

Great Lakes Asphalt, IN
(Johns-Manville Bankruptcy)

Also Commercial Oil site, IN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MANVILLE CORPORATION AND MANVILLE	:	
SALES CORPORATION (f/k/a Johns-	:	
Manville Sales Corp.),	:	91 Civ. 6683(RWS)
Plaintiffs,	:	STIPULATION AND
- against -	:	ORDER OF SETTLEMENT
	:	<u>AND DISMISSAL</u>
UNITED STATES OF AMERICA,	:	
Defendant.	:	

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I. RECITALS

1. On August 26, 1982, Johns-Manville Corporation and various affiliated entities, including Manville Corporation and the predecessors of Manville Sales Corporation, filed petitions in the Bankruptcy Court for reorganization under Chapter 11 of the Bankruptcy Code. The Chapter 11 filings resulted from the actual and contingent liabilities of Manville to tens of thousands of asbestos health claimants.

2. On December 22, 1986, the Bankruptcy Court confirmed Manville's Second Amended and Restated Plan of

Reorganization (the "Plan"). The Confirmation Order became final on November 28, 1988.

3. Under the Plan, a Trust was established to pay asbestos health claims of Manville. The Trust was funded by (a) proceeds of insurance settlements; (b) up to 80% of the common stock of the reorganized Manville; (c) bonds in the aggregate amount of \$1.8 billion; (d) \$200 million; and (e) commencing in 1992, 20% of the profits of Manville. These are the only assets that asbestos health claimants can look to for payment of liabilities of Manville. At the time the plan was confirmed, it was estimated that there would be approximately 100,000 asbestos health claimants; as of the date hereof, over 200,000 claims have been filed with the Trust; a study by experts appointed pursuant to Rule 706 of the Federal Rules of Evidence by the United States District Court for the Eastern District of New York (Weinstein, J.) estimated that an additional 300,000 asbestos health claimants will file claims with the Trust over time because of Manville's prior conduct of mining asbestos, as well as manufacturing and selling of products containing asbestos.

4. Pursuant to Section 1141 of the Bankruptcy Code, confirmation of the Plan discharged the debtors from all "claims," as defined in Section 101(5) of the Bankruptcy Code, that arose prior thereto; pursuant to Section 524 of the Bankruptcy Code, said discharge operated as an

injunction against, inter alia, the employment of process and all acts to collect on all such claims; pursuant to a separate injunction set forth in the Confirmation Order, all "Persons and Governmental Units" were, among other things, enjoined from commencing, conducting, or continuing any judicial or administrative proceeding to recover on a discharged claim against any of the debtors, or their successors.

5. The United States has identified a number of sites at which it contends that, but for the bar order, Sections 1141 and 524 of the Bankruptcy Code, and the separate injunction entered by the court, one or more of the former debtors could have liability under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, or Section 7003 of RCRA, 42 U.S.C. § 6973, arising from Manville's activities prior to the Confirmation Date.

6. Both Manville and the United States seek to avoid the necessity of further litigation concerning the scope and effect of the bar order, Sections 1141 and 524 of the Bankruptcy Code, and the injunction, and the effect of said matters on allegedly existing or potential claims of the United States under Sections 106 or 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, or Section 7003 of RCRA, 42 U.S.C. § 6973, arising from Manville's actual or asserted Preconfirmation conduct, acts or omissions. Manville and the United States therefore seek, through entering into this

Settlement Agreement, to settle any and all claims the United States might have, absent the bar order, Sections 1141 and 524 of the Bankruptcy Code and the injunction, against Manville under Sections 106 or 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, or Section 7003 of RCRA, 42 U.S.C. § 6973, at the Class A Sites, the Class B Sites and the Additional Sites, each as defined herein.

7. The compromise and settlement contained herein is an arm's length settlement, entered in good faith after extensive negotiation between the parties.

8. Manville seeks, to the maximum extent permitted by law, to obtain protection, through the resolution of environmental liabilities for the Class A Sites, the Class B Sites and the Additional Sites, against all contribution claims that have been or may in the future be asserted for environmental response costs by any potentially responsible parties with respect to the Class A Sites, the Class B Sites or the Additional Sites.

II. DEFINITIONS

In this Settlement Agreement the following terms shall have the following meanings:

9. "Additional Sites" has the meaning set forth in Paragraph 54 hereof.

10. "Bankruptcy Case" refers to the Manville bankruptcy proceedings conducted in the Bankruptcy Court and the United States District Court for the Southern District of New York, Case Nos. 82 B 11656 through 82 B 11676.

11. "Bankruptcy Code" means Title 11 of the United States Code as now in effect or hereafter amended and the Federal Rules of Bankruptcy Procedure.

12. "Bankruptcy Court" means the United States Bankruptcy Court for the Southern District of New York.

13. "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq., as now in effect or hereafter amended, and all rules and regulations promulgated or established thereunder.

14. "Class A Sites" means the following sites: the Commercial Oil Site in Oregon, Ohio; the Compass Industries Site in Tulsa, Oklahoma; the Great Lakes Asphalt Site in Zionsville, Indiana; the Lowry Landfill Site in Arapahoe County, Colorado; the Operating Industries Site in Monterey Park, California; the Petrochem/Ecotek Site in Salt Lake City, Utah; the Seymour Recycling Site in Seymour, Indiana; the Union Chemical Site in South Hope, Maine; and the Yellow Water Road Site in Baldwin, Florida, each as described further in Section IV hereof.

15. "Class B Sites" means the following sites: the Coalinga Site in Fresno County, California, the Union

Chemical Site in South Hope, Maine, the Roebling Steel Site in Florence Township, New Jersey and the Ellis Road Site in Jacksonville, Florida, each as described further in Section V hereof.

16. "Confirmation Date" and "Confirmation Order" have the meanings set forth in the Plan.

17. "Covered Substance" means (a) any "hazardous substance" as now or hereafter defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (b) any "pollutant or contaminant" as now or hereafter defined in Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (c) any "solid waste" as now or hereafter defined in Section 1004(27) of RCRA; (d) any substance now or hereafter designated as a hazardous substance under 40 C.F.R. Part 302; (e) any asbestos or asbestos-containing material; (f) petroleum, its derivatives, by-products and other hydrocarbons; and (g) any substance otherwise regulated under or subject to the terms of CERCLA or RCRA.

