

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

THE UNITED STATES OF AMERICA  
and THE COEUR D'ALENE TRIBE,

Plaintiffs,

v.

SIDNEY RESOURCES CORP.

Defendant.

Civ. No. 10-00112-BLW

**CONSENT DECREE BETWEEN THE UNITED STATES, THE COEUR D'ALENE  
TRIBE AND SIDNEY RESOURCES CORP.**

## **I. BACKGROUND**

A. The United States of America (“United States”), on behalf of the Administrator of the United States Environmental Protection Agency (EPA), filed a complaint pursuant to Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. § 9607(a), concurrently with lodging of this Consent Decree, alleging that Sidney Resources Corp. (“Settling Defendant”) is liable for costs incurred and to be incurred by EPA in responding to the release or threat of release of hazardous substances at or in connection with Operable Unit 3 (“Coeur d’Alene Basin Site”) of the Bunker Hill Mining and Metallurgical Complex Superfund Site (“Site”) in Northern Idaho and for damages for injury to natural resources resulting from the discharges or releases of hazardous substances.

B. As a result of the release or threatened release of hazardous substances, EPA has undertaken response actions at or in connection with the Coeur d’Alene Basin Site under Section 104 of CERCLA, 42 U.S.C. § 9604, and will undertake response actions in the future. In performing these response actions, EPA has incurred and will continue to incur response costs at or in connection with the Coeur d’Alene Basin Site. As of November 30, 2008, EPA has incurred approximately \$183,568,322.73 in connection with the Coeur d’Alene Basin Site.

C. The United States, acting by and through the United States Department of the Interior (“DOI”) and United States Department of Agriculture (“USDA”), and the Coeur d’Alene Tribe (“Tribe”) are co-trustees of injured natural resources at the Coeur d’Alene Basin Site, including but not limited to certain migratory natural resources such as fish, wildlife, birds, biota, and water. The Tribe joined the United States’ Complaint alleging that Settling Defendant is liable for

natural resource damages pursuant to Section 107(a) of CERCLA in connection with the Coeur d'Alene Basin Site.

D. Defendant Sidney Resources Corp. is the successor in interest to Sidney Mining Company, incorporated in Idaho in 1910, which owned and operated various mining and milling related properties within the Site, including the Sidney Mine and Mill. Sidney Resources Corp. merged with Sidney Mining Company in 2003.

E. The United States has reviewed the Financial Information submitted by Settling Defendant to determine whether it has an inability or a limited ability to pay natural resource damages and response costs incurred and to be incurred at the Coeur d'Alene Basin Site, taking into consideration the ability of Settling Defendant to pay response costs and natural resource damages and still maintain its basic business operations, including its overall financial condition and demonstrable constraints on its ability to raise revenues. Based upon this Financial Information, the United States has determined, and the Tribe concurs, that Settling Defendant has an inability to pay.

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

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

THEREFORE, with the consent of the Parties to this Decree, it is ORDERED,

ADJUDGED, AND DECREED:

## **II. JURISDICTION**

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 9607 and 9613(b) and also has personal jurisdiction over Settling Defendant. Solely for the purposes of this Consent Decree and the underlying complaint, Settling Defendant waives all objections and defenses that it may have to jurisdiction of the Court or to venue in this District. Settling Defendant shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

## **III. PARTIES BOUND**

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

## **IV. DEFINITIONS**

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

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

b. "Consent Decree" shall mean this Consent Decree and all appendices attached hereto. In the event of conflict between this Consent Decree and any appendix, the Consent Decree shall control.

c. "Coeur d'Alene Basin Site" shall mean Operable Unit 3 of the "Site," as defined in the EPA Record of Decision relating to Operable Unit 3 of the Site signed on September 12, 2002, by the Regional Administrator, EPA Region 10, or his delegate.

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

e. "DOI" shall mean the United States Department of the Interior and any successor departments, agencies or instrumentalities of the United States.

