

KERR-MCGEE CHEMICAL CORPORATION / TRONOX, INCORPORATED SITE,
NAVASSA, BRUNSWICK COUNTY, NC:

MEMORANDUM OF AGREEMENT FOR
SETTLEMENT FUNDS MANAGEMENT
AMONG THE
STATE OF NORTH CAROLINA,
ACTING THROUGH THE SECRETARY OF THE DEPARTMENT OF ENVIRONMENT AND
NATURAL RESOURCES;
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION;
AND
UNITED STATES DEPARTMENT OF THE INTERIOR,
ACTING THROUGH THE UNITED STATES FISH AND WILDLIFE SERVICE
REGARDING COORDINATION OF
NATURAL RESOURCE RESTORATION

1. INTRODUCTION

This Memorandum of Agreement for Settlement Funds Management (the "Agreement") is entered into by and among the Secretary of the North Carolina Department of Environment and Natural Resources (NC DENR), acting on behalf of the State of North Carolina; the National Oceanic and Atmospheric Administration (NOAA); and the United States Fish and Wildlife Service (USFWS), acting on behalf of the United States Department of the Interior (collectively referred to as the "Trustees") in recognition of their common interests and responsibilities as Trustees of natural resources on behalf of the public to ensure the coordination and cooperation among the Trustees.

This Agreement shall provide the framework for the use and expenditure of all natural resource damages recovered, plus any additional amounts which may be recovered, together with interest accruing (the "Settlement Funds") following receipt jointly by the Trustees from parties responsible for damages to natural resources and resource services destroyed or lost as a result of hazardous substance releases at or from the Kerr-McGee Chemical Corporation/Tronox Inc. Site (the "Site") in Navassa, Brunswick County, North Carolina, in order to plan, implement and oversee the restoration, rehabilitation or acquisition of such lost natural resources and resource services and to compensate the public for the loss of those natural resources or resource services.

These Settlement Funds are in settlement of the Trustees' joint claim for natural resource damages asserted in *United States v. Tronox Incorporated, et al.*, United States Bankruptcy Court, Southern District of New York, Case Number 09-10156 (ALG), pursuant to a Consent Decree lodged on November 23, 2010 and entered on November 30, 2010 (hereafter, "Consent Decree") and encompass any additional funds derived in ongoing litigation.

This Agreement will serve as the Memorandum of Agreement required by the Consent Decree to be entered into among the Trustees for the expenditure of the Settlement Funds.

II. PARTIES

The following officials, or their designees, are Parties to this Agreement and act on behalf of the public as Trustees for natural resources under this Agreement:

1. The Secretary of the North Carolina Department of Environment and Natural Resources, for the State of North Carolina,
2. The Director, Office of Response and Restoration, of the National Oceanic and Atmospheric Administration, and
3. The Southeast Regional Director of the United States Fish and Wildlife Service, acting on behalf of the United States Department of the Interior.

III. AUTHORITY

The Trustees enter this agreement under Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9607(f); the National Contingency Plan (NCP), 40 C.F.R. §§ 300.600 through 300.615; and other applicable state and Federal laws.

IV. PURPOSE AND SCOPE

This Agreement is intended to guide and provide a framework for cooperation and coordination among the Trustees, consistent with their duties and responsibilities as Trustees and the terms of the Consent Decree, in the use and expenditure of jointly recovered natural resource damages, plus any additional amounts which may be recovered, to plan and implement actions appropriate to restore, replace, rehabilitate, and/or acquire the equivalent of natural resources or resource services injured, lost or destroyed as a result of releases of hazardous substances at or from the Site.

V. STATEMENT OF OBJECTIVES

The Settlement Funds shall be used by the Trustees to plan, implement and oversee restoration projects to restore, replace, and/or acquire natural resources or resource services equivalent to those injured by the release of hazardous substances at the Site, in accordance with one or more restoration plans (hereafter, "Restoration Plan") to be developed by the Trustees. The Settlement Funds shall be maintained, pending use, in the DOI Natural Resource Damage Assessment and Restoration Fund and shall constitute the Kerr-McGee Chemical/Tronox Navassa Site Restoration Account (hereafter, the "Account"). The Settlement Funds in the Account shall be used only for the benefit of natural resources or services injured, destroyed, or lost as a result of releases of hazardous substances at the Site, as well as Trustee future administrative costs as defined in Paragraph VII. In accomplishing this shared objective, the Trustees will coordinate with one another to:

- A. Develop and implement a Restoration Plan in an expeditious and efficient manner, and in accordance with Federal and state law, including requirements

applicable to restoration planning as may be found within the implementing regulations of CERCLA, 43 C.F.R. Part 11 and the National Environmental Policy Act, 42 U.S.C. §§ 4321-4370f.

- B. Provide an appropriate opportunity for public review and comment during development of that Restoration Plan through publication of a Draft Restoration Plan and consider all public comments on the Draft Restoration Plan before finalizing the selection of restoration actions;
- C. Consistent with the terms of the Consent Decree and this Agreement, provide for expenditures of monies from the Settlement Funds as necessary or appropriate to develop or implement the Restoration Plan; and
- D. Minimize Trustee administrative costs associated with development of the Restoration Plan and implementation of the projects selected pursuant to the Restoration Plan.

