Hearing Date: May 20, 2010 at 11:00 a.m. (ET)
Objection Deadline: May 13, 2010 at 4:00 p.m. (ET)

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Counsel to the Debtors and Debtors in Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	)	Chapter 11
TRONOX INCORPORATED, et al.,[1]	)	Case No. 09-10156 (ALG)
Debtors.	)	Jointly Administered

NOTICE OF TRONOX'S MOTION FOR ENTRY OF AN ORDER APPROVING THE KRESS CREEK SETTLEMENT WITH THE UNITED STATES OF AMERICA

PLEASE TAKE NOTICE that a hearing (the "Hearing") on Tronox's Motion for Entry of an Order Approving the Kress Creek Settlement with the United States of America (the "Motion") will be held before the Honorable Allan L. Gropper of the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), in Room 617, One Bowling Green, New York, New York, on **May 20, 2010 at 11:00 a.m. (ET)**.

PLEASE TAKE FURTHER NOTICE that any responses or objections to the Motion must be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local

[1] The debtors in these cases include: Tronox Luxembourg S.ar.l; Tronox Incorporated; Cimarron Corporation; Southwestern Refining Company, Inc.; Transworld Drilling Company; Triangle Refineries, Inc.; Triple S, Inc.; Triple S Environmental Management Corporation; Triple S Minerals Resources Corporation; Triple S Refining Corporation; Tronox LLC; Tronox Finance Corp.; Tronox Holdings, Inc.; Tronox Pigments (Savannah) Inc.; and Tronox Worldwide LLC.

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Bankruptcy Rules for the Southern District of New York, and shall be filed with the Bankruptcy Court electronically by registered users of the Bankruptcy Court's case filing system (the User's Manual for the Electronic Case Filing System can be found at www.nysb.uscourts.gov, the official website for the Bankruptcy Court) and, by all other parties in interest, on a 3.5 inch disk, in text-searchable Portable Document Format (PDF), Wordperfect or any other Windows-based word processing format (in either case, with a hard-copy delivered directly to Chambers), and shall be served upon (a) counsel to Tronox, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022, Attn: Jonathan S. Henes, Esq.; (b) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004, Attn: Susan D. Golden, Esq.; (c) counsel to the agent for Tronox's postpetition secured lenders, Latham & Watkins LLP, 233 South Wacker Drive, Suite 5800, Attn: Richard A. Levy, Esq.; (d) counsel to the official committee of unsecured creditors, Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, New York 10019-6064, Attn: Brian S. Hermann, Esq. and Elizabeth McColm, Esq.; (e) counsel to the official committee of equity security holders, Pillsbury Winthrop Shaw Pittman LLP, 1540 Broadway, New York, New York 10036-4039, Attn: Craig A. Barbarosh, Esq., David A. Crichlow, Esq. and Karen B. Dine, Esq.; (f) the Office of the United States Attorney for the Southern District of New York, 86 Chambers Street, 3rd Floor, New York, New York 10007, Attn: Robert Yalen, Esq. and Tomoko Onozawa, Esq.; and (g) all those persons and entities that have formally requested notice by filing a written request for notice pursuant to Bankruptcy Rule 2002 and the Local Bankruptcy Rules (with service on such parties by email only), so as to be actually received **no later than May 13, 2010 at 4:00 p.m. (ET)**.

Only those responses that are timely filed, served and received will be considered at the Hearing. Failure to file a timely objection may result in entry of a final order granting the Motion as requested by Tronox.

New York, New York
Dated: April 30, 2010

/s/ Patrick J. Nash, Jr.

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	)	Chapter 11
TRONOX INCORPORATED, et al.,[1]	)	Case No. 09-10156 (ALG)
Debtors.	)	Jointly Administered

TRONOX'S MOTION FOR ENTRY OF AN ORDER APPROVING THE KRESS CREEK SETTLEMENT WITH THE UNITED STATES OF AMERICA

The above-captioned debtors and debtors in possession (collectively, "Tronox") hereby move the Court, pursuant to this motion (the "Motion"), for entry of an order (the "Order"), substantially in the form attached hereto as Exhibit A, approving the Kress Creek Settlement Agreement (the "Settlement Agreement"), substantially in the form attached hereto as Exhibit B, between Tronox and the United States of America (the "United States", and together with Tronox, the "Parties").[2] In support of the Motion, Tronox respectfully states as follows:

[1] The debtors in these cases include: Tronox Luxembourg S.ar.l; Tronox Incorporated; Cimarron Corporation; Southwestern Refining Company, Inc.; Transworld Drilling Company; Triangle Refineries, Inc.; Triple S, Inc.; Triple S Environmental Management Corporation; Triple S Minerals Resources Corporation; Triple S Refining Corporation; Tronox LLC; Tronox Finance Corp.; Tronox Holdings, Inc.; Tronox Pigments (Savannah) Inc.; and Tronox Worldwide LLC.

[2] As of the filing of this Motion, the Parties had not yet executed the final form of the Settlement Agreement. Tronox will file the finalized Settlement Agreement as soon as it is executed, which is expected to be within five days of the date hereof and at least 15 days prior to the hearing on the Motion.