18. "De Minimis Additional Site" means an Additional Site (a) with respect to which Manville would, absent this Settlement Agreement, be eligible for a de minimis settlement under Section 122(g) of CERCLA or other similar law and (b) which Manville has designated in a notice to the United States as a "De Minimis Additional Site" under the terms of this Settlement Agreement.

19. "De Minimis Settlement Amount" means that amount which Manville would, absent this Settlement Agreement, be liable for under a de minimis settlement agreement under Section 122(g) of CERCLA or other similar law.

20. "DOI" means the United States Department of the Interior or any successor thereto.

21. "Disposal Act" means any handling, storage, treatment, transportation, disposal, discharge, emission, release or threatened release of a Covered Substance, including a "release" as defined in Section 101(22) of CERCLA and a "disposal" as defined in Section 1004(3) of RCRA. For purposes of this Settlement Agreement, any subsequent migration of a Covered Substance arising out of an initial Disposal Act is considered to be part of such initial Disposal Act and is not considered to be a separate Disposal Act independent from such initial act.

22. "EPA" means the United States Environmental Protection Agency or any successor thereto.

23. "Facility" has the meaning set forth in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

24. "Manville" means Manville Corporation; Manville International Corporation; Manville Export Corporation; Johns-Manville International Corporation; Schuller International, Inc., f.k.a. Manville Sales Corporation (successor by merger to Johns-Manville

Corporation), f.k.a. Johns-Manville Sales Corporation (successor by merger to Manville Building Materials Corporation, Manville Products Corporation and Manville Service Corporation); Manville International Canada, Inc.; Manville Investment Corporation; Manville Properties Corporation; Riverwood International USA, Inc., f.k.a. Riverwood International Corporation, f.k.a. Manville Forest Products Corporation; Allan-Dean Corporation; Ken-Caryl Ranch Corporation; Johns-Manville Idaho, Inc.; Manville Canada Service Inc.; SAL Contract & Supply, Inc., f.k.a. Sunbelt Contractors, Inc.; and any predecessor or successor thereto.

25. "Manville Natural Resource Damages Liability" has the meaning set forth in Paragraph 56 hereof.

26. "Manville Response Cost Liability" has the meaning set forth in Paragraph 56 hereof.

27. "Manville Owned Site" means any Facility which was owned or operated by Manville as of the Confirmation Date, and any and all property or resource adjacent to or in the vicinity of such Facility, to the extent such property or resource has been, or may in the future be, contaminated or threatened by any Covered Substance emanating or originating from or existing on such Facility.

28. "Manville Share" has the meaning set forth in Paragraph 56 hereof.

29. "MONBAR" has the meaning set forth in Paragraph 57(f) hereof.

30. "MONBAR Shared Cost Amount" means 45% of the out-of-pocket cost of a MONBAR arranged for by a party hereto with respect to any Additional Site; provided that in no event shall the "MONBAR Shared Cost Amount" for any Additional Site exceed 5% of the aggregate Manville Response Cost Liability relating to such Additional Site.

31. "Natural Resource Damages" means damage for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction or loss.

32. "Natural Resources Trustees" shall mean the DOI, the United States Department of Commerce (National Oceanic and Atmospheric Administration) and the United States Department of Agriculture.

33. "Plan of Reorganization" or "Plan" refers to Manville's Second Amended and Restated Plan of Reorganization, as confirmed.

34. "Postconfirmation" means the time period subsequent to the Confirmation Date. "Preconfirmation" means the time period prior to the Confirmation Date.

35. "Preconfirmation Disposal" means a Disposal Act by Manville prior to the Confirmation Date.

36. "RCRA" refers to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., as now in effect

or hereafter amended, and all rules and regulations promulgated or established thereunder.

37. "Relevant Law" means Sections 106 or 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, and Section 7003 of RCRA, 42 U.S.C. § 6973, and the respective rules and regulations promulgated or established thereunder, as each may be amended from time to time.

38. "Response Costs" means the costs of "removal" and "remedial action" as those terms are defined in Sections 101(23) and (24) of CERCLA, 42 U.S.C. §§ 9601(23) and (24), including without limitation, all direct and indirect costs of management, study, removal, remedial action, interest, costs, attorneys' and environmental consultants' or investigators' fees.

39. "Settlement Agreement" means this Stipulation and Order of Settlement and Dismissal.

40. "United States" means the United States of America and any department, agency, branch, instrumentality or division thereof.

III. MANVILLE OWNED SITES

41. No claim that the United States might have had under any Relevant Law with respect to any Manville Owned Site will be deemed to be or treated as discharged under Section 1141 of the Bankruptcy Code by the

confirmation of the Plan of Reorganization, barred by the failure of the United States to file a proof of claim with respect thereto, or subject to the injunction or Section 524 of the Bankruptcy Code. The United States may pursue enforcement actions or proceedings with respect to such Manville Owned Sites in the manner, and by the administrative or judicial tribunals, in which the United States could have pursued enforcement actions or proceedings if the Bankruptcy Proceedings had never been commenced. Manville may defend such enforcement actions or proceedings, if any, on any grounds, except those arising out of the Bankruptcy Case.

IV. CLASS A SITES

42. With respect to the Commercial Oil Site in Oregon, Ohio, including all operable units thereof, and any and all property or resource adjacent to or in the vicinity of such Facility, to the extent such property or resource has been, or may in the future be, contaminated or threatened by any Covered Substance emanating or originating from or existing on such Facility, Manville shall pay the United States on behalf of EPA the sum of \$147,400, on behalf of DOI the sum of \$2,849 and on behalf of the other Natural Resources Trustees the sum of \$0 within 30 days after the order of the Court approving the Settlement

Agreement becomes a Final Order (as defined in Paragraph 83).

43. With respect to the Compass Industries Site in Tulsa, Oklahoma, including all operable units thereof, and any and all property or resource adjacent to or in the vicinity of such Facility, to the extent such property or resource has been, or may in the future be, contaminated or threatened by any Covered Substance emanating or originating from or existing on such Facility, Manville shall pay the United States on behalf of EPA the sum of \$4,800 and on behalf of the Natural Resources Trustees the sum of \$0 within 30 days after the order of the Court approving the Settlement Agreement becomes a Final Order.

44. With respect to the Great Lakes Asphalt Site in Zionsville, Indiana, including all operable units thereof, and any and all property or resource adjacent to or in the vicinity of such Facility, to the extent such property or resource has been, or may in the future be, contaminated or threatened by any Covered Substance emanating or originating from or existing on such Facility, Manville shall pay the United States on behalf of EPA the sum of \$14,500 and on behalf of DOI the sum of \$930 and on behalf of the other Natural Resources Trustees the sum of \$0 within 30 days after the order of the Court approving the Settlement Agreement becomes a Final Order.

