

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 8

2011 DEC -1 AM 8:43

FILED
EPA REGION VIII
DEPARTMENT OF ENVIRONMENTAL PROTECTION

IN THE MATTER OF:	)	ADMINISTRATIVE
	)	SETTLEMENT AGREEMENT
	)	FOR RECOVERY OF
	)	RESPONSE COSTS
OPHIR MILLS AND SMELTER SITE)	
Ophir, Tooele County, Utah	)	U.S. EPA Region 8
	)	CERCLA Docket No. CERCLA-08-2012-0002
Atlantic Richfield Company,)	
SETTLING PARTY	)	PROCEEDING UNDER
	)	SECTION 104, 106(a), 107, and
	)	122(h)(1) OF CERCLA, 42 U.S.C.
	)	§§ 9604, 9606(a), 9607, and 9622
)	
)	

ADMINISTRATIVE SETTLEMENT AGREEMENT
FOR RECOVERY OF PAST RESPONSE COSTS

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I. JURISDICTION

1. This Settlement Agreement is entered into pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Sections 104, 106(a), 107, and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §§ 9604, 9606(a), 9607 and 9622. The EPA Administrator's authority has been delegated to the Regional Administrators of the EPA by EPA Delegation No. 14-14-D and redelegated jointly to the Supervisors of the Legal and Technical Enforcement Programs.

2. This Settlement Agreement is made and entered into by EPA and the Atlantic Richfield Company ("Settling Party"). Settling Party consents to and will not contest EPA's authority to enter into this Settlement Agreement or to implement or enforce its terms.

II. BACKGROUND

3. This Settlement Agreement concerns the Ophir Mills and Smelter Superfund Site ("Site") located in Ophir, Tooele County, Utah. EPA alleges that the Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

4. In response to the release or threatened release of hazardous substances at or from the Site, EPA undertook response actions at the Site pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604. On September 26, 2003, EPA signed an Action Memorandum to initiate a Time-Critical Removal Action at the Site. The removal action focused on removing contaminants from past mining activities in and around the Town of Ophir.

5. In performing response actions at the Site, EPA has incurred response costs at or in connection with the Site.

6. EPA alleges that Settling Party is a responsible party pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and is jointly and severally liable for response costs incurred or to be incurred at or in connection with the Site. The Settling Party does not admit and contests EPA's allegations.

7. EPA and Settling Party recognize that this Settlement Agreement has been negotiated in good faith and that this Settlement Agreement is entered into without the admission or adjudication of any issue of fact or law.

III. PARTIES BOUND

8. This Settlement Agreement shall be binding upon EPA and upon Settling Party and its successors and assigns. Any change in ownership or corporate or other legal status of Settling Party, including but not limited to, any transfer of assets or real or personal property, shall in no way alter Settling Party's responsibilities under this Settlement Agreement. Each signatory to this

Settlement Agreement certifies that he or she is authorized to enter into the terms and conditions of this Settlement Agreement and to bind legally the Party represented by him or her.

IV. DEFINITIONS

9. Unless otherwise expressly provided herein, terms used in this Settlement Agreement that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meanings assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement or in any Appendix attached hereto, the following definitions shall apply:

a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.*

b. "Day" shall mean a calendar day. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

c. "Effective Date" shall mean the effective date of this Settlement Agreement as provided by Section XVI.

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

e. "Future Response Costs" shall mean those response costs, including, but not limited to, direct and indirect costs, that the United States has incurred since July 21, 2010 at the Site and that the United States may incur after the Effective Date for future response actions at the Site.