Preliminary Statement

1. By this Motion, Tronox seeks approval of a Settlement Agreement with the United States regarding (a) the scope of remediation work at certain sites in and around West Chicago, Illinois and (b) a dispute over Tronox's right to reimbursement from the Department of Energy (the "DOE") for past remediation expenditures at the West Chicago sites. Pursuant to and subject to the terms of the Settlement Agreement, the United States will release over $25 million in past due reimbursement for remediation costs incurred by Tronox at the West Chicago sites prior to 2009, which funds had been subject to an administrative hold by the DOE pending resolution of a dispute between the Parties as to whether and to what extent the United States can setoff the reimbursement against its prepetition claims filed in these chapter 11 cases with respect to the West Chicago sites. At the same time, the United States has directed Tronox to begin costly remediation work at the West Chicago sites without any guarantee of DOE reimbursement for past or future work at the sites. Rather than engage in costly and time-consuming litigation with the United States over its alleged ability to setoff the prepetition DOE reimbursement, Tronox has determined in a reasonable exercise of its business judgment to enter into the Settlement Agreement to secure the reimbursement funds, which will be used to finance going forward remediation work at the West Chicago sites while these sites remain in Tronox's control.

2. Specifically, the Settlement Agreement provides that the DOE will release the $25 million in reimbursement funds to a third-party escrow account to fund remediation work at the West Chicago sites until the effective date of Tronox's plan of reorganization. Following the effective date, any reimbursement funds remaining in the escrow account will be turned over to a trust, to be formed pursuant to Tronox's plan of reorganization, which will perform, manage and implement remediation activities at the West Chicago sites going forward. In addition, Tronox

will transfer to that trust all right, title and interest in any future DOE reimbursements to which Tronox may be entitled for remediation work performed at the West Chicago sites during and after 2009, including pursuant to the Settlement Agreement.

3. Entry into the Settlement Agreement is reasonable and a proper exercise of Tronox's business judgment. Rather than litigate with the United States over the right to the DOE reimbursement and risk never receiving the reimbursement if the United States were to prevail on its setoff theory, Tronox has agreed, as a condition of receiving the reimbursement, to allocate the reimbursement to urgent remediation activities at the West Chicago sites. Moreover, because the West Chicago sites are high priority sites under the global environmental settlement described in Tronox's plan term sheet (attached to Dkt. No. 1002), the Settlement Agreement fits within Tronox's standalone plan framework, effectively directing supplemental funds to high priority work while simultaneously freeing other consideration to be allocated to sites elsewhere in the United States, as the federal government deems appropriate.[3] Accordingly, this Court should approve the Settlement Agreement.

Jurisdiction

4. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

[3] The plan term sheet provides that on the effective date of Tronox's plan of reorganization, Tronox will contribute $115 million to custodial trusts, which amount will be allocated by the United States to urgent remediation at sites across the country. The $25 million DOE reimbursement Tronox will obtain through the Settlement Agreement is supplemental and will not reduce the $115 million allocable to the custodial trusts pursuant to the plan term sheet.

5. The statutory bases for the relief requested herein are section 363(b) of the Bankruptcy Code and Rule 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

Background

6. On January 12, 2009 (the "Petition Date"), Tronox filed petitions with the Court under chapter 11 of the Bankruptcy Code. Tronox is operating its businesses and managing its properties as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The chapter 11 cases are consolidated for procedural purposes only and are being jointly administered pursuant to Bankruptcy Rule 1015(b).

7. On January 21, 2009, the United States Trustee for the Southern District of New York (the "U.S. Trustee") appointed an official committee of unsecured creditors (the "Creditors' Committee"). On March 13, 2009, the U.S. Trustee appointed an official committee of equity security holders (the "Equity Committee"). No request for the appointment of a trustee or examiner has been made in the chapter 11 cases.

8. Tronox, together with its non-debtor affiliates, is among the world's leading producers of titanium dioxide pigment and electrolytic and other specialty chemicals. Tronox's products are used in the manufacture of a number of everyday goods and consumer products such as paints, coatings, plastics, paper, batteries, toothpaste, sunscreen and shampoo. Tronox has approximately 1,100 customers located in more than 100 countries.

Tronox's Environmental Obligations and the West Chicago Sites

9. As the Court is aware, Tronox presently is performing a wide range of environmental remediation work at various sites across the country pursuant to federal and state consent decrees and administrative orders that require remediation, monitoring or other cleanup activity. Tronox assumed liability for these efforts at the time of its spinoff from Kerr-McGee

Corporation ("Kerr-McGee") in 2006.[4] The cost of this remediation work was a primary factor leading to the commencement of Tronox's chapter 11 cases.

10. Tronox's remediation efforts include significant work performed in West Chicago, Illinois at (a) the Tronox-owned Rare Earths Facility (the "REF")[5] pursuant to requirements imposed by a license issued by the Illinois Emergency Management Agency and (b) four vicinity sites not owned by Tronox that are or were listed on the National Priorities List (referred to collectively as the "West Chicago NPL Sites", and together with the REF, the "West Chicago Sites"), pursuant to consent decrees filed in *United States v. Kerr-McGee Chemical LLC*, Civil Action No. 05C2318 (N.D. Ill.) (the "Consent Decree") and *County of DuPage v. Kerr-McGee Chemical LLC*, Civil Action No. 05C1872 (N.D. Ill.): (i) residential areas in the City of West Chicago and DuPage County, Illinois (the "RAS"); (ii) Reed-Keppler Park in West Chicago, Illinois; (iii) the sewage treatment plant in West Chicago and DuPage County, Illinois; and (iv) Kress Creek and the West Branch DuPage River in DuPage County, Illinois ("Kress Creek").

11. The United States has specifically identified Reach 7 of Kress Creek and certain RAS as high priority sites for Tronox's remediation efforts at the West Chicago Sites. These

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[4] Details regarding Tronox's environmental liabilities are set forth in the Declaration of Gary Barton, Senior Director at Alvarez & Marsal North America LLC, in Support of First Day Motions [Dkt. No. 3] and in Tronox's adversary complaint [Adv. Proc. No. 09-01198, Dkt. No. 1] against Kerr-McGee and its successor-in-interest, Anadarko Petroleum Corporation.