45. With respect to the Lowry Landfill Site in Arapahoe County, Colorado, including all operable units thereof, and any and all property or resource adjacent to or in the vicinity of such Facility, to the extent such property or resource has been, or may in the future be, contaminated or threatened by any Covered Substance emanating or originating from or existing on such Facility, Manville shall pay the United States on behalf of EPA the sum of \$750,000 and on behalf of the Natural Resources Trustees the sum of \$0 within 30 days after the order of the Court approving the Settlement Agreement becomes a Final Order.

46. With respect to the Operating Industries Site in Monterey Park, California, including all operable units thereof, and any and all property or resource adjacent to or in the vicinity of such Facility, to the extent such property or resource has been, or may in the future be, contaminated or threatened by any Covered Substance emanating or originating from or existing on such Facility, Manville shall pay the United States on behalf of EPA the sum of \$81,000 and on behalf of the Natural Resources Trustees the sum of \$0 within 30 days after the order of the Court approving the Settlement Agreement becomes a Final Order.

47. With respect to the Petrochem/Ecotek Site in Salt Lake City, Utah, including all operable units thereof,

and any and all property or resource adjacent to or in the vicinity of such Facility, to the extent such property or resource has been, or may in the future be, contaminated or threatened by any Covered Substance emanating or originating from or existing on such Facility, Manville shall pay the United States on behalf of EPA the sum of \$87,090 and on behalf of the Natural Resources Trustees the sum of \$0 within 30 days after the order of the Court approving the Settlement Agreement becomes a Final Order.

48. With respect to the Seymour Recycling Site in Seymour, Indiana, including all operable units thereof, and any and all property or resource adjacent to or in the vicinity of such Facility, to the extent such property or resource has been, or may in the future be, contaminated or threatened by any Covered Substance emanating or originating from or existing on such Facility, Manville shall pay the United States on behalf of EPA the sum of \$41,100 and on behalf of the Natural Resources Trustees the sum of \$0 within 30 days after the order of the Court approving the Settlement Agreement becomes a Final Order.

49. With respect to the Yellow Water Road Site in Baldwin, Florida, including all operable units thereof, and any and all property or resource adjacent to or in the vicinity of such Facility, to the extent such property or resource has been, or may in the future be, contaminated or threatened by any Covered Substance emanating or originating

from or existing on such Facility, Manville shall pay the United States on behalf of EPA the sum of \$3,900 and on behalf of the Natural Resources Trustees the sum of \$0 within 30 days after the order of the Court approving the Settlement Agreement becomes a Final Order.

V. CLASS B SITES

50. With respect to the Coalinga Site in Fresno County, California, including all operable units thereof, and any and all property or resource adjacent to or in the vicinity of such Facility, to the extent such property or resource has been, or may in the future be, contaminated or threatened by any Covered Substance emanating or originating from or existing on such Facility, Manville shall pay the United States on behalf of EPA the sum of \$500,000 within 30 days after the order of the Court approving the Settlement Agreement becomes a Final Order.

51. With respect to the Ellis Road Site in Jacksonville, Florida, including all operable units thereof, and any and all property or resource adjacent to or in the vicinity of such Facility, to the extent such property or resource has been, or may in the future be, contaminated or threatened by any Covered Substance emanating or originating from or existing on such Facility, Manville shall pay the United States on behalf of EPA the sum of \$500 within 30

days after the order of the Court approving the Settlement Agreement becomes a Final Order.

52. With respect to the Roebling Steel Site in Florence Township, New Jersey, including all operable units thereof, and any and all property or resource adjacent to or in the vicinity of such Facility, to the extent such property or resource has been, or may in the future be, contaminated or threatened by any Covered Substance emanating or originating from or existing on such Facility, Manville shall pay the United States on behalf of EPA the sum of \$1,900 within 30 days after the order of the Court approving the Settlement Agreement becomes a Final Order.

53. With respect to the Union Chemical Site in South Hope, Maine, including all operable units thereof, and any and all property or resource adjacent to or in the vicinity of such Facility, to the extent such property or resource has been, or may in the future be, contaminated or threatened by any Covered Substance emanating or originating from or existing on such Facility, Manville shall pay the United States on behalf of EPA the sum of \$34,900 within 30 days after the order of the Court approving the Settlement Agreement becomes a Final Order.

VI. ADDITIONAL SITES

A. General

54. The procedures set forth in this Section shall apply to (a) any alleged liabilities and obligations of Manville to the United States under Relevant Law, based on, arising out of, or related to Facilities, other than Manville Owned Sites, Class A Sites or Class B Sites, where such alleged liabilities or obligations are based on, arise out of or relate to a Preconfirmation Disposal, and (b) any alleged liabilities and obligations of Manville under Relevant Law for any Natural Resource Damages relating to any Class B Site, where such alleged liability or obligation is based on, arises out of or relates to a Preconfirmation Disposal. The term "Additional Site" shall refer to (i) each Facility described in clause (a) of the proceeding sentence, including all operable units thereof, and any and all property or resource adjacent to or in the vicinity of such Facility, to the extent such property or resource has been, or may in the future be, contaminated or threatened by any Covered Substance emanating or originating from or existing on such Facility and (ii) each Class B Site, but only to the extent of any alleged liabilities or obligations for Natural Resource Damages arising out of or relating to such Class B Site.

55. The United States agrees that it will not pursue Manville with respect to any civil judicial or

administrative liability, including for injunctive relief, under CERCLA or Section 7003 of RCRA, based on or arising out of a Preconfirmation Disposal with respect to an Additional Site other than pursuant to the procedures set forth herein. In consideration for such agreement by the United States, Manville agrees that, notwithstanding the effect of any discharge received by Manville as a result of the confirmation of the Plan or otherwise as a result of the Bankruptcy Case, it will pay the United States 55% of any Manville Response Cost Liability or Manville Natural Resource Damages Liability for such site as agreed to or determined by the procedures set forth herein; provided that with respect to a De Minimis Additional Site Manville may instead elect to pay the De Minimis Settlement Amount with respect to such site.