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

g. "Paragraph" shall mean a portion of this Settlement Agreement identified by an Arabic numeral or a lower case letter.

h. "Past Response Costs" shall mean all costs, including but not limited to direct and indirect costs, that EPA or the U.S. Department of Justice on behalf of EPA has paid at or in connection with the Site through July 21, 2010, plus accrued Interest on all such costs through such date.

i. "Parties" shall mean EPA and the Atlantic Richfield Company.

j. "Removal Action" shall mean the response actions and all related activities described in the September 26, 2003 Action Memorandum to initiate a Time-Critical Removal Action, including all on-site physical actions undertaken by EPA and its representatives to implement the response actions described in the Action Memorandum.

k. "Section" shall mean a portion of this Settlement Agreement identified by a Roman numeral.

l. "Settlement Agreement" shall mean this Settlement Agreement and any attached appendices. In the event of conflict between this Settlement Agreement and any Appendix, the Settlement Agreement shall control.

m. "Settling Party" shall mean the Atlantic Richfield Company, its divisions and subsidiaries, including ARCO Environmental Remediation L.L.C (AERI.), and any predecessors in interest. It shall also mean any successors in interest to the extent that any such successor's liability at the Site derives from the liability of the Atlantic Richfield Company, its divisions and subsidiaries, including AERI.A, and any predecessors in interest.

n. "Site" shall mean the Ophir Mills and Smelter Superfund Site, located in Ophir, Tooele County, Utah, generally depicted on the map included in Appendix A.

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

p. "Work" shall mean response action performed by EPA at the Site.

V. PAYMENT OF ATLANTIC RICHFIELD'S RESPONSE COSTS

10. Within 30 days after the Effective Date of this Agreement, Settling Party shall pay to EPA \$300,000.00 for Past Response Costs, plus \$3,386.00, an additional sum for Interest on that amount calculated from July 21, 2010 through the date of payment.

11. Settling Party's Payment shall be made to EPA by Electronic Funds Transfer ("EFT") to the following:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency"

Settling Party's payment shall identify the name and address of the Party making payment, the Site name (Ophir Mills and Smelter Site), the EPA Region and Site/Spill ID Number (08-DH), and the EPA docket number for this action (refer to the cover page of this Settlement Agreement).

12. At the time of payment, Settling Party shall send notice that payment has been made to Martha Walker of EPA at 1595 Wynkoop St. 8TMS-F, Denver CO 80202, acctreceivable.cinwd@epa.gov, EPA Cincinnati Finance Office at 26 Martin Luther King Drive, Cincinnati, OH 45268, and any other notice in accordance with Section XIII (Notices and Submissions). Such notice shall reference the EPA Region and Site/Spill ID Number (08-DH) and the EPA docket number for this action (refer to the cover page of this Settlement Agreement).

13. The total amount to be paid pursuant to Paragraph 10 shall be deposited into the Ophir Mills and Smelter Special Account, to be used at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

VI. FAILURE TO COMPLY WITH SETTLEMENT AGREEMENT

14. Interest on Late Payment. If Settling Party fails to make the payment required by Paragraph 10 by the required due date, Interest shall accrue on the unpaid balance through the date of payment.

15. Stipulated Penalty.

a. If any amounts due to EPA under Paragraph 10 are not paid by the required date, Settling Party shall be in violation of this Settlement Agreement and shall pay to EPA, as a stipulated penalty, in addition to the Interest required by Paragraph 14, \$37,500.00 per violation per day that such payment is late.

b. Stipulated penalties are due and payable within 30 days of the date of demand for payment of the penalties by EPA. All payments to EPA under this Paragraph shall be identified as "Stipulated Penalties" and shall be made payable to "EPA Hazardous Substance Superfund." The check, or a letter accompanying the check, shall reference the name and address of the party making payment, the Site name (Ophir Mills and Smelter Site), the EPA Region and Site Spill ID Number (08-DH), and the EPA Docket Number for this action (refer to the cover page of this Settlement Agreement). Settling Party shall send the payment (and any accompanying letter) to:

Via Regular Mail:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Via non-US Postal Service express mail:

U.S. Bank
Government Lockbox 979077

U.S. EPA Fines and Penalties
SL-MO-C2-GL
St. Louis, MO 63101
314-418-1028

e. At the time of payment, Settling Party shall send notice that payment has been made to Martha Walker of EPA at 1595 Wynkoop St. 8TMS-F, Denver CO 80202, and any other notice in accordance with Section XII (Notices and Submissions). Such notice shall reference the EPA Region and Site/Spill ID Number (08-DH) and the EPA docket number for this action (refer to the cover page of this Settlement Agreement).

d. Penalties shall accrue as provided in this Paragraph regardless of whether EPA has notified Settling Party of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the day after payment is due and shall continue to accrue through the date of payment. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

16. In addition to the Interest and Stipulated Penalty payments required by this Section and any other remedies or sanctions available to EPA by virtue of Settling Party's failure to comply with the requirements of this Settlement Agreement, failure or refusal to comply with the requirements of this Settlement Agreement shall subject Settling Party to enforcement action(s) pursuant to Section 122(h)(3) of CERCLA, 42 U.S.C. § 9622(h)(3). If the United States, on behalf of EPA, brings an action to enforce this Settlement Agreement, Settling Party shall reimburse the United States for all costs of such action, including, but not limited to, costs of attorney time.

17. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Settlement Agreement. Payment of stipulated penalties shall not excuse Settling Party from payment as required by Section V (Payment of Response Costs) or from performance of any other requirements of this Settlement Agreement.

VII. COVENANT NOT TO SUE BY EPA

18. Except as specifically provided in Section VIII (Reservations of Rights by EPA), EPA covenants not to sue or take administrative action against Settling Party pursuant to Section 106 (a) and 107 of CERCLA, 42 U.S.C. § 9606(a) and 9607, for performance of the Work, for recovery of Past Response Costs and for recovery of Future Response Costs incurred at the Site. This covenant shall take effect upon receipt by EPA of the amount required by Section V (Payment of Atlantic Richfield's Past Response Costs) and any amounts due under Section VI (Failure to Comply with Settlement Agreement). This Covenant Not to Sue is conditioned upon the satisfactory performance by Settling Party of its obligations under this Settlement Agreement. This Covenant Not to Sue extends only to Settling Party and does not extend to any other person.

19. Notwithstanding any other provision of this Settlement Agreement, the United States reserves, and this Settlement Agreement is without prejudice to, the right to institute proceedings in this action or in a new action, or to issue an administrative order, seeking to compel Settling Party to perform further response actions relating to the Site and/or to pay the United States for additional costs of response if (i) conditions at the Site, previously unknown to EPA are discovered, or (ii) information previously unknown to EPA, is received, in whole or in part, and (b) EPA determines that these previously unknown conditions or information together with any other relevant information indicates that the Removal Action is not protective of human health or the environment. Conditions known to EPA are those documented in EPA's Ophir Mills Site File as of the Effective Date of this Order.

VIII. RESERVATIONS OF RIGHTS BY EPA

20. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Settling Party with respect to all matters not expressly included within the Covenant Not to Sue by EPA in Paragraph 18. Notwithstanding any other provision of this Settlement Agreement, EPA reserves all rights against Settling Party with respect to:

a. liability for failure of Settling Party to meet a requirement of this Settlement Agreement;

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

c. liability for injunctive relief or administrative order enforcement under Section 106 of CERCLA, 42 U.S.C. § 9606 to perform response action not within the definition of Work at the Site;

d. criminal liability; and,

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

21. Nothing in this Settlement Agreement is intended to be, nor shall it be construed as, a release, covenant not to sue, or compromise of any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the United States may have against any person, firm, corporation, or other entity not a signatory to this Settlement Agreement.

IX. COVENANT NOT TO SUE BY SETTling PARTY

22. Settling Party covenants not to sue and agrees not to assert any claims or causes of action against the United States or its contractors or employees with respect to Response Costs or this Settlement Agreement, including but not limited to:

a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, 9613, or any other provision of law;

b. any claims arising out of the response actions at the Site for which Past Response Costs were incurred, including any claim under the United States Constitution, the Constitution of the State of Colorado, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; and,

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to Past and Future Response Costs or the Work.

