UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS

UNITED STATES OF AMERICA and the KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT, and Roderick L. Bremby as Secretary of the KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT,	)	NO: 08-1046-JTM-DWB
Plaintiffs,	)	CONSENT DECREE
v.	)	
CYPRUS AMAX MINERALS COMPANY	)	
Defendant.	)	

This Consent Decree ("Consent Decree") is made and entered into by and among the United States of America ("the United States"), on behalf of itself and the Department of the Interior ("DOI") in its capacity as trustee for federal Natural Resources, and the State of Kansas by and through the Kansas Department of Health and Environment ("KDHE") and Roderick L. Bremby, Secretary of KDHE in their capacity as trustee for state Natural Resources in Kansas (collectively, the "Plaintiffs"), and Cyprus Amax Minerals Company ("Cyprus Amax" or "Settling Defendant").

INTRODUCTION

A. The United States, on behalf of DOI in its capacity as trustee for federal Natural Resources and the KDHE and the Secretary of KDHE in their capacity as trustee for state Natural Resources in Kansas, concurrently with the filing of this Consent Decree have joined in filing a Complaint in this action under Section 311(f) of the Clean Water Act, 33 U.S.C.

§ 1321(f), and various State laws, seeking the recovery of damages, including damage assessment costs, for injury to, destruction of, and loss of Natural Resources resulting from discharges of hazardous substances.

B. The Complaint alleges that the Settling Defendant was the successor to or otherwise legally responsible for, the owners and/or operators of certain mining properties located in Cherokee County, Kansas. Plaintiffs allege there have been discharges of hazardous substances from these mining properties into navigable waters in Cherokee County, Kansas including into the Spring River and various tributaries thereto.

C. Plaintiffs further allege that these discharges of hazardous substances have resulted in elevated levels of lead, cadmium, arsenic, mercury and zinc in the soils, groundwater and surface water in such amounts as to cause injury, harm and loss to various natural resources in Cherokee County, Kansas including but not limited to habitat loss and fish and macroinvertebrate loss in the Spring River and its tributaries.

D. The Settling Defendant does not admit any liability arising out of the transactions or occurrences alleged in the Complaint, including the alleged discharge of hazardous substances or Natural Resource Damages.

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

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

I. JURISDICTION AND VENUE

1. The Plaintiffs have alleged that this Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§1331, 1345, and 1367, 33 U.S.C. § 1321(e)(2); K.S.A. 65-3452a *et seq.*, K.S.A. 65-3430 *et seq.*, K.S.A. 65-161 *et seq.*, and that the Court has personal jurisdiction over the Settling Defendant and that venue lies in this District pursuant to 28 U.S.C. §1391(b), (c) and §1395(a). For purposes of this Consent Decree, only, Settling Defendant waives all objections and defenses that it may have to jurisdiction of the Court or to venue in this District.

II. PARTIES BOUND

2. The obligations of this Consent Decree apply to and are binding upon the Plaintiffs and their departments, agencies and instrumentalities, and upon Settling Defendant and its respective successors and assigns. Any change in ownership or corporate status of the Settling Defendant including, but not limited to, any transfer of assets or real or personal property, shall in no way alter the Settling Defendant's responsibilities under this Consent Decree.

III. DEFINITIONS

3. This Consent Decree incorporates the definitions set forth in Section 101 of CERCLA, 42 U.S.C. § 9601, and in Section 11.14 of the Natural Resource Damages regulations, 43 C.F.R. §11.14. In addition, whenever the following terms are used in this Consent Decree, they shall have the following meanings:

a. "Cherokee County Superfund Site" or "Site" shall mean the Superfund Site added by the United States Environmental Protection Agency ("EPA") to the National Priorities List on September 8, 1983, 48 Fed. Reg. 40658, including all operable units (designated nos. 1-7) and subsites then or subsequently identified by EPA. The Cherokee County Superfund Site is depicted in Attachments A and B to this Consent Decree.

b. "Damage Assessment Costs" shall mean all costs associated with the planning, design, implementation, and oversight of the Plaintiffs' damage assessment process, which addresses the extent and quantification of the injury to, destruction of, or loss of Natural Resources and the services provided by those resources resulting from the release of hazardous substances, and the planning of restoration or replacement of such Natural Resources and the services provided by those resources, or the planning of the acquisition of equivalent resources or services, and any other costs necessary to carry out the Plaintiffs' responsibilities with respect to those Natural Resource injuries resulting directly or indirectly from the releases of hazardous substances, including all related enforcement costs.