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

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

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

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

j. "Financial Information" shall mean those financial documents provided by Settling Defendant to the United States identified in Appendix A.

k. "Insurance Policies" shall mean all insurance policies issued to the Settling Defendant prior to 1988 together with all environmental insurance policies or policies providing for coverage of environmental claims, however named or titled, and any and all additional insurance policies in which Settling Defendant is subsequently determined to have any interest.

l. "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.

m. "Natural Resource Damages" shall have the meaning set forth in Section 107 of CERCLA, 42 U.S.C. § 9607.

n. "Natural Resource Trustees" shall mean DOI, the Forest Service and the Tribe.

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

p. "Parties" shall mean the United States, the Tribe and Settling Defendant.

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

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

s. "Settling Defendant" or "Defendant" shall mean Sidney Resources Corp.

t. "Site" shall mean the Bunker Hill Mining and Metallurgical Complex Superfund Site located in Northern Idaho.

u. "Tribe" shall mean the federally-recognized Indian tribe known as the Coeur d'Alene Tribe, including its departments, agencies and instrumentalities.

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

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

#### **V. STATEMENT OF PURPOSE**

4. By entering into this Consent Decree, the mutual objectives of the Parties are for the Settling Defendant to provide valuable consideration to resolve its liability for Response Costs and Natural Resource Damages as provided in the Covenant Not to Sue by the United States and the Tribe in Section IX, and subject to the Reservations of Rights by the United States and the Tribe in Section X.

5. Settling Defendant's Liability. EPA has incurred past response costs of more than \$183 million and expects to incur future response costs of more than \$2.05 billion, and the Natural Resource Trustees have assessed over \$800 million in potential natural resource damages, in connection with the Coeur d'Alene Basin Site. It is the position of the United States and the Tribe that Settling Defendant is jointly and severally liable for the full amount stated above. This Consent Decree provides Settling Defendant with a Covenant Not to Sue by the United States and the Tribe (Section IX), subject to the Reservation of Rights by United States and the Tribe (Section X). However, the Coeur d'Alene Basin Insurance Recovery Trust will seek to satisfy Settling Defendant's remaining liability to the United States and the Tribe for the amounts stated above from the Insurance Policies.

#### **VI. THE COEUR D'ALENE BASIN INSURANCE RECOVERY TRUST**

6. Settling Defendant shall fully comply with the Coeur d'Alene Basin Insurance Recovery Trust Contribution Agreement, which is attached to this Consent Decree as Appendix B and incorporated herein by reference.

7. Settling Defendant shall fully cooperate in the following tasks related to the Coeur d'Alene Basin Insurance Recovery Trust ('Trust'):

a. complete a diligent, good faith search to identify any evidence of Insurance Policies (including, but not limited to, a review of business records, insurance related invoices, Certificates of Insurance, accounting ledgers, correspondence, or any other insurance related documentation) in which Settling Defendant may have an interest within 30 days from the Effective Date of this Consent Decree, and immediately notify Trustee of the discovery of any evidence of additional Insurance Policies (even if such discovery occurs more than 30 days after the effective date of this Agreement);

b. take such actions and execute and deliver such documents and instruments as may be necessary or appropriate to transfer, convey, release, compromise, and/or assign the Settling Defendant's interest pursuant to any or all of the Insurance Policies;

c. cooperate with Trustee's efforts to pursue claims and/or causes of action under the Insurance Policies and to avoid any interference with Trustee's recovery efforts or management of the Trust;

d. identify any documents or sources of documents that, to the Settling Defendant's knowledge, may relate to operations, activities, or corporate histories of entities that conducted operations at the Site ('Site Records');

e. provide Trustee and the Trust's representatives with full access to Site Records; and

f. provide Trustee and the Trust's representatives with any other assistance necessary to accomplish the duties, purposes, and goals of the Trust, including but not limited to



the execution of any documents associated with the Trust and its recovery activities in a timely fashion.

## **VII. FAILURE TO COMPLY WITH THE CONSENT DECREE**

8. Stipulated Penalties. If Settling Defendant does not comply with the requirements of Paragraphs 6 or 7 of this Consent Decree or the terms of the Trust Agreement, attached hereto as Appendix B, Settling Defendant shall be in violation of this Consent Decree and shall pay to the United States and the Tribe, as a stipulated penalty, \$250 per day of such noncompliance. Settling Defendant shall pay 75% of the stipulated penalty to EPA and 25% to the Tribe.

9. Stipulated penalties are due and payable within 30 days of the date of the demand for payment of the penalties by the United States and/or the Tribe.

