revocation of this Trust Agreement pursuant to Section 1(c), the Trustee shall pay to AR all amounts remaining in the Trust after payments (reduced by any amounts then carried forward by BSB under Section 2(a)(ii)) are made by Trustee in satisfaction of Costs incurred prior to the date of such notice from AR and BSB and authorized under this Section 2(a).

(b) **Reporting and Payment of Taxes.** The Trustee, AR and BSB shall each make provisions for the reporting of any federal, state or local income to the appropriate taxing authorities, and the Trustee shall on a timely basis provide each Party the necessary specific information to properly report such income.

(c) **No Duty to Determine Sufficiency.** If the principal of the Trust and any earnings thereon are not sufficient to pay amounts requested, the Trustee shall promptly notify AR and BSB. The Trustee shall be under no duty to make any payment if sufficient cash is not available in the Trust Account. The Trustee shall have no responsibility to determine whether the Trust is sufficient to meet the Costs, and shall not be liable for liabilities arising from the Costs in excess of the value of the Trust's assets.

Section 3. Payments To AR

The Trust is revocable only as provided in Section 1(c) hereof, and AR shall have no right (except the right to reimbursement of costs, as provided in Section 2) or power to direct the Trustee to return to AR or to divert to others any of the Trust assets prior to such revocation.

Section 4. Powers of Trustee

The Trustee, or the Trustee's designee, is authorized and empowered:

- (i) To make payments in whole or partial satisfaction of the Costs, as provided in Section 2(a);
- (ii) To invest and reinvest Trust assets, together with the income therefrom, in accordance with the prudent investor rule and the Investment Guidelines attached hereto as Exhibit D, which guidelines may be changed from time to time as provided in Section 11;
- (iii) To hold in cash, without liability for interest, such portion of the Trust as is pending payment in satisfaction of the Costs, investment, payment of other expenses or the distribution of benefits;
- (iv) To settle, compromise or abandon all claims and demands in favor of or against the Trust;
- (v) To pledge Trust assets to satisfy financial assurance requirements pursuant to the Consent Decree or any administrative order issued by EPA for the BPSOU, as provided in the Allocation Agreement; and
- (vi) To exercise all of the further rights, powers, options and privileges granted, provided for, or vested in trustees generally under the laws of the state of Montana so that the powers conferred upon the Trustee herein shall not be in limitation of any authority conferred by law, but shall be in addition thereto.

Section 5. Disposition Of Income

During the term of this Trust, all income received by the Trust, net of expenses as provided in Section 8, shall be accumulated and reinvested in accordance with the Investment Guidelines or used to satisfy the Costs in accordance with Section 2.

Section 6. Accounting By The Trustee

(a) **Monthly Statements.** The Trustee shall provide monthly account statements to AR and BSB in the manner provided for written notices under Section 12. The Trustee shall keep accurate and detailed records of all investments, receipts, disbursements, and all other transactions required to be made and such other records as shall be agreed upon in writing

between AR, BSB and the Trustee. Within sixty (60) days after removal or resignation of the Trustee or such other period of time agreed upon by AR, BSB and the Trustee, the Trustee shall deliver to AR and BSB (a) a written account of its administration of the Trust during the period from the date of the last written account of its administration to the date of such removal or resignation, setting forth all investments, receipts, disbursements and other transactions effected by it, including a description of all securities and investments purchased and sold with the cost or net proceeds of such purchases or sales (accrued interest paid or receivable being shown separately), and showing all cash, securities and other property held in the Trust as of the date of such removal or resignation and (b) any information AR or BSB requires in order to comply with any financial, tax or other reporting obligations either of them may have under Federal, state or local law.

(b) **Request for Accounting.** Upon written notice by AR or BSB to the Trustee to provide an accounting for Trustee's financial transactions as trustee hereunder, the Trustee shall prepare a complete and detailed accounting, for such period as is designated in the written notice, and provide such accounting to AR and BSB within sixty (60) days of receipt of such request.