[5] From 1932 until 1973, the REF produced non-radioactive elements known as rare earths and radioactive elements such as thorium, radium and uranium. These elements were used in the production of gas lantern mantles and in the United States' atomic energy program. The production of thorium, radium and uranium at the REF resulted in the generation of radioactive mill tailings. Before the health risks associated with radioactive materials were recognized, these mill tailings were available for use as free fill material by residents and contractors in the West Chicago area. Accordingly, the soil at many properties in the West Chicago area became contaminated with radioactive materials. See, e.g., http://www.epa.gov/R5Super/npl/illinois/ILD980824015.htm.

Kerr-McGee purchased the REF in 1967 and operated it until its closure in 1973. Tronox's remediation activities at the West Chicago Sites are unrelated to its current operating businesses.

priority sites are listed in Attachment A to the Settlement Agreement. Pursuant to the Consent Decree, Tronox was originally scheduled to perform extensive remediation work at Reach 7 of Kress Creek in 2009. Due to Tronox's liquidity constraints, the prohibitive cost of this project and Tronox's dispute (described in detail below) with the United States over the right to receive DOE reimbursement for past expenditures at the West Chicago Sites, however, this work was not performed in 2009.

Department of Energy Reimbursement

12. Pursuant to Title X of the Energy Policy Act of 1992 ("Title X"), Pub. L. No. 102-486 (1992) (codified as amended at 42 U.S.C. § 2296a), the DOE provides reimbursement of remediation costs incurred at specific sites that were used at least in part to supply thorium and uranium to the United States. These reimbursements are designed to encourage continued remediation at such sites. Tronox's expenditures at the West Chicago Sites qualify for Title X reimbursement, and Tronox is eligible to receive reimbursement from the DOE for 55.2% of certain remediation costs expended at the West Chicago Sites. Since the DOE began reimbursing Tronox under Title X, Tronox has received approximately $315 million in reimbursements on account of more than $625 million in remediation expenditures. Typically, Tronox submits invoices for eligible expenditures to the DOE before May and receives the reimbursement the following April. This reimbursement opportunity is extremely valuable to Tronox and has enabled Tronox to perform a significant amount of remediation work at the West Chicago Sites over the years.

13. Title X reimbursements are funded by Congressional appropriations. Due to funding deficiencies for Title X in recent years, the DOE has built an outstanding balance for reimbursement owed to Tronox for its remediation expenditures at the West Chicago Sites. Accordingly, Tronox is owed approximately $25 million in past due reimbursement (the

"Reimbursement") for (a) $17.7 million in costs spent in connection with eligible remediation efforts at the West Chicago Sites prior to February 2008, which Tronox had expected to receive in April 2009, and (b) $7.3 million in costs spent in connection with eligible remediation efforts at the West Chicago Sites during calendar year 2008, which Tronox had expected to receive in or around January 2010. Pursuant to Title IV of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009), Congress authorized an appropriation of $70 million for Title X reimbursements at historical uranium or thorium processing sites, which were intended to enable the DOE to "catch up" on reimbursements due under Title X. In April, 2009, however, the United States informed Tronox that the DOE had placed the Reimbursement on administrative hold pending discussions between the Parties regarding the United States' alleged right under section 553 of the Bankruptcy Code to setoff the Reimbursement against its prepetition claims against Tronox.[6]

14. Tronox disputes the United States' assertion that the Reimbursement is subject to setoff under section 553 of the Bankruptcy Code. Due to the United States' administrative hold on the Reimbursement, however, Tronox has been unable to utilize the Reimbursement funds for any purpose, including financing ongoing remediation efforts. Moreover, the possibility that Tronox might not be entitled to reimbursement for its expenditures (past, ongoing or future) at the West Chicago Sites due to a right of setoff by the United States has complicated Tronox's analysis of and ability to continue remediation at the sites.

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[6] On August 12, 2009, the United States of America, on behalf of the Environmental Protection Agency (the "EPA"), the Nuclear Regulatory Commission, the United States Department of Agriculture (acting through the United States Forest Service), the United States Department of the Interior (acting through the Fish and Wildlife Service) and the United States Department of Commerce (acting through the National Oceanic and Atmospheric Administration), filed Proofs of Claim Nos. 2384, 2385, 2386, 2387, 2388, 2389, 2390, 3528, 3529, 3530, 3532, 3533, 3534, 3535 and 3626, setting forth, among other things, prepetition claims against Tronox for past response costs and civil penalties with respect to certain sites that are both owned and not owned by Tronox, including the West Chicago Sites.

15. For these reasons, and in light of the likelihood of complex and protracted litigation that would be necessary to resolve the setoff dispute in the Bankruptcy Court, with its attendant significant expense and delay and no guarantee of success, the Parties engaged in extensive discussions regarding a settlement of the Reimbursement dispute and the funding of additional remediation work at the West Chicago Sites.