56. The percentage representing Manville's share of the total amount of Response Costs and Natural Resource Damages, if applicable, relating to an Additional Site shall be determined in accordance with the procedures set forth in Paragraph 57 below and shall be referred to as the "Manville Share." The dollar amount equal to the product of the Manville Share and the total amount of Response Costs (other than those incurred by a Natural Resources Trustee) relating to an Additional Site shall be determined in accordance with the procedures set forth in Paragraph 64 below and shall be referred to as the "Manville Response Cost Liability". The

dollar amount equal to the product of the Manville Share and the total amount of Natural Resource Damages, if applicable, and of Response Costs actually incurred by a Natural Resources Trustee, if any, relating to an Additional Site shall be determined in accordance with the procedures set forth in Paragraph 65 below and shall be referred to as the "Manville Natural Resource Damages Liability". Manville reserves all its rights and defenses in connection with any determination of a Manville Response Cost Liability, a Manville Natural Resource Damages Liability or a Manville Share except for such rights and defenses as may arise out of the Bankruptcy Case.

B. Manville Share/ MONBAR

57. The Manville Share for an Additional Site shall be determined as follows:

a. Upon a good faith determination by Manville that it may have liability to the United States with respect to an Additional Site, Manville may so notify the United States in writing. So long as it has not previously received an Initial Notification letter with respect to such Additional Site from the United States pursuant to Paragraph 57(c) below, Manville may designate such a notification to the United States as an Initial Notification and in such case the date such a notification is received by the United States shall be referred to as the Initial Date.

b. Manville may propose, in a written notification to the United States, a Manville Share with respect to any Additional Site. So long as Manville has not previously received an Initial Notification letter with respect to such Additional Site from the United States pursuant to Paragraph 57(c) below, Manville may designate such a proposal an Initial Notification and in such case the date such designation is received by the United States shall be referred to as the Initial Date. In the event Manville proposes a Manville Share but does not designate such a proposal as an Initial Notification, the parties may negotiate towards an agreement as to the Manville Share. If such an agreement is reached, the date of such agreement shall be the Concluding Date. If such an agreement is not reached, the remaining terms of this Settlement Agreement shall apply to the resolution of any liability relating to such Additional Site as if Manville had never proposed a Manville Share to the United States.

c. If the United States comes to a good faith determination that Manville may have liability for an Additional Site, the United States shall so notify Manville in writing in the ordinary course of its notification of other potentially responsible parties. Such a notification may take the form of a letter sent pursuant to Section 106 or 107 of CERCLA. If such notification or letter specifies that (i) a remedial investigation/feasibility study has been

completed with respect to such Additional Site or (ii) the United States in good faith believes that it has sufficient information to support a determination of the Manville Share, then such notification shall be referred to as the Initial Notification and the date it is received by Manville shall be referred to as the Initial Date.

Until a notification is received from the United States which states either (i) or (ii) above or until Manville designates a notification as an Initial Notification pursuant to Paragraphs 57(a) or (b) above, there shall be no Initial Notification or Initial Date. In no event shall there be more than one Initial Notification for any particular Additional Site. In the event the United States has also made an initial determination as to the Manville Share for such Additional Site, the Initial Notification may set forth such initial determination and the basis therefor.

d. If an Initial Notification contains an initial determination by the United States or Manville of the Manville Share for such Additional Site, the party that received the Initial Notification shall notify the other party within 60 days of the Initial Date whether the receiving party concurs with such initial determination. If the party that received the Initial Notification does concur, or if such party fails to provide any notice to the other party, then the Manville Share for such Additional

Site shall be as stated in the Initial Notification and the Concluding Date shall be 60 days after the Initial Date. If the party that received the Initial Notification notifies the other party that it does not concur, then the parties shall have an additional 60 days thereafter in which to attempt to negotiate an agreement as to the Manville Share. If such an agreement is reached, the date of such agreement shall be the Concluding Date. If no such agreement is reached, then the date 120 days after the Initial Date shall be the Triggering Date.

e. If an Initial Notification does not contain a determination of Manville Share, then the Initial Date shall be the Triggering Date.

f. Within 60 days after the Triggering Date, Manville shall notify the United States whether it is prepared to arrange and pay for an independent Manville Only Non-Binding Allocation of Responsibility ("MONBAR") for the Additional Site that is the subject of the Initial Notice relating to such Triggering Date, in accordance with the procedures set forth below. If Manville notifies the United States that it is willing to arrange and pay for such a MONBAR, then Manville shall promptly commence making such arrangements. The United States agrees to reasonably cooperate with Manville on the performance of the MONBAR. If a final Manville Share is determined for such Additional Site subsequent to the performance of a MONBAR paid for by

Manville, any payments required to be made to the United States pursuant to Paragraph 63, 64, or 65 below shall be reduced by the MONBAR Shared Cost Amount for such Additional Site.

If (x) Manville notifies the United States that it is not willing to arrange and pay for a MONBAR for such Additional Site, then within 120 days of the receipt of such notification, or (y) Manville does not send a notification as to whether it is willing to arrange and pay for such a MONBAR during such 60 days, then within 120 days after the Triggering Date, the United States shall notify Manville whether the United States will arrange and pay for such a MONBAR. If the United States notifies Manville that it is willing to arrange and pay for such a MONBAR, then it shall promptly commence making such arrangements. If a final Manville Share is determined for such Additional Site subsequent to the performance of a MONBAR paid for by the United States, any payments required to be made to the United States pursuant to Paragraph 63, 64, or 65 below shall be increased by the MONBAR Shared Cost Amount for such Additional Site. Manville agrees to reasonably cooperate with the United States on the performance of the MONBAR. In no event shall the cost of a MONBAR be considered to be Response Costs or Natural Resource Damages within the meaning of this Settlement Agreement. If the United States notifies Manville that the United States is not willing to

arrange and pay for such a MONBAR, or if the United States does not send a notification within such 60 day period, then there shall be a final 30-day period thereafter in which the parties may seek to negotiate an agreement as to the Manville Share. If such an agreement is reached, the date of the agreement shall be the Concluding Date. If no such agreement is reached, the final day of the 30-day period shall be the Concluding Date and such Additional Site shall become an Excluded Site with the effect set forth below.

g. If either Manville or the United States undertakes a MONBAR, then upon completion of such MONBAR the party which undertook the MONBAR shall notify the other party of the proposed determination of the Manville Share resulting from the MONBAR. The date such notification is received is referred to as the MONBAR Date. Each party shall then have 60 days to notify the other party whether it concurs with such determination.

(1) If both the United States and Manville concur with such proposed determination, then the proposed determination shall be deemed to be the Manville Share for such Additional Site and the Concluding Date shall be 60 days after the MONBAR Date.