Section 7. Responsibility and Indemnity of the Trustee

(a) **Fiduciary Standard.** The Trustee shall administer the Trust in good faith and impartially, act in a fiduciary capacity pursuant to the laws of Montana and with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, provided, however, that the Trustee shall incur no liability to any person for any action taken pursuant to a direction, request or approval given by AR or BSB which is contemplated by, and in conformity with, the terms of this Trust Agreement and is given in writing by AR, or BSB or in such other manner prescribed by the Trustee. The Trustee shall also incur no liability to any person for any failure to act in the absence of direction, request or approval from AR or BSB which is contemplated by, and in conformity with, the terms of this Trust Agreement. Further, the Trustee shall incur no liability to any person by reason of any actions taken by any [additional trustee or] successor trustee or for assets that are not included in the Trust Account.

(b) **Indemnification of the Trustee.** AR hereby indemnifies the Trustee against, and shall hold it harmless from, any and all loss, claims, liability, and expenses, including reasonable attorneys' fees, imposed upon or incurred by the Trustee as a result of any acts taken or any failure to act, where such act or failure to act is in accordance with the directions from AR or any of its agents. AR's obligations in the foregoing regard shall be satisfied promptly by AR, provided that in the event the loss, claim, liability or expense involved is determined by a no longer appealable final judgment entered in a lawsuit or proceeding to have resulted from the negligence, gross negligence or willful misconduct of the Trustee or the act or omission of any third party, the Trustee shall promptly return to AR any amount previously received by the Trustee under this Section with respect to such loss, claim, liability or expense. If AR does not pay such costs, expenses and liabilities in a timely manner, the Trustee may obtain payment from the Trust without direction from AR as provided in Section 8. Amounts so obtained by Trustee

shall be promptly reimbursed to the Trust by AR following the conclusion of dispute resolution, if any, under Section 8(b).

(c) **Legal Counsel.** The Trustee, after providing written notice to AR and BSB, may consult with legal counsel with respect to any of its duties hereunder.

(d) **Other Advisers.** The Trustee, after providing written notice to AR and BSB, may hire agents, accountants, actuaries, investment advisers, financial consultants or other professionals as necessary to assist it in performing any of its duties or obligations hereunder.

(e) **Authority of Trustee.** The Trustee shall have, without exclusion, all powers conferred on the Trustee by applicable law, unless expressly provided otherwise herein.

(f) **Limitation on Trustee.** Notwithstanding any powers granted to the Trustee pursuant to this Trust Agreement or to applicable law, the Trustee shall not have any power that could give this Trust the objective of carrying on a business and dividing the gains therefrom, within the meaning of Section 301.7701-2 of the Procedure and Administrative Regulations promulgated pursuant to the Internal Revenue Code.

Section 8. Compensation And Expenses Of The Trustee

(a) From time to time, the Trustee shall submit to AR, and AR shall timely pay, an invoice for its fees in accordance with the Fee Schedule attached hereto as Exhibit E, and any expenses charged for third party counsel and advisers described in Sections 7(c) and 7(d); provided that if the Trustee has not received payment of any such invoice within sixty (60) days of the date thereof, the Trustee is authorized to withdraw from the Trust the amount of such invoice subject to Section 7(b).

(b) Any dispute regarding compensation or expenses of the Trustee invoiced to AR under this Section 8 shall be submitted to informal dispute resolution, mediation or arbitration pursuant to the provisions of Section 13 (Remedies) of this Trust Agreement. If the dispute is submitted to arbitration, to the extent the arbitrator finds in the favor of AR, the Trustee shall pay into the Trust Account the amount withdrawn by the Trustee which the arbitrator found not to be compensation or expenses due under this Trust Agreement.

Section 9. Resignation And Removal Of The Trustee

(a) **Resignation of Trustee.** The Trustee may resign at any time by written notice to AR and BSB, which resignation shall be effective upon the latter of the appointment of a successor Trustee or thirty (30) days after receipt of such notice, unless AR, BSB and the Trustee agree otherwise.

(b) **Removal of Trustee.** The Trustee may be removed by AR and BSB upon the appointment of a successor Trustee as provided in Section 10(a), but in any event upon not less than thirty (30) days' notice, or upon shorter notice accepted by the Trustee.

(c) Transfer of Assets to Successor.