All payments to EPA under this Section shall be identified as “stipulated penalties” and shall be made by certified or cashier’s check made payable to “EPA Hazardous Substance Superfund.” The check, or a letter accompanying the check, shall reference the name and address of the party(ies) making payment, the Coeur D’Alene Basin Site, EPA Region 10 and Site Spill ID Number 2Q, DOJ Case Number 90-11-3-128/7, and the civil action number 08-383-N-EJL. The Settling Defendant shall send the check (and any accompanying letter) to:

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

All payments to the Tribe under this Section shall be paid by certified or cashier’s check made payable to the “Coeur d’Alene Tribe” and sent to:

Coeur d’Alene Tribe

Finance Department  
850 A Street  
P O Box 408  
Plummer, ID 83851

The check, or a letter accompanying the check, shall identify the payment as “stipulated penalties” and shall reference the name and address of the party(ies) making payment, the Coeur d’Alene Basin site, the civil action number 08-383-N-EJL and this Consent Decree.

10. At the time of each payment, Settling Defendant shall also send notice that payment has been made to the United States and the Tribe in accordance with Section XIV (Notices and Submissions). Such notice shall identify payments as “stipulated penalties.”

11. Penalties shall accrue as provided in this Paragraph regardless of whether the United States or the Tribe has notified Settling Defendant of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the day after payment or performance is due or the day a violation occurs, and shall continue to accrue through the date of payment or the final day of correction of the noncompliance or completion of the activity. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

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

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

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

### **VIII. CERTIFICATION OF SETTLING DEFENDANT**

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

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

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

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

d. has and will fully disclose any information regarding the existence of any insurance policies or indemnity agreements that may cover claims relating to cleanup of the Site,

and submitted to the United States upon request such insurance policies, indemnity agreements, and information; and

e. has submitted financial information that fairly, accurately, and materially sets forth its financial circumstances, and that those circumstances have not materially changed between the time the financial information was submitted to the United States and the time Settling Defendant executes this Consent Decree.

**IX. COVENANT NOT TO SUE BY UNITED STATES AND THE COEUR D'ALENE TRIBE**

16. Covenant Not to Sue by the United States and the Tribe. Except as specifically provided in Section X of the Consent Decree (Reservations of Rights), the United States and the Tribe covenant not to sue or take administrative action against Settling Defendant pursuant to Sections 106 or 107 of CERCLA, 42 U.S.C. §§ 9606 or 9607, relating to the Site. With respect to present and future liability, this covenant not to sue shall take effect for Settling Defendant upon the Effective Date of the Consent Decree. This covenant not to sue is conditioned upon: a) the satisfactory performance by the Settling Defendant of all obligations under this Consent Decree, including but not limited to compliance with the Coeur d'Alene Basin Insurance Recovery Trust Contribution Agreement, including assignment to the Trust of Settling Defendant's interest pursuant to the Insurance Policies; and b) the veracity of the information provided to EPA by Settling Defendant relating to Settling Defendant's involvement with the Site. This covenant not to sue is also conditioned upon the veracity and completeness of the Financial Information provided to the United States by Settling Defendant and the financial, insurance, and indemnity certification made by Settling Defendant in Section VIII. If the Financial Information provided by Settling Defendant, or the financial, insurance, or indemnity certification made by Settling Defendant in

Section VIII, is subsequently determined by the United States to be false or, in any material respect, inaccurate, Settling Defendant shall forfeit all payments made pursuant to this Consent Decree and this covenant not to sue and the contribution protection in Paragraph 23 of the Consent Decree shall be null and void. Such forfeiture shall not constitute liquidated damages and shall not in any way foreclose the United States' or the Tribe's right to pursue any other causes of action arising from Settling Defendant's false or materially inaccurate information. This covenant not to sue extends only to Settling Defendant and does not extend to any other person.

**X. RESERVATIONS OF RIGHTS BY UNITED STATES AND THE COEUR D'ALENE TRIBE**

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

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

18. Notwithstanding any other provision of this Consent Decree, the United States and the Tribe reserve, and this Consent Decree is without prejudice to, the right to reinstitute or reopen proceedings against Settling Defendant in this action or in a new action, or to commence a new action seeking relief other than as provided in this Consent Decree, if the Financial Information provided by Settling Defendant, or the financial certification made by Settling Defendant in Section VIII, Paragraph 15.e. of this Consent Decree is false or, in an material respect, inaccurate.