The Settlement Agreement

16. After significant good faith, arm's-length negotiations between the Parties, and after obtaining input from, among others, environmental experts and the communities in and around West Chicago, Tronox and the United States entered into the Settlement Agreement, which resolves the pending disputes concerning both the Reimbursement and the continuation of remediation activities at the West Chicago Sites. Under the Settlement Agreement, the United States has agreed to release the full amount of the Reimbursement to Tronox, and Tronox has agreed to commit the entirety of the Reimbursement to remediation activities at the West Chicago Sites, which will commence immediately upon Bankruptcy Court approval of the Settlement Agreement. The following summarizes the material terms of the Settlement Agreement:[7]

- Release of the Reimbursement: Within five days of entry of an order of the Bankruptcy Court approving the Settlement Agreement, the DOE will release the administrative hold it has placed on the Reimbursement and place the full amount of the Reimbursement in an interest-bearing third-party escrow account (the "Escrow Account") to be established by Tronox to fund remediation at Reach 7 of Kress Creek and certain RAS, as described in Attachment A to the Settlement Agreement, until the effective date (the "Effective Date") of Tronox's plan of reorganization.

- Implementation of Remediation Work: Until the Effective Date and in accordance with work plans approved by the EPA, Tronox will implement and direct the

[7] The following summary is qualified in its entirety by reference to the Settlement Agreement, a copy of which is attached hereto as Exhibit B.

performance of the remediation work at Reach 7 of Kress Creek and the RAS. Tronox will retain ARCADIS to perform the remediation work pursuant to a written contract between ARCADIS and Tronox (the "ARCADIS Contract"), which contract shall include certain indemnification obligations on the part of Tronox.

- West Chicago Trust: Pursuant to a consent decree and settlement agreement to be entered into in connection with Tronox's plan of reorganization, Tronox will create the West Chicago Environmental Response and Work Trust (the "West Chicago Trust") to perform, manage and fund implementation of environmental actions at the West Chicago Sites after the Effective Date. On the Effective Date, Tronox will transfer to the West Chicago Trust (a) any unused funds remaining in the Escrow Account and (b) all right, title and interest in any future Title X reimbursements from the DOE for work performed at the West Chicago Sites in and after 2009, including pursuant to the Settlement Agreement. Tronox also will assign the ARCADIS Contract to the West Chicago Trust, such that all rights, obligations, interests and liabilities of Tronox pursuant to the ARCADIS Contract, including indemnification obligations, will be assigned to and assumed by the West Chicago Trust, and Tronox will have no continuing obligations under the ARCADIS Contract.

- Bankruptcy Court Approval: Bankruptcy Court approval is a condition precedent to the performance of remediation work under the Settlement Agreement.

17. The Settlement Agreement primarily benefits Tronox in two ways. *First*, the Settlement Agreement resolves the dispute with the United States regarding any ability of the United States to setoff the Reimbursement against the United States' prepetition claims against Tronox. Thus, under the Settlement Agreement, Tronox is able to secure the release of the Reimbursement without resort to costly and time-consuming litigation, the result of which would be uncertain. *Second*, the release of the Reimbursement allows Tronox to direct the Reimbursement towards urgent remediation work at the West Chicago Sites that Tronox is already required to perform pursuant to the Consent Decree. Thus, under the Settlement Agreement, Tronox can accomplish critical remediation goals that it could not undertake absent the Settlement Agreement, and without affecting its liquidity position. Accordingly, Tronox believes the Settlement Agreement is in the best interests of its estates, its creditors and all parties in interest.

Relief Requested

18. For the reasons set forth herein, Tronox respectfully requests approval of the Settlement Agreement with the United States pursuant to Bankruptcy Rule 9019 and section 363(b) of the Bankruptcy Code.

Basis for Relief

A. The Court Has the Authority to Approve the Settlement Agreement under Bankruptcy Rule 9019

19. Pursuant to Bankruptcy Rule 9019, bankruptcy courts can approve a compromise or settlement if it is in the best interests of the estate. See Vaughn v. Drexel Burnham Lambert Group, Inc. (In re Drexel Burnham Lambert Group, Inc.), 134 B.R. 499, 505 (Bankr. S.D.N.Y. 1991). The settlement need not result in the best possible outcome for the debtor, but must not "fall below the lowest point in the range of reasonableness." Id. The decision to accept or reject a compromise or settlement is within the sound discretion of the bankruptcy court. Nellis v. Shugrue, 165 B.R. 115, 121-122 (S.D.N.Y. 1994); Drexel Burnham Lambert Group, 134 B.R. at 505; see also In re Hibbard Brown & Co., Inc., 217 B.R. 41, 46 (Bankr. S.D.N.Y. 1998) (bankruptcy court may exercise its discretion "in light of the general public policy favoring settlements"); 9 Collier on Bankruptcy ¶ 9019.02 (15th ed. rev. 2009).

20. In exercising its discretion, the bankruptcy court must make an independent determination that the settlement is fair and equitable. Protective Comm. for Indep. S'holders of TMT Trailer Ferry Inc. v. Anderson, 390 U.S. 414, 424 (1968); Shugrue, 165 B.R. at 122. That does not mean that the bankruptcy court should substitute its judgment for the debtor's judgment. In re Carla Leather, Inc., 44 B.R. 457, 465 (Bankr. S.D.N.Y. 1984). Instead, a bankruptcy court should "canvass the issues and see whether the settlement 'fall[s] below the lowest point in the range of reasonableness." In re W.T. Grant Co., 699 F.2d 599, 608 (2d Cir. 1983). Put

differently, the court does not need to conduct a "mini-trial" of the facts and merits underlying the dispute; it only needs to be apprised of those facts that are necessary to enable it to evaluate the settlement and to make a considered and independent judgment about the settlement. See In re Adelphia Commc'ns Corp., 327 B.R. 143, 159 (Bankr. S.D.N.Y. 2005).