c. "Date of Entry of this Consent Decree" shall mean the date on which the District Court approves and signs this Consent Decree as a judgment.

d. "Date of Lodging of this Consent Decree" shall mean the date on which the Plaintiffs give the Court notice of the Consent Decree, subject to the public comment period referred to in Section XIII.

e. "Day" means a calendar day unless expressly stated to be a working day. "Working Day" shall mean a day other than a Saturday, Sunday, or Federal holiday. 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.

f. "Effective Date" shall mean the Date of Entry of this Consent Decree.

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

h. "Natural Resource" or "Natural Resources" shall mean land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources, belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States or the State of Kansas.

i. "Natural Resource Damages" shall mean any damages recoverable by the United States or the State on behalf of the public, for injury to, destruction of, loss of, loss of use of, or impairment of Natural Resources including, but not limited to: (i) the costs of assessing such injury, destruction, loss or impairment arising from or relating to a release of hazardous substances; (ii) the costs of restoration, rehabilitation, or replacement of injured or lost Natural Resources or of acquisition of equivalent Natural Resources; (iii) the costs of planning such restoration activities; (iv) compensation for injury, destruction, loss, loss of use, or impairment of Natural Resources; and (v) each of the categories of recoverable damages described in 43 C.F.R. § 11.15.

j. "NRDAR Fund" means DOI's Natural Resource Damage Assessment and Restoration Fund.

k. "Paragraph" shall mean a portion of this Consent Decree identified by Arabic numeral.

l. "Parties" shall mean the Plaintiffs and Cyprus Amax Minerals Company.

m. "Plaintiffs" shall mean the United States, on behalf of DOI, and the State of Kansas by and through KDHE and the Secretary of KDHE.

n. "Section" shall mean a portion of this Consent Decree identified by a roman numeral.

o. "Settling Defendant" shall mean Cyprus Amax Minerals Company.

p. "Settling Defendant's Properties" shall mean the mining claims, mines and real property owned and/or operated prior to the lodging of this Consent Decree by the Settling Defendant or its predecessors in interest in the following parts of the Cherokee County Superfund Site: (1) Baxter Springs Operable Unit No. 3 of the Cherokee County, Kansas Superfund Site and (2) the Crestline Subsite of Operable Unit 6 of the Cherokee County Superfund Site but no other portions of Operable Unit 6 of the Cherokee County Superfund Site. A map identifying these areas of the Cherokee County Superfund Site is attached hereto as Attachment B.

q. "State" shall mean the State of Kansas, including its departments, agencies, and instrumentalities.

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

IV. PAYMENTS

4. The Settling Defendant shall pay a total of $1,200,000.00 (ONE MILLION TWO HUNDRED THOUSAND DOLLARS) to Plaintiffs as follows.

a. Within ten (10) business days of the Date of Entry of this Consent Decree, the Settling Defendant shall pay the amount of $515,400.00 to the United States and the KDHE for Natural Resources Damages in the Cherokee County Superfund Site, Kansas resulting from the release of hazardous substances at and/or from the Settling Defendant's Properties. The $515,400 shall be utilized jointly by DOI and KDHE for the assessment, planning, restoration, rehabilitation, and/or acquisition of the equivalent of injured Natural Resources at the Site and in area surface waters impacted by the release of hazardous substances at and/or from the Settling Defendant's Properties, and long-term management of Natural Resources in accordance with a final restoration plan to be developed by the KDHE and the DOI's U.S. Fish and Wildlife Service. The total amount to be paid by the Settling Defendant in this Paragraph shall be managed as part of, and held in a distinct account within, DOI's NRDAR Fund. This payment of $515,400.00 shall be made by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice account in accordance with current EFT procedures, referencing DOJ Case Number 90-11-3-08705, USAO No. 2007V00432, NRDAR Account No. 14X5198, and "Natural Resource Damages in Cherokee County, KS." Payment shall be made in accordance with instructions provided to the Settling Defendant by the Financial Litigation Unit of the United States Attorney's Office for the District of Kansas. Any payments received by the