(2) If neither the United States nor Manville concurs with such proposed determination, then there shall be a final 30-day period

commencing 60 days after the MONBAR Date for the parties to make a final attempt to reach agreement on the Manville Share for such Additional Site. If such an agreement is reached, the date of such agreement shall be the Concluding Date. If no such agreement is reached within such 30-day period, then such Additional Site shall become an Excluded Site with the effect set forth below and the Concluding Date shall be 90 days after the MONBAR Date.

(3) If either the United States or Manville, but not both, concurs with such proposed determination, then the party concurring and the party not concurring shall be referred to as the "Concurring Party" and the "Non-Concurring Party," respectively, for such Additional Site. The Concurring Party shall have the option, within its absolute nonreviewable discretion, of either having such Additional Site become an Excluded Site or having the Manville Share determined by the Court Resolution Procedure set forth below. Within 90 days after the MONBAR Date, the Concurring Party shall notify the Non-Concurring Party which of these options it has selected. If it selects the option of having the Additional Site become an Excluded Site, then the date of

such notification shall be the Concluding Date.

If it invokes the Court Resolution Procedure, then the date a final judgment is entered by the Court shall be the Concluding Date.

Pursuant to agreement of the parties or the MONBAR process, a Manville Share may be established relating to Natural Resource Damages at an Additional Site and a different Manville Share may be established relating to Response Costs at such Additional Site. In the event that two Manville Shares are established with respect to an Additional Site, the procedures set forth in this Agreement for making payments for either Manville Response Cost Liability or Manville Natural Resource Damages Liability shall be invoked immediately upon determination of the Manville Share with respect to such Response Costs or Natural Resource Damages and shall not await the determination of the other Manville Share with respect to such Additional Site.

58. The party that has agreed to arrange and pay for the MONBAR shall select one of the following persons to perform such MONBAR: EnDispute, Clean Sites, Judicial Arbiter Group, or any other person mutually acceptable to the parties. Such person shall determine, in accordance with the factors described in Section 122(e)(3) of CERCLA, including volume, toxicity, mobility, strength of evidence and aggravating factors, and in any further regulation or

guidance documents or directives promulgated or established thereunder or under any other provision of CERCLA or RCRA, and based on all relevant available information, the Manville Share for the Additional Site at issue. The party electing to prepare and pay for a MONBAR shall cause a report containing a determination of the Manville Share and the basis therefor to be provided to the other party and shall use its best efforts to cause such report to be delivered within 120 days after it is commenced. The performance of the MONBAR shall be deemed a part of this action, and the party that has arranged for the MONBAR shall therefore have the authority to obtain information from other parties pursuant to Rule 45 of the Federal Rules of Civil Procedure.

59. The United States District Court for the Southern District of New York shall retain jurisdiction to determine the Manville Share in the event that the Court Resolution Procedure is invoked for an Additional Site. Unless otherwise directed by the Court, the Concurring Party shall file an adversary complaint pursuant to Rule 7001 et seq. of the Federal Rules of Bankruptcy Procedure initiating the Court Resolution Procedure and seeking a determination of the Manville Share and only such a determination. The United States and Manville consent to, and by approving this Settlement Agreement the Court orders, the withdrawal of reference pursuant to 28 U.S.C. § 157(d) with respect to

such adversary proceeding. Thereafter, the proceeding shall be conducted in accordance with the Federal Rules of Bankruptcy Procedure and the parties reserve all rights of appeal. The parties stipulate that the MONBAR report may be introduced in evidence in such proceeding and shall be presumed accurate unless the Non-Concurring Party rebuts the content thereof. Neither the decision to arrange and pay for a MONBAR nor the submission of a MONBAR to another party hereto or to the Court shall be construed to be an admission of liability for any purpose or an acknowledgment by Manville that a release or a threatened release constitutes imminent or substantial endangerment to the public health or welfare or the environment.

C. Excluded Sites

60. A Class B Site may never become an Excluded Site except with respect to claims for Natural Resource Damages. Any Facility that becomes an Excluded Site shall, except for the provisions relating to payment of a MONBAR and except for all provisions relating in any manner to Response Cost claims at Class B Sites, no longer be subject in any manner to the terms of this Settlement Agreement. In such case, the United States shall have those claims against Manville with respect to such an Excluded Site as it would have had this Settlement Agreement never been made, and Manville shall have whatever defenses it would have had, including defenses based on the Bankruptcy Code or the

Bankruptcy Case, if this Settlement Agreement had never been made.

D. Statute of Limitations

61. Manville agrees that any otherwise applicable statute of limitations with respect to any claims of the United States as to any Additional Site subject to the procedures set forth above shall be tolled during the period from the Initial Date until 60 days following the Concluding Date. This tolling agreement shall remain in effect with respect to any Additional Site unless and until such Additional Site shall have become an Excluded Site.

E. Terminating Notice

62. In the event that either Manville or the United States is a Non-Concurring Party as to two or more Additional Sites, then the other party shall have the right, within its absolute discretion, at any time thereafter, to provide a terminating notice to the other party. In the event such a terminating notice is provided, then all Additional Sites, except those for which a Manville Share has already been determined or is in the process of being determined pursuant to the procedures set forth herein, shall become Excluded Sites.

F. Manville Liability

63. It is understood that the United States will incur Response Costs in, among other things, identifying and investigating potential Additional Sites. If Manville has

not received a request for reimbursement of Response Costs pursuant to Paragraph 64 hereof within 90 days of the determination of a Manville Share with respect to an Additional Site pursuant to Paragraph 57 hereof, then Manville may make a payment of \$10,000 to the United States on behalf of the EPA to cover all or a portion of the Response Costs with respect to such Additional Site. If Manville has not received an assessment of Natural Resource Damages pursuant to Paragraph 65 hereof within 90 days of the determination of a Manville Share with respect to an Additional Site pursuant to Paragraph 57 hereof, then Manville may make a payment of \$10,000 to be divided among one or more Natural Resources Trustees, as appropriate, to cover all or a portion of any Natural Resource Damages with respect to such Additional Site.

64. Manville shall, after the Manville Share is determined for an Additional Site, make payments relating to such an Additional Site on account of its liability for Response Costs as follows:

(a) First, the United States shall prepare and provide to Manville an itemized statement describing in detail any Response Costs actually incurred by the United States (other than by a Natural Resources Trustee) or by a responsible private party with respect to such Additional Site. The United States may, except with respect to a De

Minimis Additional Site, prepare and provide more than one such itemized statement with respect to any Additional Site.