21. To evaluate whether a settlement is fair and equitable, courts in the Second Circuit the following factors:

- the balance between any litigation's possibility of success and the settlement's future benefits;
- the likelihood of complex and protracted litigation, with its attendant expense, inconvenience, and delay;
- the paramount interests of creditors, including each affected class's relative benefits and the degree to which creditors either do not object to or affirmatively support the proposed settlement;
- whether other parties in interest support the settlement;
- the competency and experience of counsel supporting the settlement; and
- the extent to which the settlement is the product of arm's length bargaining.

See In re Iridium Operating LLC, 478 F.3d 452, 462 (2d Cir. 2007); see also Drexel Burnham Lambert Group, 960 F.2d at 292; In re Ionosphere Clubs, Inc., 156 B.R. 414, 428 (S.D.N.Y. 1993).

B. Tronox Has Met its Evidentiary Burden for Approval of the Settlement Agreement

22. Application of the Iridium factors to the Settlement Agreement demonstrates that the Settlement Agreement is fair, reasonable and in the best interests of Tronox's estates.

(i) The Likelihood of Success and Expense of Litigation Compared to the Benefits Offered by the Settlement Agreement Weigh in Favor of the Settlement Agreement

23. Litigation with the United States over the Reimbursement setoff dispute would be counterproductive in the context of these chapter 11 cases. To successfully emerge from chapter

11, Tronox must enter into a comprehensive consent decree and settlement with the United States regarding Tronox's environmental liabilities. As described above, Tronox and the United States are already parties to a plan support agreement that provides a framework for such a settlement. Toward that end, the Parties are working consensually and in good faith to agree on a fair and appropriate way to address Tronox's environmental liabilities on a national scale, as the United States works to allocate total consideration among state, local and tribal governments vying for clean-up funds.

24. Litigation with the United States over the Reimbursement could upset the delicate negotiations to finalize Tronox's comprehensive environmental settlement, unnecessarily complicating Tronox's efforts to emerge from bankruptcy as a going concern. Indeed, even if Tronox were successful in prosecuting the setoff dispute, which is uncertain, the government likely would still require that the Reimbursement be earmarked for overdue remediation work at the West Chicago Sites--meaning Tronox would obtain the same result but after incurring significant litigation costs. In addition, securing the Reimbursement frees other consideration for the government to allocate in its efforts to gain support for the global settlement. Thus, the benefits of the Settlement Agreement far outweigh anything that Tronox could gain by litigating the setoff dispute.

(ii) The Settlement Agreement Benefits Tronox's Creditors

25. The Settlement Agreement provides significant benefits to Tronox and its stakeholders and also is of paramount interest to the citizens of West Chicago. By agreeing upon the terms of the release of the Reimbursement to Tronox, the Settlement Agreement improves Tronox's overall liquidity while also enabling Tronox to commence remediation work that it is required to perform but would not otherwise have been able to undertake. The Settlement Agreement also benefits creditors by avoiding the expense of costly litigation with the United

States over the setoff dispute. Resolution of that dispute will allow Tronox and its advisors to focus on finalizing Tronox's plan of reorganization and numerous related documents, including the global environmental settlement.

(iii) The Settlement Agreement Is the Product of Arm's-Length Bargaining and Is Supported by Competent and Experienced Counsel

26. The Settlement Agreement is the product of extensive and protracted arm's-length negotiations between Tronox and the United States. These are the same parties who established the framework for Tronox's global environmental settlement embodied in the plan support agreement and the plan term sheet, and the Settlement Agreement represents an integral part of the comprehensive resolution of Tronox's legacy environmental liabilities, which is a prerequisite to Tronox's emergence from bankruptcy. The Settlement Agreement was developed and negotiated with the aid of knowledgeable and competent counsel with significant experience in litigating complex cases and in negotiating settlements in complex restructurings concerning environmental liabilities and remediation obligations. Because the settlement has the support of the United States, the primary party in interest, this Court should approve the Settlement Agreement.

C. Allocation of the Reimbursement to Remediation at the West Chicago Sites pursuant to the Settlement Agreement Is an Exercise of Tronox's Sound Business Judgment and Should Be Approved under Section 363(b) of the Bankruptcy Code

27. Section 363(b)(1) of the Bankruptcy Code provides that "[t]he trustee, after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). To approve the use of estate property under section 363(b)(1) of the Bankruptcy Code, the Second Circuit requires a debtor to show that the decision to use the property outside of the ordinary course of business was based on the debtor's business judgment. See In re Chateaugay Corp., 973 F.2d 141, 143 (2d Cir. 1992) (holding that a judge

determining a 363(b) application must find a good business reason to grant such application); see also In re Lionel Corp., 722 F.2d 1063, 1070 (2d Cir. 1983) (requiring "some articulated business justification" to approve the use, sale or lease of property outside the ordinary course of business); In re Ionosphere Clubs, Inc., 100 B.R. 670, 675 (Bankr. S.D.N.Y. 1989) (noting that the standard for determining a section 363(b) motion is "a good business reason"); In re Global Crossing Ltd., 295 B.R. 726, 743 (Bankr. S.D.N.Y. 2003).

28. The business judgment rule shields a debtor's management's decisions from judicial second guessing. In re Johns-Manville Corp., 60 B.R. 612, 615-16 (Bankr. S.D.N.Y. 1986) (a "presumption of reasonableness attaches to a Debtor's management decisions" and courts will generally not entertain objections to the debtor's conduct after a reasonable basis is set forth). Once a debtor articulates a valid business justification, the law vests the debtor's decision to use property outside of the ordinary course of business with a strong presumption that "in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action was in the best interests of the company." In re Integrated Res., Inc., 147 B.R. 650, 656 (S.D.N.Y. 1992) (citations and internal quotations omitted), appeal dismissed, 3 F.3d 49 (2d Cir. 1993). Thus, if a debtor's actions satisfy the business judgment rule, then the transaction in question should be approved under section 363(b)(1) of the Bankruptcy Code.