(i) Upon resignation or removal of the Trustee and appointment of a successor Trustee, all assets shall subsequently be transferred to the successor Trustee. The transfer shall be completed within sixty (60) days after receipt of notice of resignation, removal or transfer, unless AR and BSB together extend the time limit, provided that (i) the Trustee is provided assurance by AR satisfactory to the Trustee that all fees and expenses reasonably anticipated will be paid, and (ii) the Trustee's administration of the Trust will be settled either judicially or non-judicially.

(ii) Upon settlement of the account and transfer of the Trust assets to the successor Trustee, all rights and privileges under this Trust Agreement shall vest in the successor Trustee and all responsibility and liability of the Trustee with respect to the Trust and assets thereof shall terminate subject only to: (a) the requirement that the Trustee execute all necessary documents to transfer the Trust assets to the successor Trustee; and (b) the provisions of Sections 7(b) and 13.

Section 10. Appointment Of Successor

(a) **Appointment of Successor.** If the Trustee resigns or is removed in accordance with Section 9(a) or Section 9(b), AR and BSB shall confer and together appoint a third party as a successor to replace the Trustee upon resignation or removal. AR and BSB hereby agree to take reasonable steps to name a mutually agreeable successor in a timely manner. The appointment shall be effective when accepted in writing by the successor Trustee, who shall have all of the rights and powers of the former Trustee. The former Trustee shall execute any instrument necessary or reasonably requested by AR or the successor Trustee to evidence the transfer.

(b) **Duty of Successor Trustee.** The successor Trustee need not examine the records and acts of any prior Trustee and may retain or dispose of existing Trust assets, consistent with its obligations under this Trust Agreement. The successor Trustee shall not be responsible for and AR shall indemnify and defend the successor Trustee from any claim or liability resulting from any action or inaction of any prior Trustee or from any other past event or any condition existing at the time it becomes successor Trustee.

Section 11. Amendment Or Termination

(a) **Amendment.** This Trust Agreement may be amended by a written instrument (i) executed by the Trustee and AR as deemed necessary or appropriate to meet the requirements of any change of law or circumstances affecting the intended treatment of the Trust, (ii) executed by the Trustee, AR and BSB to meet the requirements of any change in law or circumstances affecting the modification of the Costs, or any change in the authorized business purposes or powers of AR, BSB or the Trustee, (iii) executed by AR and BSB with respect to any amendment of or change to the Investment Guidelines, provided, that no such amendment may be made that alters the Trustee's rights or obligations under this Agreement without the Trustee's written consent, and (iv) with respect to any other matter, including any administrative, non-

dispositive terms of this Agreement, by written instrument executed by AR, BSB and the Trustee.

(b) **Termination.** The Trustee is hereby directed to terminate the Trust as soon as practicable following the receipt of notice pursuant to Section 1(c) and the distribution of the Trust assets as provided in Section 2(a)(xiii).

Section 12. Miscellaneous

(a) **Severability.** Any provision of this Trust Agreement prohibited by law shall be ineffective to the extent of any such prohibition, without invalidating the remaining provisions hereof.

(b) **No Assignment of Benefits.** Except as authorized under Section 4(v), amounts payable under this Trust Agreement may not be assigned (either at law or in equity), alienated, pledged, encumbered or subjected to attachment, garnishment, levy, execution or other legal or equitable process.

(c) **Notices.** All notices or other communications required to be given to Trustee, and BSB hereunder shall be in writing and shall be sufficiently given and shall be deemed given when provided by facsimile, and delivered or deposited in the United States First Class mail with postage fully prepaid and addressed as follows:

If to Trustee: Travis W. Gibboney, or Successor
Vanguard National Trust Company
PO Box 709, MS T-21
Valley Forge, PA 19482-0709

If to AR: Gavin Scally or Successor
Atlantic Richfield Company
317 Anaconda Road
Butte, MT 59701

If to BSB: City and County of Butte-Silver Bow
155 West Granite
Butte, MT 59701
Attn: Chief Executive

(d) **Governing Law.** The principal place of administration of the Trust shall be Montana. This Trust Agreement and its enforcement shall be governed by and construed in accordance with the laws of the State of Montana.