(b) Second, the aggregate amount of all such Response Costs multiplied by the Manville Share for such Additional Site shall be referred to as the "Manville Response Cost Liability" with respect to such Additional Site.

(c) Third, subject to Paragraph 67 below, Manville shall pay to the United States on behalf of the EPA or to a third party in accordance with the written direction of the United States the sum of (i) 55% of the Manville Response Cost Liability at any Additional Site, minus (or plus, as applicable) (ii) any MONBAR Shared Cost Amount with respect to such Additional Site pursuant to Paragraph 57(f) above, minus (iii) any payment previously made with respect to Response Costs at such Additional Site pursuant to Paragraph 63 which has not previously been deducted.

65. Manville shall, after the Manville Share has been determined for an Additional Site or Class B Site, make payments relating to such an Additional Site on account of its liability for Natural Resource Damages as follows:

(a) First, within 60 days after a Natural Resources Trustee has (i) completed an assessment of the Natural Resource Damages with respect to any Additional Site or Class B Site or (ii) prepared an itemized statement describing in detail any Response Costs actually incurred by

such Natural Resources Trustee with respect to any Additional Site or Class B Site, such Natural Resources Trustee shall send to Manville a copy of such assessment and/or such itemized statement. The Natural Resources Trustees may, except with respect to a De Minimis Additional Site, prepare and provide more than one such itemized statement with respect to an Additional Site or a Class B Site. The assessments referred to herein shall be prepared in accordance with the provisions of Section 107(f) of CERCLA.

(b) Second, the aggregate amount of (i) the Natural Resource Damages set forth in an assessment referred to in clause (a) above and (ii) the Response Costs actually incurred by a Natural Resources Trustee as set forth in an itemized statement referred to in clause (a) above, multiplied by the Manville Share for such Additional Site or Class B Site shall be referred to as the "Manville Natural Resource Damages Liability" with respect to such assessment or statement.

(c) Third, subject to paragraph 67 below, Manville shall pay to the United States on behalf of the appropriate Natural Resources Trustee the sum of (i) 55% of the Manville Natural Resource Damages Liability as determined in clause (b) above, minus (or plus, as applicable) (ii) any MONBAR Shared Cost Amount with respect to such Additional Site or Class B Site pursuant to

paragraph 57(f) above, unless the MONBAR Shared Cost Amount was previously subtracted (or added, as applicable) from the Manville Response Cost Liability paid under Paragraph 64(c) above, minus (iii) any payment previously made with respect to Natural Resource Damages at such Additional Site pursuant to Paragraph 63 which has not previously been deducted.

66. Any payment for Manville Response Cost Liability relating to an Additional Site shall be made within 30 days after Manville receives an itemized statement referred to in Paragraph 64(a) and any payment for Manville Natural Resource Damages Liability relating to an Additional Site or Class B Site shall be made within 30 days after Manville receives an assessment or an itemized statement as described in Paragraph 65(a); provided that in no event shall any payment be required prior to the date 60 days after the Concluding Date for such Additional Site. Any payment made by Manville pursuant to Paragraph 64 or 65 for either Manville Response Cost Liability or for Manville Natural Resource Damages Liability shall be allocated to the Annual Cap in the same order in which the itemized statement or assessment associated with such liability is sent to Manville; provided that such allocation shall not have any impact on any rights or defenses Manville may have pursuant to Paragraphs 56 and 68 hereof. In no event shall Manville be required to make any payment hereunder except to the United States or to any person as directed by the United

States in accordance with Paragraph 64(c) above. The United States shall have the sole responsibility for determining the allocation, if any, between the United States and any private parties of all Manville Response Cost Liability payments made by Manville pursuant to this Settlement Agreement.

G. Annual Cap

67. Notwithstanding the provisions of Paragraphs 64 and 65, Manville shall not be obligated to make payments (including any interest payments) to or at the direction of the United States during any calendar year in excess of \$850,000 (the "Annual Cap"). If Manville would otherwise be required pursuant to the terms of this Settlement Agreement to make payments during any calendar year which, together with any applicable interest, would exceed the Annual Cap, the excess of such payments (including any interest) over the Annual Cap shall be deferred until the following calendar year and shall, subject to the Annual Cap, be payable no later than January 30 of such calendar year. Any unpaid amounts shall continue to be deferred until such time as they are paid in full in accordance with Paragraphs 64 and 65. When payments are deferred to a subsequent year, Manville shall pay interest from 30 days after the date a request for payment is received pursuant to the terms of this Settlement Agreement, but in no event earlier than the date on which the order of the Court approving the

Settlement Agreement becomes final, until the date of payment. The rate of interest paid shall be the rate specified for interest on advances made to the Superfund under the Hazardous Substance Superfund Act, 26 U.S.C. § 9507, compounded annually. For purposes of applying such section to payments under this Settlement Agreement, the term "comparable maturity" shall be determined with reference to the date on which interest accruing under this Settlement Agreement commences.

H. Miscellaneous

68. The United States agrees that it will not seek to order Manville to satisfy in a manner other than as provided above any liability it may be determined to have with respect to any Class A Site, any Class B Site or any potential or actual Additional Site. Manville shall retain any and all rights and defenses it has under any law, except for such rights and defenses as may arise under the Bankruptcy Code or the Bankruptcy Case, including any rights it may have to participate in and review all aspects of the identification of and activities relating to an Additional Site, and the right to review, audit or object to the amount and type of Response Costs or Natural Resource Damages submitted for payment to Manville by the United States.

VII. PAYMENT AND DISTRIBUTION INSTRUCTIONS

69. Any payments due pursuant to this Settlement Agreement shall be transmitted by Manville in the following manner:

(a) if to the EPA, unless otherwise agreed between the parties, by mailing to the USEPA Superfund, P.O. Box 371003M, Pittsburgh, Pennsylvania 15251, a certified or cashier's check made payable to the EPA-Hazardous Substances Superfund. Any such check should contain a reference to this Agreement and to the site or sites to which the payment relates.

(b) if to the DOI, unless otherwise agreed between the parties, by mailing to the DOI, United States Fish & Wildlife Service, 4401 North Fairfax Drive, Arlington, Virginia 22203, a certified or cashier's check made payable to the DOI. Any such check should contain a reference to this Agreement and to the site or sites to which the payment relates.