Department of Justice after 4:00 p.m. (Eastern Time) will be credited on the next business day. At the time of payment, the Settling Defendant shall send written notice of payment and a copy of any transmittal documentation to the Plaintiffs in accordance with Section XIII (Notice)

b. Within ten (10) business days of the Date of Entry of this Consent Decree, Settling Defendant shall make a further payment of $237,388.00 to the United States to reimburse the DOI for past costs associated with assessing Natural Resources Damages in the Cherokee County Superfund Site resulting from the release of hazardous substances at and/or from the Settling Defendant's Properties. This payment of $237,388.00 shall be made by EFT to the U.S. Department of Justice account in accordance with current EFT procedures, referencing DOJ Case Number 90-11-3-08705, USAO No. 2007V00432, NRDAR Account No. 14X5198, and "United States Natural Resource Damages Past Costs re Cherokee County Superfund Site, KS." Payment shall be made in accordance with written instructions provided to the Settling Defendant by the Financial Litigation Unit of the United States Attorney's Office for the District of Kansas after the lodging of this Consent Decree.

c. Within ten (10) business days of the Date of Entry of this Consent Decree, Settling Defendant shall make a further payment of $447,212.00 to the State by certified or cashier's check payable to the "Kansas Department of Health and Environment" to reimburse the State for past costs associated with assessing Natural Resources Damages at the Cherokee county Superfund Site and as damages for impacted groundwater resulting from the release of hazardous substances at and/or from the Settling Defendant's Properties. The total amount paid under this paragraph ($447,212.00) shall be delivered to:

Bureau of Environmental Remediation
Attn: Leo Henning

Charles Curtis Building
1000 SW Jackson, Suite 410
Topeka, Kansas 66612-1367

V. PENALTIES FOR LATE PAYMENTS

5. If any payment required by Section IV (Payments) is not made by the date specified in that Section, Settling Defendant shall be liable for the following stipulated penalties for each day such payment is late:

Days Late	Penalty
1-10	$2,000/day
11-59	$3,000/day
Beyond 60 days	$4,000/day

6. Stipulated penalties are due within thirty (30) days following receipt by Settling Defendant of a written demand by any of the Plaintiffs for late payment of such stipulated penalties.

7. Penalties shall accrue as provided in this Paragraph regardless of whether Plaintiffs have 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 was due and shall continue to accrue through the day that payment of amounts owed is finally made. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

8. All stipulated penalties owed by Settling Defendant with respect to late payment of past costs to the United States shall be paid to the United States. All stipulated penalties owed by Settling Defendant with respect to payment of past costs to the State shall be paid to the State. All other stipulated penalties owed by Settling Defendant shall be paid to the

NRDAR account described in Paragraph 4a. All payments of stipulated penalties shall be made as follows:

a. To the United States: by certified or cashier's check payable to the "U.S. Department of Justice" and delivered to:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Re: DJ No. 90-11-3-08705

b. To the State: by certified or cashier's check payable to the "Kansas Department of Health and Environment" and delivered to:

Bureau of Environmental Remediation
Attn: Leo Henning
Charles Curtis Building
1000 SW Jackson, Suite 410
Topeka, Kansas 66612-1367

c. To the NRDAR Account: by certified or cashier's check payable to the "U.S. Department of the Interior" and delivered to:

U.S. Department of the Interior
NBC/Division of Financial Management Services
Branch of Accounting Operations
Mail Stop D-2777
7401 W. Mansfield Avenue
Lakewood, CO 80235

The following information is to be included with the check:
Account No. 14X5198 (NRDAR)
Cherokee County Superfund Site
Cherokee County, Kansas
Cyprus Amax Minerals Company

9. In addition to the stipulated penalties provided in this Section, if any payment required by Section IV or by this Section of this Decree is not made by the date it is due, Settling Defendant shall be liable for Interest on the amount due which shall be paid to the NRDAR account as described above.

10. In addition to the stipulated penalties and Interest as provided in this Section, if the payments required by Section IV of this Consent Decree or the stipulated penalties provided for by this Section are not made, Settling Defendant shall be liable for any costs and attorneys fees incurred by Plaintiffs in collecting any amounts owing.