29. Allocation of the Reimbursement to urgent remediation activities at the West Chicago Sites is a sound exercise of Tronox's business judgment. Absent the Settlement Agreement, the Reimbursement would only be available to Tronox if Tronox were to prevail in litigation with the United States in the setoff dispute. Such a result is not only uncertain but is also unrealistic, given that Tronox must also work with the United States to finalize the global

settlement of Tronox's legacy environmental liabilities, the very issues underlying the United States' proofs of claim. Moreover, there is no guarantee that, in all cases, the government would not require Tronox to utilize the Reimbursement for remediation work at these sites. The Settlement Agreement further enables Tronox to commence urgent remediation at the West Chicago Sites that it is already required to perform, without incurring additional expenditures beyond allocation of the Reimbursement. This arrangement boosts Tronox's liquidity, frees consideration to be allocated elsewhere and inures to the benefit of all creditors. For these reasons and the reasons set forth herein, this Court should approve Tronox's entry into the Settlement Agreement.

Motion Practice

30. This Motion includes citations to the applicable rules and statutory authorities upon which the relief requested herein is predicated, and a discussion of their application to this Motion. Accordingly, Tronox submits that this Motion satisfies Rule 9013-1(a) of the Local Bankruptcy Rules for the Southern District of New York.

Notice

31. Tronox has provided notice of this Motion to: (a) the U.S. Trustee; (b) counsel to the agent for Tronox's postpetition secured lenders; (c) counsel to the Creditors' Committee; (d) counsel to the Equity Committee; (e) the Office of the United States Attorney for the Southern District of New York; and (f) all those persons and entities that have formally appeared and requested service in these cases pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, Tronox respectfully submits that no further notice is necessary.

No Prior Request

32. No prior motion for the relief requested herein has been made to this or any other court.

WHEREFORE, Tronox respectfully requests entry of an Order, substantially in the form attached hereto as Exhibit A, (a) approving the Settlement Agreement substantially in the form attached hereto as Exhibit B and (b) granting such other and further relief as is just and proper.

New York, New York
Dated: April 30, 2010

/s/ Patrick J. Nash, Jr.

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- and -

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Counsel to the Debtors
and Debtors in Possession

EXHIBIT A

Proposed Order

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	)	Chapter 11
TRONOX INCORPORATED, et al.,[1]	)	Case No. 09-10156 (ALG)
Debtors.	)	Jointly Administered

ORDER APPROVING TRONOX'S ENTRY INTO THE KRESS CREEK SETTLEMENT WITH THE UNITED STATES OF AMERICA

Upon the motion (the "Motion")[2] of the above-captioned debtors and debtors in possession (collectively, "Tronox") for entry of an order (the "Order") approving the Kress Creek Settlement Agreement (the "Settlement Agreement") with the United States of America; and it appearing that the relief requested is in the best interests of Tronox's estates, its creditors and other parties in interest; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Motion having been adequate and appropriate under the circumstances; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED

1. The Motion is granted to the extent provided herein.

[1] The Debtors in these cases include: Tronox Luxembourg S.ar.l; Tronox Incorporated; Cimarron Corporation; Southwestern Refining Company, Inc.; Transworld Drilling Company; Triangle Refineries, Inc.; Triple S, Inc.; Triple S Environmental Management Corporation; Triple S Minerals Resources Corporation; Triple S Refining Corporation; Tronox LLC; Tronox Finance Corp.; Tronox Holdings, Inc.; Tronox Pigments (Savannah) Inc.; and Tronox Worldwide LLC.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Motion.

2. Pursuant to Bankruptcy Rule 9019, the Settlement Agreement is approved in all respects.

3. Pursuant to section 363(b) of the Bankruptcy Code, the release of the Reimbursement to the Escrow Account is approved in all respects.

4. Tronox is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion, including entry into and performance of the Settlement Agreement.

5. Notwithstanding the possible applicability of Rules 6004(h), 7062 and 9014 of the Federal Rules of Bankruptcy Procedure or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

6. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

New York, New York
Date: _____, 2010

United States Bankruptcy Judge

EXHIBIT B

Kress Creek Settlement Agreement

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	)	Chapter 11
TRONOX INCORPORATED, et al.,[1]	)	Case No. 09-10156 (ALG)
Debtors.	)	Jointly Administered

SETTLEMENT AGREEMENT

This Settlement Agreement (the "**Agreement**") is made as of May ___, 2010, by and among Tronox Incorporated and its debtor affiliates (collectively, the "**Debtors**"), and the United States of America (the "**United States**," and together with the Debtors, the "**Parties**").

RECITALS

WHEREAS, on January 12, 2009 (the "**Petition Date**"), the Debtors each filed voluntary petitions for relief with the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**") and commenced cases (the "**Bankruptcy Cases**") under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**");

[1] The Debtors in these cases include: Tronox Luxembourg S.ar.l; Tronox Incorporated; Cimarron Corporation; Southwestern Refining Company, Inc.; Transworld Drilling Company; Triangle Refineries, Inc.; Triple S, Inc.; Triple S Environmental Management Corporation; Triple S Minerals Resources Corporation; Triple S Refining Corporation; Tronox LLC; Tronox Finance Corp.; Tronox Holdings, Inc.; Tronox Pigments (Savannah) Inc.; and Tronox Worldwide LLC.