(c) if to the Department of Commerce, National Oceanic and Atmospheric Administration, unless otherwise agreed between the parties, by mailing to Craig O'Connor, Esq., Office of General Counsel, National Oceanic and Atmospheric Administration, 14th Street and Independence Avenue, S.W., Room 4622 South Building, Washington, D.C. 22050-1400, a certified or cashier's check made payable to the National Oceanic and Atmospheric Administration. Any

such check should contain a reference to this Agreement and to the site or sites to which the payment relates.

(d) if to the Department of Agriculture, unless otherwise agreed between the parties, by mailing to Chief, Forest Service, United States Forest Service, 14th Street and Independence Avenue, S.W., Washington, D.C. 22050-1400, a certified or cashier's check made payable to United States Forest Service. Any such check should contain a reference to this Agreement and to the site or sites to which the payment relates.

Copies of all records of such payments shall be transmitted to the relevant parties in the manner provided in Paragraph 81.

VIII. COVENANT NOT TO SUE

70. In consideration of the payments that will be made pursuant to this Settlement Agreement, the United States covenants not to sue or assert any civil judicial or administrative claim for relief against Manville with respect to any civil judicial or administrative liability, including for injunctive relief, under CERCLA or Section 7003 of RCRA, based on or arising out of a Preconfirmation Disposal, except as specifically provided in this Settlement Agreement.

71. The covenant not to sue contained in the preceding Paragraph shall also apply to Manville's successors and assigns, officers, directors, employees, trustees, corporate parents, shareholders, subsidiaries, affiliates and partners but only to the extent that the alleged liability of the successor or assign, officer, director, employee or trustee, corporate parent, shareholder, subsidiary, affiliate or partner is based solely on its status as and in its capacity of a successor or assign, officer, director, employee, trustee, corporate parent, shareholder, subsidiary, affiliate or partner of Manville.

72. This covenant not to sue extends only to Manville and the persons described in Paragraph 71 above and does not extend to any other person. Nothing in this Settlement Agreement is intended as a covenant not to sue or a release from liability for any person or entity other than Manville, the persons described in Paragraph 71 above and the United States. The United States and Manville expressly reserve all claims, demands and causes of action either judicial or administrative, past or future, in law or equity, which the United States or Manville may have against any person, firm, corporation, or other entity not a party to this Settlement Agreement and not described in Paragraph 71 above for any matter arising at or relating in any manner to the sites or claims addressed herein.

73. Notwithstanding the foregoing, neither the covenant not to sue nor any other provision of this Agreement shall apply to or affect (i) any claim based on criminal liability; or (ii) any claim arising from Postconfirmation acts, omissions, or conduct of Manville; provided that for purposes of this Paragraph 73 a "Postconfirmation act, omission or conduct" shall not include a failure to act with respect to a Preconfirmation act, omission or conduct.

74. Nothing in this Settlement Agreement shall be deemed to limit the response authority of the United States under Section 104 of CERCLA, 42 U.S.C. § 9604, or any other applicable law or regulation, or to alter the applicable legal principles governing judicial review of the selection or adequacy of any response action taken by the United States pursuant to that authority. Nothing in this Settlement Agreement shall be deemed to limit the information gathering authority of the United States under Sections 104, 106, and 122 of CERCLA, 42 U.S.C. §§ 9604, 9606, and 9622, or any other applicable law or regulation, or to excuse Manville from any disclosure or notification requirements imposed by any Relevant Law; provided, however, that Manville reserves any privileges or rights to withhold information pursuant to applicable law.

75. This Settlement Agreement in no way impairs the scope and effect of Manville's rights under Sections

1141 and 524 of the Bankruptcy Code, the bar orders or the injunction as to any claims, as defined in 11 U.S.C. § 101(5), that are not specifically addressed in this Settlement Agreement.

76. Manville hereby covenants not to sue and agrees not to assert any claims or causes of action against the United States with respect to the Class A Sites, the Class B Sites or the Additional Sites, except as specifically provided in this Settlement Agreement. This covenant not to sue includes, but is not limited to, any direct or indirect claim for reimbursement from the Hazardous Substances Superfund (established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507), Sections 106(b)(2), 111, 112, 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9611, 9612, 9613, or any other provision of Relevant Law, any claim against the United States including any department, agency or instrumentality of the United States under Sections 107 or 113 of CERCLA, 42 U.S.C. §§ 9607 or 9613, related to the Class A Sites, the Class B Sites or the Additional Sites, or any claims arising out of response activities at the Class A Sites, the Class B Sites or the Additional Sites. Nothing in this Settlement Agreement shall be deemed to constitute 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).

IX. EFFECT OF THE SETTLEMENT

77. Except as provided in Paragraphs 71 and 72, 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.

78. This settlement is entered into by the parties in good faith following extensive arms length negotiations and represents a fair and reasonable resolution of the matters addressed herein. The United States acknowledges that Manville is entering into this settlement and agreeing to pay substantial sums for potential liabilities arising from Preconfirmation Disposals, notwithstanding the discharge and discharge injunction which Manville received in the Bankruptcy Case, because, among other things, of Manville's interest in obtaining protection from claims that may be asserted in the future in connection with the matters addressed herein by either the United States or in contribution by other parties. The United States agrees that by entering into this Agreement and making the payments provided for in Sections IV and V herein, Manville will have resolved any and all potential civil and administrative liability to the United States under CERCLA and Section 7003 of RCRA with respect to the Class A Sites and, except for claims for Natural Resources Damages, with respect to the Class B Sites. Accordingly,

the parties intend, and this Agreement shall be construed, to provide Manville such protection from contribution actions or claims with respect to the Class A Sites and, except for claims for Natural Resources Damages, with respect to the Class B Sites, to the maximum extent provided pursuant to Section 113(f)(2) of CERCLA, 42 U.S.C.

§ 9613(f)(2), or any other statutes or legal doctrines which provide for contribution protection under the circumstances set forth herein. The parties intend, and this Agreement shall be construed, to provide Manville, upon payment of amounts to or at the direction of the United States with respect to an Additional Site in accordance with the provisions set forth herein, such protection from contribution actions or claims with respect to Additional Sites to the maximum extent provided pursuant to Section 113(f)(2) of CERCLA, 42 U.S.C. 9613(f)(2), or any other statutes or legal doctrines which provide for contribution protection under the circumstances set forth herein.