(e) **Survival.** The provisions of Sections 7(b) and 13 of this Trust Agreement shall survive termination of this Trust Agreement.

(f) **Conflict with the Obligations.** The rights, duties, responsibilities, obligations and liabilities of the Trustee are as set forth in this Trust Agreement, and no provision of any

other document shall affect such rights, responsibilities, obligations and liabilities. If there is a conflict between this Trust Agreement with respect to any subject involving the Trustee, including but not limited to the responsibility, authority or powers of the Trustee, the provisions of this Trust Agreement shall be controlling.

Section 13. Remedies

(a) **Disputes between AR and BSB.** AR and BSB agree that all controversies that may arise between AR and BSB under this Agreement shall be resolved pursuant to the procedures and remedies set forth in Article XX of the Allocation Agreement.

(b) **Disputes between Trustee, AR and BSB.** AR, BSB and the Trustee agree that all controversies that may arise between any of them in connection with the Trust, including, but not limited to, those involving any transactions, or the construction, performance, or breach of this or any other agreement between any of them, whether entered into prior to, on, or subsequent to the date hereof, shall first be the subject of informal dispute resolution. In the event the controversy cannot be resolved through informal negotiations, the parties may elect to resolve the controversy by mediation or arbitration under a format agreed upon at that time; provided however, AR and Trustee agree that any dispute regarding compensation or expenses of the Trustee invoiced to AR under Section 8 shall be required to be arbitrated, if not resolved informally or by mediation. Judgment upon the award of arbitrators may be entered in any federal or state court having jurisdiction. In the event the Parties are unable to resolve any controversy (other than a dispute regarding compensation or expenses of the Trustee) by agreement upon an alternative form of dispute resolution as provided above, any Party may commence an action concerning the subject matter of such controversy in any court of competent jurisdiction located in Montana.

Section 14. Effective Date

The effective date of this Trust Agreement shall be _____, 2006.

IN WITNESS WHEREOF, AR, BSB and the Trustee have executed this Trust Agreement each by action of a duly authorized person.

Atlantic Richfield Company

By: _____

Robin Bullock
Northwest Region Manager

Vanguard National Trust Company

By: _____

Name/Title:

Exhibit A

[copy of Allocation Agreement]

Exhibit B

Initial Deposit, pursuant to Section 1(b)

\$1,908,000.00

Exhibit C

Initial BSB Multi-Pathway Program Budget

Exhibit D

Investment Guidelines

1. The investment objective for the Trust is to achieve a 7% return. This target objective will apply to all long-term assets. It is understood and acknowledged by the Parties that the actual return on investments held in the Trust will vary from year to year. The trustee will employ a long term approach that utilizes a diversified portfolio of domestic and international equity and fixed income funds, diversified across industry segments and time durations to achieve the investment objective for the fully funded Trust. For assets that are not deemed to be long-term in nature, the primary investment objectives are preserving capital and generating income.
2. The Trustee is specifically authorized to invest in and vote securities with the management of mutual funds affiliated with *The Vanguard Group, Inc. ("Vanguard")* even if such mutual funds will comprise the entire Trust estate, In addition, Trustee is specifically authorized to engage the services of and transact Trust business with any *Vanguard* affiliate.

Exhibit E

Fee Schedule for Trust Administration

This Trust is one of five trusts for which *Vanguard National Trust Company* shall serve as trustee under the terms of the Allocation Agreement and the five separate trust agreements among the Trustee, AR and BSB that are described in the Allocation Agreement.