WHEREAS, the Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, the Debtors have been engaged in remediation efforts (a) at the Rare Earths Facility (the "**REF**") pursuant to requirements imposed by a license issued by the Illinois Emergency Management Agency and (b) pursuant to a Consent Decree filed in *United States v. Kerr-McGee Chemical LLC*, Civil Action No. 05C2318 (N.D. Ill.) ("**Federal Consent Decree**") and a Consent Decree filed in *County of DuPage v. Kerr-McGee Chemical LLC*, Civil Action No. 05C1872 (N.D. Ill.) **("Local Communities Consent Decree"**), at four vicinity sites (referred to collectively as the "**West Chicago NPL Sites**") that are or were listed on the National Priorities List: (i) residential areas in the City of West Chicago and DuPage County, Illinois ("**RAS**"); (ii) Reed-Keppler Park in West Chicago, Illinois; (iii) the sewage treatment plant in West Chicago and DuPage County, Illinois; and (iv) Kress Creek and the West Branch DuPage River in DuPage County, Illinois ("**Kress Creek**");

WHEREAS, the United States Environmental Protection Agency ("US EPA") established the Kress Creek/West Branch DuPage River Superfund Site Special Account ("**Special Account**"), within the EPA Hazardous Substance Superfund, for the West Chicago NPL Sites pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. § 9622(b)(3), to which Kerr-McGee Chemical LLC, pursuant to the terms of the Federal Consent Decree, deposited funds to be retained and used to

conduct or finance response actions at or in connection with the West Chicago NPL Sites;

WHEREAS, the performance of certain environmental remediation work at the West Chicago NPL Sites related to removal of radioactive contamination from "Reach 7" of Kress Creek and certain of the RAS properties, which properties are more specifically identified in Attachment A hereto, has been identified by the Parties as a priority for the Debtors' remediation obligations (the "**Reach 7 and RAS Remediation Work**");

WHEREAS, in light of the Debtors' financial condition and status as Chapter 11 Debtors, Debtors have engaged in negotiations with the United States concerning a consensual agreement regarding the performance and funding of the Reach 7 and RAS Remediation Work;

WHEREAS, on December 23, 2009, the Court entered an Order Authorizing Tronox to Enter Into Plan Support Agreement and Equity Commitment Agreement, which contemplates, *inter alia*, that all of the environmental claims asserted by the United States and certain tribal, state and local governments against the Debtors with respect to certain sites will be settled through a Chapter 11 Plan of Reorganization (the "**Plan**") and a Consent Decree and Settlement Agreement ("**Global Settlement**");

WHEREAS, the Global Settlement contemplates the creation of a West Chicago Environmental Response and Work Trust ("**West Chicago Trust**") to, among other things, perform, manage, and fund implementation of

environmental actions at the REF and certain of the West Chicago NPL Sites, specifically, the RAS and Kress Creek;

WHEREAS, the Global Settlement further contemplates the establishment, within the West Chicago Trust, of several segregated environmental cost accounts, including the following two segregated accounts (i) the West Chicago Trust Environmental Cost Account for Kress Creek (the "**Kress Creek Environmental Cost Account**") and (ii) the West Chicago Trust Environmental Cost Account for those RAS properties that are not owned by Debtors (the "**Non-Owned RAS Properties Environmental Cost Account**") to, among other things, perform, manage, and fund implementation of environmental actions at Kress Creek and the Non-Owned RAS Properties;

WHEREAS, Title X of the Energy Policy Act of 1992 ("Title X"), Pub. L. No. 102-486 (1992) (codified as amended at 42 U.S.C. § 2296a), provides for reimbursement by the United States Department of Energy ("**DOE**") of remediation costs incurred at specific sites that were used at least in part to supply uranium and thorium to the United States;

WHEREAS, remediation work performed by the Debtors at the REF and the West Chicago NPL Sites qualifies for reimbursement under Title X and Debtors are therefore eligible to receive reimbursement from DOE for 55.2 percent of certain remediation costs expended at the REF and the West Chicago NPL Sites;

WHEREAS, reimbursements under Title X are funded by Congressional appropriations;

WHEREAS, under Title IV of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009), which was signed into law on February 17, 2009, Congress authorized an appropriation of $70 million for Title X reimbursements at active uranium or thorium processing sites;

WHEREAS, Tronox presently is owed a total amount of approximately $25 million in past due reimbursements (the "**Reimbursement**") for (i) $17.7 million for costs spent in connection with eligible remediation efforts at the REF and the West Chicago NPL Sites prior to February 2008, which Tronox had expected to receive in April 2009, and (ii) $7.3 million for costs spent in connection with eligible remediation efforts at the REF and the West Chicago NPL Sites for work performed during calendar year 2008, which Tronox had expected to receive in or around January 2010;

WHEREAS, on August 12, 2009, the United States of America, on behalf of US EPA, the Nuclear Regulatory Commission, the United States Department of Agriculture, acting through the United States Forest Service, the United States Department of the Interior, acting through the Fish and Wildlife Service, and the United States Department of Commerce, acting through the National Oceanic and Atmospheric Administration, filed Proofs of Claim Nos. 2384, 2385, 2386, 2387, 2388, 2389, 2390, 3528, 3529, 3530, 3532, 3533, 3534, 3535, and 3626, setting forth, among other things, pre-petition claims against the Debtors for

past response costs and civil penalties with respect to certain sites that are owned and not owned by Debtors, including the West Chicago NPL Sites;