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

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

25. The waiver in Paragraph 24 shall not apply with respect to any defense, claim, or cause of action that Settling Party may have against any person meeting the above criteria if such person asserts a claim or cause of action relating to the Site against Settling Party. This waiver also shall not apply to any claim or cause of action against any person meeting the above criteria if EPA determines:

a. that such person has failed to comply with any EPA requests for information or administrative subpoenas issued pursuant to Section 104(e) or 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) or 9622(e), or Section 3007 of the Solid Waste Disposal Act (also known as the Resource Conservation and Recovery Act or "RCRA"), 42 U.S.C. § 6972, or has impeded or is impeding, through action or inaction, the performance of a response action or natural resource

restoration with respect to the Site, or has been convicted of a criminal violation for the conduct to which this waiver would apply and that conviction has not been vitiated on appeal or otherwise; or,

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

X. EFFECT OF SETTLEMENT/CONTRIBUTION

26. Except as provided in Paragraph 24 (Non-Exempt De Micromis Waiver) nothing in this Settlement Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Settlement Agreement. Except as provided in Paragraph 24 (Non-Exempt De Micromis Waiver), Settling Party expressly reserves any and all rights, including, but not limited to, any right to contribution, defenses, claims, demands, and causes of action that it may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto. Nothing in this Settlement Agreement diminishes the right of the United States, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

27. The Parties agree that the actions undertaken by Settling Party in accordance with this Settlement Agreement do not constitute an admission of any liability by Settling Party. Settling Party does not admit, and retains the right to controvert in any subsequent proceedings, other than proceedings to implement or enforce this Settlement Agreement, the validity of the facts, allegations and/or conclusions of law contained in Section II (Background) of this Settlement Agreement.

28. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and that Settling Party is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), or as may be otherwise provided by law, for "matters addressed" in this Settlement Agreement. The "matters addressed" in this Settlement Agreement are the Work, Past Response Costs and Future Response Costs. The Parties further agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B), pursuant to which Settling Parties have, as of the Effective Date, resolved its liability to the United States for the Work, Past Response Costs and Future Response Costs.

29. Settling Party agrees that, with respect to any suit or claim for contribution brought by it for matters related to this Settlement Agreement, it will notify EPA in writing no later than 60 days prior to the initiation of such suit or claim. Settling Party also agrees that, with respect to any suit or claim for contribution brought against it for matters related to this Settlement Agreement, it will notify EPA in writing within 10 days of service of the complaint or claim upon it. In addition, Settling Party shall notify EPA within 10 days of service or receipt of any Motion for Summary

Judgment and within 10 days of receipt of any order from a court setting a case for trial, for matters related to this Settlement Agreement.

30. In any subsequent administrative or judicial proceeding initiated by EPA, or by the United States on behalf of EPA, for injunctive relief, recovery of response costs, or other relief relating to the Site, Settling Party shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the covenant not to sue by EPA set forth in Section VII.

XI . ACCESS TO INFORMATION

31. Settling Party shall provide to EPA, upon request, copies of all records, reports, or information (hereinafter referred to as "records") within its possession or control or that of its contractors or agents relating to activities at the Site or to the implementation of this Agreement, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Site.