VI. NATURAL RESOURCE TRUSTEE COUNCIL

A. Organization and Designation of Representatives. The Trustees herein establish the Kerr-McGee Chemical/Tronox Navassa Trustee Council ("Council") to implement this Agreement. Within fourteen (14) days of the execution of this Agreement, each Trustee shall designate a Primary Trustee Representative to the Council, who shall be authorized to vote on behalf of that Trustee. Each Trustee shall also designate an Alternate Trustee Representative who shall be authorized to act, and vote in the absence of the Primary Trustee Representative. Each Trustee may, by written notification to all other Trustees, change the Primary and Alternate Trustee Representative designees. The Council may create a Technical Work Group and/or additional subcommittees when they are deemed necessary to achieve the purposes of this Agreement.

In addition to the voting Representative, the U.S. Department of Justice, the Office of the Attorney General for the State of North Carolina, and in-house counsel for each of the Trustees, may each appoint one attorney who may attend all meetings of, or organized by, the Council in a legal/consultative role, but such attendance or participation by an attorney shall not create additional voting rights.

B. Communications. All correspondence and communications to, between or among the Trustees pertaining to activities, which are subject to coordination and cooperation under this Agreement, shall be sent to the primary representative of each Trustee as designated.

C. Duties and Responsibilities. The Council shall coordinate all Trustee activities and matters within the scope of this Agreement. Actions to be taken or authorized by the Council in implementing this Agreement include but are not limited to:

1. Planning, contracting for, or otherwise undertaking and overseeing the development and implementation of the Restoration Plan;
2. Coordinating Trustee decision-making, planning, and project contracting and implementation to ensure such actions are conducted in accordance with applicable administrative procedures and/or legal requirements (e.g., state/federal permitting requirements);
3. Making decisions and taking actions as are necessary to manage, administer, and/or oversee projects being developed or implemented with the Settlement Funds and expending the Settlement Funds as appropriate; and
4. Designating a Lead Administrative Trustee (LAT). NOAA has been designated the LAT for the Council. The LAT shall fully coordinate its activities with and only act under the direction of the Trustee Council. Other duties for the LAT include, but are not limited to, the following:
 - a. scheduling conference calls and meetings of the Council and any work groups or subcommittees, preparing agendas for those conference calls and meetings, and recording actions taken at those conference calls and meetings;
 - b. acting as central contact for the Council and any work groups or subcommittees;
 - c. maintaining records and documents received or generated by the Council and/or any work groups or subcommittees;
 - d. preparing, issuing, and/or arranging for public notices or reports as determined to be necessary by the Council;
 - e. maintaining records of Settlement Funds expenditures and receipts related to this Agreement; and
 - f. such other duties as are agreed upon by the Council which do not give the LAT decision-making rights beyond those normally held by each Trustee.
5. Establishing protocols, standards, procedures, budgets, or other directions as necessary to support access to or the use of Settlement Funds from the Kerr–McGee Chemical/Tronox Navassa Site Restoration Account described in Section VII hereinafter;
6. Contracting with such entities as the Trustee Council, in their collective discretion, determine necessary to implement this Agreement; and

7. Taking such other actions as the Council determines are necessary or appropriate to implement this Agreement, including actions necessary to fulfill responsibilities of the Trustees under applicable state or federal laws.

D. Decision-making. All decisions by the Council implementing this Agreement shall be made by consensus. The Trustees further agree that, while recognizing the areas of expertise and authority of each Trustee, decision-making deliberations will focus on the Trustees' mutual purpose of restoring, replacing, rehabilitating, and/or acquiring the equivalent of the affected natural resources.

In the event of a dispute involving any decisions under this Agreement, the Council shall initially attempt to resolve the dispute through good faith discussions directed toward obtaining unanimity among the Trustees involved in the dispute and consensus by the Council as a whole. If unanimous consent cannot be reached, the matter shall be elevated to the signatories of this Agreement who may expressly delegate their decision-making authority to a senior supervisory level designee for decision or further instructions. If necessary, the Trustees may establish other mechanisms by which disputes may be resolved.

VII. USE OF SETTLEMENT FUNDS

A. General Use. The Settlement Funds may be used by the Trustees only to plan and implement appropriate actions to restore, replace, rehabilitate, and/or acquire the equivalent of natural resources or resource services injured, destroyed, or lost as a result of releases of hazardous substances at or from the Site. Such uses include Trustee administrative costs or expenses, including, but not limited to, costs, both direct and indirect, associated with preparation or review of documents pertinent to the development or implementation of the Restoration Plan; administration, management, or oversight of contracts or projects; and travel.

Under this Agreement the Trustees may work with the DOI NRDAR Fund Manager, and/or his/her designee, in identifying risk-free investments, such as U.S. Treasury Bills, to earn a higher rate of return appropriate for unexpended Settlement Funds until their use is necessary. Appropriate investment activities will be determined through the consensus decision-making process set forth in Section VI of this Agreement and will be by unanimous written agreement of all Council members. Interest earned on any investment of Settlement Funds from the Account will be made available for use by the Trustees to compensate the public for injuries to natural resources and resource services consistent with this agreement.