The five trusts are:

- Superfund Programs Trust Agreement
- Superfund Management Trust Agreement
- Multi-Pathway Programs Trust Agreement
- Capital Purchase, Repair and Replacement Trust Agreement
- Ground Water Treatment System Capital Repair and Replacement Trust Agreement

This Exhibit E sets forth the Fee Schedule for Trust Administration applicable to the Trust and each of the other four trust agreements described above. This Fee Schedule shall remain in force for the duration of the Trustee's management of the Trust, and may only be amended by written instrument executed by Trustee and AR:

1. Fiduciary Fee – A Fiduciary Fee of \$1,250 per trust per year shall be invoiced to and paid by AR via quarterly deductions from each trust, as described in Paragraph 3 below; provided however, Trustee will waive the quarterly installment of the Fiduciary Fee for each trust whenever the aggregate assets under management (the sum of the assets of all trusts then under Trustee's management) exceeds \$20 million during the quarterly fee calculation. If the aggregate assets under management fall below \$20 million on any subsequent quarterly fee calculation, then the quarterly installment of the Fiduciary Fee will apply for that quarter.
2. Minimum Asset Requirement – There is no minimum asset requirement for the Trust; provided however, AR shall deposit and maintain a minimum \$2,500,000 in long-term investment assets year over year that is distributed among the trusts under management.
3. Asset Management Fee – Trustee shall provide full discretionary asset management services and full fiduciary trust services for an annual fee that shall be calculated based on the assets under management within each trust according to the schedule which follows.

Whenever the aggregate assets under management for all trusts during a quarterly fee calculation is \$5,000,000 or more, the quarterly fee shall be calculated (as provided below) on the total assets under management for all trusts and prorated among the trusts; provided however, the minimum annual fee of \$4,500 per trust is waived if the \$5,000,000 threshold is met. In the event the aggregate assets under management for all trusts during a quarterly fee calculation is less than \$5,000,000, the quarterly fee

shall be calculated individually for each trust under management, based upon the assets held in each trust.

*First \$1 to \$1,000,000.....0.75%

\$1,000,001 - \$2,000,000 = \$7,500 Plus 0.35% of assets over \$1 million

\$2,000,000 - \$10,000,000 = \$11,000 Plus 0.20% of assets over \$2 million

Over \$10,000,000 = \$25,000 Plus 0.15% of assets over \$10 million

Over \$30,000,000 = \$55,000 Plus 0.10% of assets over \$30 million

Over \$50,000,000 = \$75,000 Plus 0.05% of assets over \$50 million

* Minimum annual fee is \$4,500 per trust in addition to any applicable Fiduciary Fee.

The annual fee is calculated at the end of each calendar quarter. The Method of Payment for both the variable Asset Management Fee and the fixed Fiduciary Fee is by deduction of the calculated fee, on a quarterly basis from a separate money market account with a unique account number within the Trust and the other four trusts that is used solely for payment of fees ("Fee Account").

At the end of each quarter, Trustee shall prepare and transmit to AR an invoice for the quarterly fee for payment by AR by withdrawal from the Fee Account established for the Trust. All quarterly fees will be deducted from each trust approximately 14 days after the end of each calendar quarter. In addition to the quarterly invoices, Trustee shall provide an annual account statement for each Fee Account. At AR's sole discretion, AR may elect to pre-fund the fees by deposit of funds to any Fee Account in advance of the date for payment of any quarterly fee.

4. Mutual Fund Expenses – The Fiduciary Fee and Asset Management Fee are in addition to the internal expense ratio of Vanguard mutual funds. The internal expenses of Vanguard mutual funds apply to all investors, whether they are managing the investments themselves or if they have hired Vanguard National Trust Company to manage their assets for them.
5. Transaction Fees – The Trust shall utilize, if available, the Automated Clearing House (ACH) (or similar service in its stead) to periodically transfer funds from the Trust to the Butte Silver Bow bank account as required by the Trust Agreement. No transaction fees shall be invoiced to AR for this service. ACH transfers can be scheduled in advance (with two business days minimum).

Exhibit 36

[Deleted pursuant to Addendum No. 3]

Exhibit 37

(Description of Hydrodynamic Devices)

(Intentionally Omitted from Working Copy)

Exhibit 38

(Form of Bill of Sale for Conveyance of Hydrodynamic Devices)

(Intentionally Omitted from Working Copy)

Exhibit 39

(Description of Installation Work for HDs)

(Intentionally Omitted from Working Copy)

Exhibit 40

(Compensation Schedule for Installation of HDs)

(Intentionally Omitted from Working Copy)

Exhibit 41

Hydrodynamic Device Maintenance Inspection Form

(Intentionally Omitted from Working Copy)