**XI. COVENANT NOT TO SUE BY SETTLING DEFENDANT**

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

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

b. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the Constitution of the State of Idaho, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

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

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

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

## **XII. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION**

22. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. Except as provided in Paragraph 21 (Waiver of Claims), the Parties expressly reserve any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action that they may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto. Nothing in this Consent Decree diminishes the right of the United States, 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).

23. The Parties agree, and by entering this Consent Decree this Court finds, that this settlement constitutes a judicially-approved settlement for purposes of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and that Settling Defendant is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), or as otherwise provided by law, for 'matters addressed' in this Consent

Decree. The “matters addressed” in this Consent Decree are natural resource damages and all response actions taken or to be taken and all response costs incurred or to be incurred, at or in connection with the Site, by the United States or any other person except for the State; provided, however, that if the United States exercises rights under the reservations in Section X (Reservation of Rights by the United States and the Tribe), other than in Paragraphs 17.a. (claims for failure to meet a requirement of the settlement) and 17.b. (criminal liability), the “matters addressed” in this Consent Decree will no longer include those response costs or response actions or natural resource damages that are within the scope of the exercised reservation.

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

### **XIII. RETENTION OF RECORDS**

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



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

#### **XIV. NOTICES AND SUBMISSIONS**

27. Whenever, under the terms of this Consent Decree, notice is required to be given or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Written notice as specified herein shall constitute complete

satisfaction of any written notice requirement of the Consent Decree with respect to the United States, the Tribe and Settling Defendant, respectively.

As to the United States:

As to DOJ:

Chief, Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice (DJ # 90-11-3-128/7)  
P.O. Box 7611  
Washington, D.C. 20044-7611

As to EPA:

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

As to the federal Natural Resource Trustees:

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

As to the Coeur d'Alene Tribe:

Phillip Cerner  
Lake Management Director  
424 Sherman Ave, Suite 306  
Coeur d'Alene, ID 83814

As to Settling Defendant:

Sidney Resources Corp.  
W.F. Bill Brown, President  
5993 W. State Street  
Ste. A.

Boise, Idaho 83703

**XV. RETENTION OF JURISDICTION**

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

**XVI. INTEGRATION/APPENDICES**

29. This Consent Decree and its appendices constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Consent Decree. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Decree. The following appendices are attached to and incorporated into this Consent Decree:

“Appendix A” is the list of financial documents submitted to the United States by Settling Defendant.

“Appendix B” is the Coeur d’Alene Basin Insurance Recovery Trust Contribution Agreement.

**XVII. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT**

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

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

### **XVIII. SIGNATORIES/SERVICE**

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

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

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

**XIX. FINAL JUDGMENT**

35. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute the final judgment between and among the Parties. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2010.

\_\_\_\_\_  
United States District Judge

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

FOR THE UNITED STATES OF AMERICA

Date: 2-25-10

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

Date: 3-1-10

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

THOMAS E. MOSS  
United States Attorney  
District of Idaho

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

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

Date: 11-27-09

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LORI COHEN  
Acting Director, Office of Environmental Cleanup  
U.S. Environmental Protection Agency, Region 10  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101

Date: 11-3-09

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

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

FOR THE COEUR D'ALENE TRIBE

Date: 11-12-09

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HOWARD A. FUNKE  
Special Counsel  
Coeur d'Alene Tribe  
Howard Funke & Associates, P.C.  
P.O. Box 969

16-0969

Date: 11-12-09

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



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

FOR DEFENDANT SIDNEY RESOURCES CORP.

Date: 1-27-10

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W.F. BILL BROWN  
President, Sidney Resources Corp.  
5993 W. State Street  
Ste. A.  
Boise, Idaho 83703

**APPENDIX A**  
**Financial Documents Provided by Settling Defendant to the United States**

Sidney Resource Corp. U.S. Corporation Income Tax Returns, Form 1120, 2006–2008

Sidney Resources Corp., Unpaid Bills Detail, February 23, 2009