B. Procedures Relating to Use or Access to Funds. The Council, in accordance with the decision-making process identified in Section VI, shall identify protocols, standards, procedures, budgets, or other directions as necessary to support access to or the use of damages, or interest thereon, and to otherwise effectuate the purposes of this Agreement. Disbursement of all Settlement Funds from the Account, including for reimbursement of administrative costs and expenses incurred by the Trustees, will be by unanimous written agreement of all Council members.

VIII. RESERVATION OF RIGHTS

Each Trustee has and reserves the right to take any action within the scope of its authority as a Trustee, including as may be necessary to pursue and/or to preserve any legal rights or remedies available to it as a Trustee. Nothing in this Agreement is intended to waive or foreclose any such rights.

IX. MODIFICATION OF AGREEMENT

- A. This Agreement may be modified by the agreement of the Trustees.
- B. Any modification of this Agreement shall be in writing, executed by the Trustees.

X. TERMINATION

- A. This Agreement shall continue in effect until completion of all work required pursuant to the Restoration Plan and/or until there are no remaining Settlement Funds or at such other time as the Trustees, in their sole discretion, determine appropriate.
- B. In the event any Trustee withdraws from the Agreement, notification of such withdrawal must be in writing at least thirty (30) days in advance of the withdrawal. Such withdrawing Trustee forfeits all rights pursuant to this Agreement including, without limitation, the right to decide how Settlement Funds are to be expended and to authorize expenditures of Settlement Funds from the Account. Any withdrawing Trustee agrees to provide timely instructions to the DOI Natural Resource Damage Assessment and Restoration Fund authorizing the remaining Trustees to enact future transactions from the Account without the participation of the withdrawing Trustee. Such withdrawing Trustee may recoup such administrative costs it has incurred as of the date of its withdrawal from this Agreement, as provided in and subject to the terms of Section VII.B above. In the event of such withdrawal, this Agreement remains in full force and effect for the remaining Trustees.

XI. LIMITATION

The responsibilities and commitments identified in this Agreement are wholly subject to the lawful availability of funds, including from the Account. Nothing in this Agreement shall be construed as obligating the United States, the State of North Carolina, NC DENR, USFWS, NOAA or any other public agency, their officers, agents, or employees to expend any funds in excess of those that are reimbursable from the Account or authorized by law.

XII. THIRD PARTY CHALLENGES OR APPEALS

The rights and responsibilities contained in this Agreement represent an operational agreement among the respective Parties. This Agreement does not confer any rights on third

parties, is not a waiver of any Sovereign Immunity of any Trustee, and is not to be construed as providing the basis of any third party challenges or appeals.

XIII. NONDISCRIMINATION

In performing this Agreement, the Trustees will not discriminate against any person because of race, color, religion, sex, national origin, age, physical or mental handicap, sexual orientation, marital status or political affiliation. Consistent with NC Executive Order 24, 2009, any contractor, subcontractor, or supplier selected by the Trustees must be informed of the Gift Ban provisions of that Executive Order.

XIV. EXECUTION: EFFECTIVE DATE

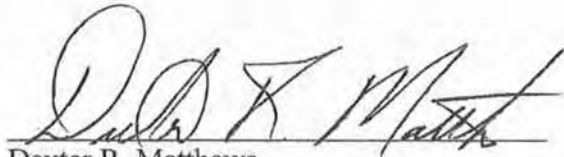
This Agreement may be executed in counterparts. A copy with all original executed signature pages affixed shall constitute an original Agreement. The date of execution shall be the date of the last of the Trustees' representatives to sign.

XV. ANTI-DEFICIENCY

Nothing in this Agreement shall be construed as obligating the United States or any State or Federal signatory to this Agreement, their officers, agents or employees, to appropriate funds, or to expend any funds in excess of appropriations or other amounts authorized by law.

IN WITNESS WHEREOF, the parties hereto have signed this Settlement Funds Management Agreement on the date appearing under their signatures.

STATE OF NORTH CAROLINA



Dexter R. Matthews

Director

NC Division of Waste Management, as designee for

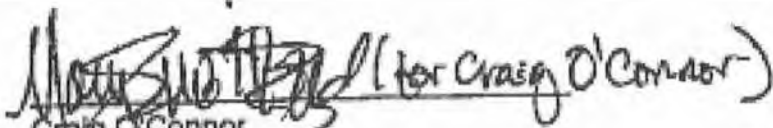
6-26-12
Date

Dee Freeman

Secretary

North Carolina Department of Environment and Natural Resources

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

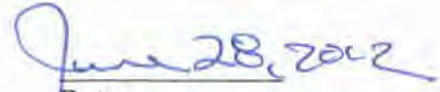

Craig O'Connor
Special Counsel for Natural Resources

8/15/12
Date

UNITED STATES DEPARTMENT OF THE INTERIOR



Cynthia Dohner
Southeast Regional Director
U.S. Fish and Wildlife Service



Date