11. Payments due under this Section shall be in addition to any other remedies or sanctions that may be available to the Plaintiffs on account of Settling Defendant's failure to comply with the terms of this Consent Decree.

VI. COVENANT NOT TO SUE BY PLAINTIFFS

12. Except as specifically provided in Paragraphs 15-16 of this Consent Decree, Plaintiffs covenant not to sue or to take civil or administrative action against Settling Defendant under CERCLA, 42, U.S.C. § 9607, the Federal Water Pollution Control Act ("Clean Water Act"), 33 U.S.C. §1321(f), or other federal, State or common law for Natural Resource Damages occurring in the Cherokee County Superfund Site resulting from the release of hazardous substances at and/or from the Settling Defendant's Properties. This covenant not to sue takes effect upon the Effective Date and is conditioned upon the satisfactory performance by the Settling Defendant of its obligations under this Consent Decree. This covenant not to sue extends only to Settling Defendant and does not extend to any other person.

13. The United States covenants not to sue or take civil or administrative

action against KDHE or other agencies of the State of Kansas for costs incurred or to be incurred by the Plaintiffs in assessing Natural Resource Damages in the Cherokee County Superfund Site, Kansas resulting from the release of hazardous substances at and/or from the Settling Defendant's Properties or in overseeing projects related to the Site under CERCLA, 42, U.S.C. §9607, the Clean Water Act, 33 U.S.C. §1321(f), or other federal, State or common law. These covenants take effect on the Effective Date of this Consent Decree..

14. The KDHE covenants not to sue or to take administrative action against the United States for costs incurred or to be incurred by the Plaintiffs in assessing Natural Resource Damages in the Cherokee County Superfund Site resulting from the release of hazardous substances at and/or from the Settling Defendant's Properties under CERCLA, 42 U.S.C. § 9607, the Clean Water Act, 33 U.S.C. § 1321(f), or other federal, State or common law. These covenants take effect on the Effective Date of this Consent Decree.

VII. RESERVATION OF RIGHTS

15. Notwithstanding any other provision of this Consent Decree, Plaintiffs reserve the right to institute proceedings against the Settling Defendant in this action or in a new action for recovery of Natural Resource Damages based on

(1) an injury to, destruction of, or loss of natural resources resulting from conditions at the Settling Defendant's Properties that were unknown to the Plaintiffs as of the Date of Lodging of this Consent Decree ("Unknown Conditions"); or

(2) based on information received by the Plaintiffs after the Date of Lodging of this Consent Decree that indicates that Settling Defendant or one of its predecessors in interest is or was the owner or operator of mining properties which contributed to the injury to, destruction

of, or loss of Natural Resources at the Site other than the Settling Defendant's Properties, or that the Settling Defendant's Properties contributed to a greater proportion of the Natural Resource Damages quantified by the Trustees as of the Date of Lodging of the Consent Decree than known by the Plaintiffs as of the Date of Lodging of this Consent Decree ("New Information"). No condition shall be deemed an "Unknown Condition" if the condition is identified in, or could be reasonably determined from, documents and data in the possession of the KDHE, DOI or EPA on or before the Date of Lodging of this Consent Decree, including any information developed by one or more of the Plaintiffs based thereon. No information shall be deemed "New Information" if the information is contained in, or could be reasonably determined from, documents and data in the possession of the KDHE, DOI or EPA on or before the Date of Lodging of this Consent Decree, including any information developed by the Plaintiffs based thereon.

16. Notwithstanding any other provision of this Consent Decree, the covenant not to sue in Paragraph 12 shall apply only to matters addressed in that paragraph and specifically shall not apply to the following claims:

a. claims for recovery of Natural Resource Damages in any area outside of the Cherokee County Superfund Site resulting from the release of hazardous substances at and/or from the Settling Defendant's Properties or elsewhere;

b. claims based on a failure by the Settling Defendant to satisfy any requirement imposed upon it by this Consent Decree;

c. claims for criminal liability;

d. claims for recovery of costs of removal or remedial action, injunctive relief or administrative order enforcement under CERCLA Sections 106 or 107, 42 U.S.C. §§ 9606, 9607 including claims under Section 107(a)(4)(D), 42 U.S.C. § 9607(a)(4)(D), for costs of any health assessment or health effects study carried out under 42 U.S.C. § 9604(I);

e. claims arising from any active disposal of hazardous substances at and/or from the Settling Defendant's Properties after the Date of Lodging of this Consent Decree;

f. claims arising from the disposal of hazardous substances at any real property, mine or mining claim that does not fall within the definition of Settling Defendant's Properties; and

g. claims for any other costs incurred or to be incurred by the United States or by the State that are not within the definition of Natural Resource Damages.