Exhibit 42
(Revised Multi-Pathway Program Budget)

Exhibit 42
Revised Multi-Pathway Program Budget

Account No	Line Item	Task Account	July 1, 2012 to June 30, 2013				FY 2013 Next Year Estimate	
			Annual Total	Q1 Total Jul - Sept	Q2 Total Oct - Dec	Q3 Total Jan - Mar		Q4 Total Apr - Jun
2275-200-4401-89	Several	Multi-Pathway Program	\$1,160,001 (*)	\$290,000	\$290,000	\$290,000	\$290,001	\$1,071,001

Notes:

* The Funding Spreadsheet and Supplemental Funding Spreadsheet contemplate total annual funding for 2012/2013 (year 7) in the amount \$1,160,001. The total annual funding for 2012/2013 (year 7) includes one-time funding of \$110,000 for the purchase of additional equipment for another crew. The \$110,000 will not be included in the Multi-Program Budget for 2013/2014 (year 8) or subsequent years.

Exhibit 43
(Revised Superfund Programs Budget)

Exhibit 43
Revised Superfund Programs Budget

Account No	Line Item	Task Account	July 1, 2012 to June 30, 2013				FY 2013 Next Year Estimate	
			Annual Total	Q1 Total Jul - Sept	Q2 Total Oct - Dec	Q3 Total Jan - Mar		Q4 Total Apr - Jun
5310-200-4306-35	Several	Source Areas Reclamation/O&M	\$685,364 (*)	\$171,341	\$171,341	\$171,341	\$171,341	\$306,285
TBD	TBD	Additional Mine Waste Repository Expansion and Reclamation	\$0	\$0	\$0	\$0	\$0	\$0
TBD	Several	Water Treatment in Expanded Lagoon System	\$0	\$0	\$0	\$0	\$0	\$0

Notes:

TBD = To Be Determined

* The Funding Spreadsheet and Supplemental Funding Spreadsheet contemplate total annual funding for 2012/2013 in the amount \$300,279. The difference of \$385,085 (\$685,364 - \$300,279 = \$385,085) was expressly approved by AR pursuant to Section 10.7 of Addendum No. 3 to the 2006 Allocation Agreement for one-time inclusion in the Revised Superfund Programs Budget for 2012/2013 (year 7). The \$385,085 increase will not be included in the Superfund Programs Budget for 2013/2014 (year 8) or subsequent years.

Exhibit 44
Supplemental Funding Spreadsheet

Atlantic Richfield--Butte/Silver Bow Global Settlement - Addendum No. 3

Butte Priority Solis Operable Unit

Exhibit 44 sets forth the dollar amounts of AR's supplemental funding obligation for each Trust Account that was established under the procedures described in the Allocation Agreement. Exhibit 44(b) is a second spreadsheet that illustrates certain budget assumptions for each Task Account and the total funding projected for each Task Account under those assumptions for additional items per Addenda 1, 2 and 3 of the Allocation Agreement

Cost Item	Program Duration (*)	Total		5.0% Total	
		Undiscounted Program Cost	Total Inflated Program Cost (2% Inflation)	Discounted Program Cost (5% NPV)	Discounted Program Cost (5% NPV)
Superfund Programs Trust Account					
Source Areas	100 years	\$0	\$0	\$0	See Notes 1 and 2
Mine Waste Repository	100 years	\$0	\$0	\$0	See Notes 1 and 3
Storm Water O&M	100 years	\$2,835,000	\$8,246,053	\$623,733	See Notes 1 and 4
					Trust Account Subtotal:
Multi-Pathway Program Trust Account					
Additional Areas Req'd by EPA	24 years	\$7,320,000	\$9,278,668	\$4,419,015	See Note 5
Add'l Equipment for Another Crew	1 years	\$110,000	\$110,000	\$110,000	
Additional Sampling Depth Costs	10 years	\$610,000	\$687,933	\$494,577	See Note 5
Add'l labor support - phlebotomist	24 years	\$312,000	\$395,484	\$186,351	See Note 5
					Trust Account Subtotal:
Totals		\$11,187,000	\$18,696,138	\$5,835,676	Annual uninflated spend Annual inflated spend