32. Confidential Business Information and Privileged Documents.

a. Settling Party may assert business confidentiality claims covering part or all of the records submitted to EPA under this Agreement to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. 2.203(b). Records determined to be confidential by EPA will be accorded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies records when they are submitted to EPA, or if EPA has notified Settling Party that the records are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2 Subpart B, the public may be given access to such records without further notice to Settling Party.

b. Settling Party may assert that certain records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Party asserts such a privilege in lieu of providing records, it shall provide EPA with the following: 1) the title of the record; 2) the date of the record; 3) the name, title, affiliation (*e.g.*, company or firm), and address of the author of the record; 4) the name and title of each addressee and recipient; 5) a description of the subject of the record; and 6) the privilege asserted. If a claim of privilege applies only to a portion of a record, the record shall be provided to EPA in redacted form to mask the privileged information only. Settling Party shall retain all records that it claims to be privileged until the United States has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in the Settling Party's favor. However, no records created or generated pursuant to the requirements of this or any other settlement with the EPA pertaining to the Site shall be withheld on the grounds that they are privileged.

33. No claim of confidentiality shall be made with respect to any data, including but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.

XII. RETENTION OF RECORDS

34. Until 10 years after the Effective Date of this Settlement Agreement, Settling Party shall preserve and retain all records, reports, or information (hereinafter referred to as "records" now in its possession or control, or which come into its possession or control, that relate in any manner to response actions taken at the Site or to the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary.

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

36. Settling Party hereby certifies that, to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, reports, or information relating to its potential liability regarding the Site since notification of potential liability by the United States and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

XIII. NOTICES AND SUBMISSIONS

37. Whenever, under the terms of this Settlement Agreement, notice is required to be given or a document is required to be sent by one Party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of this Settlement Agreement with respect to EPA and Settling Party.

As to EPA:

John Works, 8ENF-RC
US Environmental Protection Agency
1595 Wynkoop Street
Denver, CO 80202-1129

As to Settling Party:

Nathan Block, Esq.
BP America, Inc.
501 Westlake Park Blvd.
WL1 16.173
Houston, TX 77079

XIV. INTEGRATION/APPENDICES

38. This Settlement Agreement and its Appendices constitutes the final, complete and exclusive Settlement Agreement and understanding between the Parties with respect to the requirements embodied in this Settlement Agreement. Settling Party acknowledges that there are no representations, settlement agreements or understandings relating to this agreement other than those expressly contained in this Settlement Agreement. The following Appendices are attached to and incorporated into this Settlement Agreement: "Appendix A" is the map of the Site.

XV. PUBLIC COMMENT

39. This Settlement Agreement shall be subject to a public comment period of not less than 30 days pursuant to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i). In accordance with Section 122(i)(3) of CERCLA, EPA may modify or withdraw its consent to this Settlement Agreement if comments received disclose facts or considerations which indicate that this Settlement Agreement is inappropriate, improper or inadequate.

XVI. ATTORNEY GENERAL APPROVAL

40. The Attorney General or his/her designee has approved the settlement embodied in this Settlement Agreement in accordance with Section 122(h)(1) of CERCLA, 42 U.S.C. § 9622(h)(1).

XVII. EFFECTIVE DATE

41. The Effective Date of this Settlement Agreement shall be the date upon which EPA issues written notice that the public comment period pursuant to Paragraph 39 has closed and that comments received, if any, do not require modification of or EPA withdrawal from this Settlement Agreement.

*Witness
Consent for
Atlantic Richfield Co.*

~~comments received, if any, do not require modification of or EPA withdrawal from this Settlement Agreement.~~

IT IS SO AGREED:

U.S. Environmental Protection Agency

By: *Andy Lensink*
Andy Lensink, Supervisory Attorney
Legal Enforcement Program
US EPA, Region 8

10/27/11

By: *Kelcey Land*
Kelcey Land, Director
Technical Enforcement Program
US EPA Region 8

10/25/11

THE UNDERSIGNED SETTLING PARTY enters into this Settlement Agreement in relating to the Ophir Mills and Smelter Site in Ophir, Tooele County, Utah, EPA Docket Number CERCLA-8-11-_____:

FOR SETTLING PARTY Atlantic Richfield Company:

By: *Marcus R. Ferries*
Marcus R. Ferries, P.E
Vice-President

Sept. 28, 2011
Date