VIII. COVENANTS BY THE SETTLING DEFENDANT

17. The Settling Defendant hereby covenants not to sue or to assert any claims or causes of action against the Plaintiffs with respect to the payments required by this Consent Decree, including, but not limited to:

a. Any direct or indirect claim for reimbursement from the Hazardous Substance Superfund (established pursuant to the Internal Revenue Code, 26 U.S.C. §9507) through CERCLA Sections 106(b)(2), 107, 111, 112, 113 or any other provision of law;

b. Any claims against the United States, including any department, agency or instrumentality of the United States, or the State of Kansas under CERCLA Sections 107 or 113, relating to Natural Resource Damages within the Cherokee County Superfund Site resulting from the release of hazardous substances at and/or from the Settling Defendant's Properties;

c. Any claims against the State of Kansas before the Kansas joint committee on special claims relating to Natural Resource Damages in the Cherokee County Superfund Site resulting from the release of hazardous substances at and/or from Settling Defendant's Properties.

18. Settling Defendant reserves its right to contest any claims alleged to be reserved by Section VII of this Consent Decree, and the Settling Defendants does not by consenting to this Consent Decree, waive any defenses to such claims except that in any subsequent administrative or judicial proceeding initiated by the United States or the State for injunctive relief, recovery of response costs, or other relief relating to the Site, Settling Defendant shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States or the State in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenant Not to Sue by Plaintiffs set forth in Section VI of this Consent Decree.

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

20. The Settling Defendant agrees that, with respect to any suit or claim for contribution brought by it for matters related to Natural Resource Damages at the Site or this Consent Decree, it will notify the United States and the State in writing no later that sixty (60) days prior to the initiation of such suit or claim, unless the giving of such advance notice would

subject such suit or claim to a defense that it is barred by the statute of limitations or other time-related defense.

IX. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION

21. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a signatory to this Consent Decree. The preceding sentence shall not be construed to waive or nullify any rights that any person not a signatory to this Consent Decree may have under applicable law. Each of the Parties, including the Settling Defendant, 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 against any person not a signatory hereto.

22. The Parties agree, and by entering this Consent Decree this Court finds, that the 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 otherwise provided by State or common law, for "matters addressed" in this Consent Decree. The "matters addressed" in this Consent Decree are all Natural Resource Damages in the Cherokee County Superfund Site resulting from the release of hazardous substances at and/or from the Settling Defendant's Properties.

23. The Settling Defendant also agrees that, with respect to any suit or claim for contribution brought against it for matters related to this Consent Decree, it will notify in writing the United States and the KDHE within ten (10) days of service of the complaint on it. In addition, Settling Defendant shall notify the United States and the KDHE within ten (10) days

of receipt of any Motion for Summary Judgment with respect to such a claim, and within ten (10) days of receipt of any order from a court setting such a case for trial.

X. SIGNATURE

24. The undersigned representative of the Settling Defendant certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree, to legally execute this Decree, and to bind the party he or she represents to this Consent Decree.

25. This Consent Decree may be signed in counterparts and such counterpart signature pages shall be given full force and effect.

XI. ENTIRE AGREEMENT

26. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding between the Plaintiffs and the Settling Defendant with respect to the settlement embodied in the Decree and supersedes all prior agreements and understandings, whether oral or written. No other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Decree or the settlement it represents, nor shall it be used in construing the terms of this Decree.

XII. PUBLIC COMMENT

27. The Parties acknowledge that this Consent Decree will be subject to a public comment period of not less than thirty (30) days. Consequently, entry of the Consent Decree after lodging shall be deferred to allow the time necessary for the Plaintiffs to obtain and evaluate public comments on this Consent Decree. The Plaintiffs reserve the right to withdraw their consent to this Consent Decree if comments received disclose facts or considerations that show that this Consent Decree is inappropriate, improper, or inadequate. Settling Defendant

consents to the entry of this Consent Decree by the Court without further notice. Settling Defendant further agrees not to oppose entry of this Consent Decree by the Court or to challenge any provision of the Decree, unless either the United States or State of Kansas has notified the Settling Defendant in writing that it no longer supports entry of the Consent Decree.