Notes

1. Assume that funding of additional items is for the 94 remaining years on the original funding.
2. Atlantic Richfield to perform reclamation of 19 add'l sites. BSB will be responsible for O&M of those 19 sites (and all the others) with the budget identified in the 2006 Allocation Agreement.
3. Atlantic Richfield to prepare and 'permit' design for expansion of Mine Waste Repository. BSB will be responsible for O&M and eventual closure of the repository with the budget identified in the 2006 Allocation Agreement.
4. 2006 Allocation Agreement included \$240k/year for Storm Water O&M, Source Area O&M, database management, etc. Assumes that O&M of hydrodynamic devices per Addendum No. 1 to the 2006 Allocation Agreement will increase BSB costs by \$30.00 per year.
5. Assumes that funding of additional MultiPathway Program items is for 24 years from execution of the AA Addendum No. 3.
6. All amounts shown in 2012 dollars. Exh. 26 presented costs/budgets in 2006 dollars.

	2019/2020	2020/2021	2021/2022	2022/2023	2023/2024	2024/2025	2025/2026	2026/2027	2027/2028	2028/2029	2029/2030	2030/2031	2031/2032	2032/2033	2033/2034	2034/2035	2035/2036
	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000
	34,461	35,150	35,853	36,570	37,301	38,047	38,808	39,584	40,376	41,184	42,007	42,847	43,704	44,578	45,470	46,379	47,307
	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000
	34,461	35,150	35,853	36,570	37,301	38,047	38,808	39,584	40,376	41,184	42,007	42,847	43,704	44,578	45,470	46,379	47,307
	305,000	305,000	305,000	305,000	305,000	305,000	305,000	305,000	305,000	305,000	305,000	305,000	305,000	305,000	305,000	305,000	305,000
	350,349	357,356	364,503	371,793	379,229	386,814	394,550	402,441	410,490	418,700	427,074	435,615	444,327	453,214	462,278	471,524	480,954
	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	61,000	61,000	61,000	61,000	61,000	61,000	61,000	61,000	61,000	61,000	61,000	61,000	61,000	61,000	61,000	61,000	61,000
	70,070	71,471	72,901	74,361	75,851	77,371	78,921	80,491	82,091	83,721	85,381	87,071	88,791	90,541	92,321	94,131	95,971
	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000
	14,933	15,232	15,536	15,847	16,164	16,487	16,817	17,153	17,496	17,846	18,203	18,567	18,939	19,317	19,704	20,098	20,500
	379,000	379,000	379,000	379,000	379,000	379,000	379,000	379,000	379,000	379,000	379,000	379,000	379,000	379,000	379,000	379,000	379,000
	435,352	444,059	452,940	462,000	471,240	480,661	490,264	499,951	509,724	519,584	529,531	539,565	549,687	559,897	570,195	580,582	591,059
	409,000	409,000	409,000	409,000	409,000	409,000	409,000	409,000	409,000	409,000	409,000	409,000	409,000	409,000	409,000	409,000	409,000
	469,812	479,209	488,793	498,464	508,219	518,059	527,986	537,999	548,097	558,280	568,548	578,899	589,334	599,854	610,459	621,150	631,927

Exhibit 45

(Dedicated Use Properties Quitclaim Deed for Mine Waste Repository Expansion)

(Intentionally Omitted from Working Copy)

Exhibit 46
(Group 1 Additional Source Control Sites)

Exhibit "46"
(Group 1 Additional Source Control Sites)

No.	Location, Description
1S	Agate Street
2S	Sutter /Boardman Streets
3S	Montana Street/Virginia Street Bridge
4S	Alley Near Copper and Alaska Streets
5S	West of Virginia Street
6S	Franklin Street
7S	North Washington
8S	Idaho Drainage
9S	Nevada Avenue
10S	MSD West of Harrison Avenue
11S	MSD East of Harrison Avenue
12S	MSD North of Shields Avenue
13S	Main Street/Agate Street Bridge
14S	Warren Avenue
15S	Civic Center Parking Lot
17S	Shields Avenue
18S	Anderson Shaft