79. Manville agrees that with respect to any suit or claim for contribution first brought against it after the effective date of this Settlement Agreement for matters related to this Settlement Agreement, it will notify the United States within 30 days of service of the complaint upon it. In addition, in connection with such suit or claim, Manville shall notify the United States within 30 days of service or receipt of any Motion for Summary

Judgment and within 30 days of receipt of any order from a court setting a case for trial.

80. This Settlement Agreement in no way impairs the scope and effect of the Debtors' discharge under 11 U.S.C. as to any third parties and as to any claims, as defined in 11 U.S.C. § 101(5), that are not addressed by this Settlement Agreement.

X. NOTICES AND SUBMISSIONS

81. Whenever, under the terms of this Settlement Agreement, written notice is required to be given, or a report or other 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. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Settlement Agreement with respect to the United States, EPA, the Natural Resources Trustees and Manville, respectively.

a. **As to the United States:**

Joel M. Gross, Esq.
Environmental Enforcement Section
Land and Natural Resources Division
U.S. Department of Justice
10th and Pennsylvania Avenue, N.W.
Washington, D.C. 20530

b. As to DOI:

Shelly L. Hall, Esq.
Attorney Advisor
Office of the Solicitor
Conservation and Wildlife
Division, MS-6560
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

c. As to EPA:

John Wheeler, Esq.
Office of Enforcement
Superfund
Mail Code 2244
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

d. As to the Department of Commerce, National
Oceanic and Atmospheric Administration:

Craig O'Connor, Esq.
Office of General Counsel
National Oceanic and Atmospheric
Administration
14th Street and Independence
Avenue, S.W.
Room 4622 South Building
Washington, D.C. 22050-1400

e. As to the Department of Agriculture:

Bettina Poirier, Esq.
Deputy Assistant General Counsel
for Pollution Activities
United States Department of
Agriculture
14th Street and Independence
Avenue, S.W.
Room 4622 South Building
Washington, D.C. 22050-1400

and

Mr. Bill Opfer
Hazardous Materials Program Manager
United States Department of
Agriculture
14th Street and Independence
Avenue, S.W.
Room 4622 South Building
Washington, D.C. 22050-1400

f. As to Manville:

Bruce D. Ray, Esq.
Manville Corporation
717 17th Street
Denver, Colorado 80202
Telephone: (303) 978-3527
Telecopy: (303) 978-2832

with a copy to:

Lowell Gordon Harriss, Esq.
Davis Polk & Wardwell
450 Lexington Avenue
New York, New York 10017
Telephone: (212) 450-4472
Telecopy: (212) 450-4800

XI. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

82. This Settlement Agreement shall be lodged with the Court for a period not less than 30 days for public notice and comment. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Settlement Agreement disclose new facts or new considerations which indicate that the Settlement Agreement is inappropriate, improper or inadequate.

83. This Settlement Agreement and any documents executed in connection herewith shall be subject to the approval of the Court. If for any reason the Court should

decline to approve this Settlement Agreement and any documents executed in connection herewith, or if a Final Order (as defined in this Paragraph) is entered reversing the Court's order approving this Settlement Agreement and any documents executed in connection herewith, (a) the parties shall not be bound hereunder or under any documents executed in connection herewith; (b) the parties shall have no liability to one another arising out of or in connection with this Settlement Agreement or under any documents executed in connection herewith; (c) this Settlement Agreement and any documents executed in connection herewith shall have no residual or probative effect or value, and it shall be as if they had never been executed; and (d) this Settlement Agreement and any documents executed in connection herewith may not be used as evidence in any litigation. The term Final Order shall mean an order or judgment as to which no further appeal may be taken or discretionary review sought.

84. Except as specifically provided elsewhere in this Settlement Agreement, the Court shall retain jurisdiction over both the subject matter of this Settlement Agreement and the parties hereto for the duration of the performance of the terms and provisions of this Settlement Agreement for the purpose of enabling any of the parties to apply to the Court at any time for such further order, direction, and relief as may be necessary or appropriate for

the construction, enforcement or application of this Settlement Agreement, or to effectuate or enforce compliance with its terms, or to resolve disputes in accordance with Paragraph 59 hereto.

XII. INTEGRATION AND COUNTERPARTS

85. This Settlement Agreement and any other documents to be executed in connection herewith shall constitute the sole and complete agreement of the parties hereto.

86. This Settlement Agreement may be executed in counterparts each of which shall constitute an original and all of which shall constitute one and the same agreement.

87. The Department of Justice of the United States (a) represents that the Natural Resources Trustees have agreed in writing to the terms of this Agreement and (b) certifies that it has been fully authorized to execute and legally bind such Natural Resources Trustees to this Agreement. Each undersigned representative of Manville and of the United States certifies that he or she is fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind such party to this document.

XIII. DISMISSAL OF COMPLAINT

88. When the order of the Court approving the Settlement Agreement becomes a Final Order, the complaint herein shall be, and hereby is, dismissed with prejudice and without costs or attorneys' fees to any party.

THE UNDERSIGNED PARTIES ENTER INTO THIS SETTLEMENT AGREEMENT

FOR THE UNITED STATES OF AMERICA

Date: _____

LOIS SCHIFFER
Acting Assistant Attorney
General
Environment and Natural
Resources Division
U.S. Department of Justice
Washington, D.C. 20530

Date: _____

JOEL M. GROSS
Deputy Chief
Environmental Enforcement
Section
Environment and Natural
Resources Division
U.S. Department of Justice
Washington, D.C. 20530

MARY JO WHITE
United States Attorney for
the Southern District of New
York

Date: _____

By: _____
EDWARD A. SMITH
Assistant United States
Attorney
100 Church Street
New York, New York 10007
(212) 385-6208

Date: _____

DANIEL PINKSTON
Environmental Defense Section
Environment and Natural
Resources Division
U.S. Department of Justice
Washington, D.C. 20530

Date: _____

STEVEN A. HERMAN
Assistant Administrator for
Enforcement
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Date: _____

JOHN H. WHEELER
Senior Attorney
Office of Enforcement
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

FOR MANVILLE

Date: 1/14/94

Robert D. Batson
ROBERT D. BATSON
Assistant General Counsel
Manville Corporation
717 17th Street
Denver, Colorado 80202

DAVIS POLK & WARDWELL
Attorneys for Debtors

Date: Jan 25 1994

By: [Signature]
(A Member of the Firm)
450 Lexington Avenue
New York, New York 10017

IT IS SO ORDERED. JUDGMENT ENTERED IN ACCORDANCE
WITH THE FOREGOING SETTLEMENT AGREEMENT.

United States District Judge

Date: _____