XIII. NOTICE

28. Any notice required hereunder shall be in writing and shall be delivered to the following:

As to the United States:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Re: DJ # 90-11-3-08705

Restoration Fund Manager
Natural Resource Damage Assessment and Restoration Program
U.S. Department of the Interior
1849 C Street, NW, MS - 4449
Washington, D.C. 20240
Re: Cherokee County Superfund Site, KS

Field Supervisor
Manhattan Ecological Services Field Office
U.S. Fish and Wildlife Service
2609 Anderson Ave.
Manhattan, KS 66502

Mary Lynn Taylor
U.S. Department of the Interior
Office of the Solicitor
Three Parkway Center, Suite 385
Pittsburgh, PA 15243

As to the Kansas Department of Health and Environment:

Leo Henning
Environmental Assessment and Restoration Section
Bureau of Environmental Remediation
Charles Curtis Building
1000 SW Jackson, Suite 410
Topeka, Kansas 66612-1367

Special Assistant Attorney General, Natural Resource Damages
Kansas Department of Health and Environment
Office of Legal Services
Charles Curtis Building
1000 SW Jackson Suite 560
Topeka, KS 66612-1368

As to the Settling Defendant:

L. Richards McMillan
Senior Vice President
Cyprus Amax Minerals Company
One North Central Avenue
Phoenix, Arizona 85004

With copy to:

James J. Hamula, Esq.
Gallagher & Kennedy, P.A.
2575 E. Camelback Road
Phoenix, Arizona 85016

29. Each Party to this Consent Decree may change the person(s) it has designated to receive notice for that Party, or the addresses for such notice, by filing a written notice of such change with the Court and serving said notice on each of the other Parties to this Decree.

30. Settling Defendant hereby agrees to accept service of process by mail with respect to all matters arising under or relating to this Consent Decree 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 Civil Procedure and any other applicable Local rules of this Court including, but not limited to, service of a summons.

XIV. JUDGMENT

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

IT IS SO ORDERED

DATED:_____

_____
UNITED STATES DISTRICT JUDGE
DISTRICT OF KANSAS

FOR THE UNITED STATES OF AMERICA:

WE HEREBY CONSENT to the entry of the Consent Decree in United States, *et al.* v. Cyprus Amax Minerals Company, subject to the public notice and comment requirements of Section XII of this Consent Decree.

RONALD J. TENPAS
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

Dated: 9 Feb. 2008

ELIZABETH L. LOEB
Trial Attorney
Environmental Enforcement Section
United States Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
(202) 514-4180 fax
(202) 616-8916 direct
Elizabeth.Loeb@usdoj.gov

Dated: February 12, 2008

ERIC F. MELGREN
United States Attorney
District of Kansas

EMILY METZGER, 10750
Assistant United States Attorney
1200 Epic Center, 301 N. Main
Wichita, Kansas 67202
(316) 269-6481
Facsimile: (316) 269-6484
emily.metzger@usdoj.gov

Dated: Feb. 12, 2008

FOR THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

WE HEREBY CONSENT to the entry of the Consent Decree in United States, *et al.* v. Cyprus Amax Minerals Company, subject to the public notice and comment requirements of Section __ of this Consent Decree.

Dated: July 18, 2007

Roderick L. Bremby, Secretary
Kansas Department of Health and
Environment

Dated: 6/28/07

L. Patricia Casey
Special Assistant Attorney General
Kansas Department of Health and Environment

FOR SETTLING DEFENDANT:

WE HEREBY CONSENT to the entry of the Consent Decree in United States, *et al.* v. Cyprus Amax Minerals Company

By: _____

L. Richards McMillan, II
Printed Name

Senior Vice President
Title

Cyprus Amax Minerals Company
Organization

Date: January 12, 2008

Agent Authorized to Accept Service on Behalf of Above Signed Party:

Name: James J. Hamula, Esq.

Title: _____

Address: Gallagher & Kennedy, P.A.

2527 E. Camelback Road

Phoenix, Arizona 85016

Phone Number: 602-530-8188