WHEREAS, the Debtors have ongoing injunctive obligations to perform response activities at the West Chicago NPL Sites under the Federal Consent Decree;

WHEREAS, the United States asserts that, under section 553 of the Bankruptcy Code, it has the right to offset the Reimbursement against its alleged prepetition claims against Tronox;

WHEREAS, the United States informed the Debtors that the Reimbursement had been placed on administrative hold by DOE pending discussions between the Parties regarding the United States' alleged right to offset the Reimbursement;

WHEREAS, the Debtors assert that the Reimbursement is not subject to setoff under section 553 of the Bankruptcy Code and that the Debtors are, therefore, entitled to immediate receipt of the Reimbursement;

WHEREAS, following extensive, arms-length negotiations and the exchange of information among the Parties, the Parties have resolved the dispute concerning the United States' alleged right to offset the Reimbursement,

NOW, THEREFORE, in consideration of the foregoing, the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties stipulate and agree and the Court orders that:

1. Within five days of entry of this Settlement Agreement, the United States shall release the Reimbursement to a segregated third-party, interest-bearing escrow account (the **"Escrow Account**") to be established by the Debtors to fund performance of the Kress Creek and RAS Remediation Work until the Effective Date of the Plan ("**Plan Effective Date**"), and to be held in trust for the sole purpose of complying with the requirements of this Agreement.

2. Until the Plan Effective Date and in accordance with US EPA-approved work plans, the Debtors shall implement and direct the performance of the Reach 7 and RAS Remediation Work; provided, however, that if the Debtors are unable for any reason to perform the Reach 7 and RAS Remediation Work prior to the Effective Date, then the implementation of the Reach 7 and RAS Remediation Work may be directed by the United States or a third party as appointed and agreed upon by the Parties.

3. The Debtors shall retain ARCADIS U.S., Inc. ("**ARCADIS**") to perform the US EPA-approved work plans under this Agreement pursuant to a written contract between ARCADIS and the Debtors (the "**ARCADIS Contract**").

4. On or before the Plan Effective Date, the Debtors shall assign the ARCADIS Contract to the West Chicago Trust in order that all rights, obligations, interests and liabilities of the Debtors pursuant to the ARCADIS Contract, including indemnity obligations, shall be assigned to and assumed by the West Chicago Trust.

5. On or before April 30, 2010, the Debtors shall submit to DOE a

Title X claim for any remedial costs that were incurred prior to March 31, 2010, but had not been previously claimed by the Debtors for calendar years 2009 and 2010, for eligible REF and West Chicago NPL Site remediation work.

6. US EPA, at its discretion, is willing to make available Special Account funds to the West Chicago Trust to conduct or finance response actions at or in connection with the West Chicago NPL Sites in accordance with this Agreement. Accordingly, as soon as practicable, the Debtors shall, in addition to the Title X claims set forth in Paragraph 5 above, submit to US EPA a Cost Summary and Certification for the first $3 million of work performed by the Debtors under this Agreement to demonstrate that the Debtors have incurred costs in accordance with this Agreement. The Cost Summary and Certification shall comport with the requirements set forth in the instructions annexed hereto as Attachment B. Subject to the conditions set forth in Attachment B, and after the Debtors have demonstrated costs have been incurred in accordance with this Agreement and the instructions annexed hereto as Attachment B, on a date after the Plan Effective Date to be determined by US EPA, US EPA may transfer funds from the Special Account by electronic wire transfer to either or both the Kress Creek Environmental Cost Account and the Non-Owned RAS Properties Environmental Cost Account, based on funding needs for remaining environmental actions to be performed.

7. On or before the Plan Effective Date, the Debtors shall provide to the trustee for the West Chicago Trust, as identified in the Global Settlement, all

information and documentation necessary for the trustee to submit a Title X claim to DOE for any remedial costs incurred by the Debtors for work performed under this Agreement that were not previously claimed by the Debtors in Paragraph 5 above.

8. On the Plan Effective Date, the Debtors shall transfer to the West Chicago Trust all of their rights, title, and interest in all Title X reimbursements from DOE to which the Debtors would have been entitled based on remediation work performed by the Debtors under this Agreement.

9. On the Plan Effective Date, the Debtors shall also transfer any unused funds remaining in the Escrow Account to the West Chicago Trust, pursuant to the terms and conditions set forth in the Global Settlement.

10. Nothing in this Agreement modifies any provisions of the Federal Consent Decree and the Local Communities Consent Decree, and all parties reserve all rights thereunder.

11. Notwithstanding anything to the contrary in this Agreement, the Debtors acknowledge that it may become necessary under applicable law for the Debtors to perform additional actions beyond those set forth in the approved work plan for the Reach 7 and RAS Remediation Work, provided, however, that all parties reserve all rights, claims, and defenses with respect to such actions. In addition, it is understood that the Debtors, with the approval of US EPA, may alter individual tasks identified in the approved work plans, if necessary, due to unanticipated circumstances.

12. Nothing herein shall be deemed to limit any authority of the United States to (a) to take all appropriate action to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release on, at, or from any site or facility; or (b) direct or order such action, or seek an order from the Bankruptcy Court, to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release on, at, or from any site or facility, provided, however, that nothing in this Paragraph shall be construed to negate any obligation provided for in this Agreement.

13. As soon as reasonably practicable following the execution of this Agreement, the Debtors will file a motion with the Bankruptcy Court requesting entry of an order by the Bankruptcy Court approving the terms of this Settlement Agreement.

14. If approval of this Settlement Agreement is denied by the Bankruptcy Court, (a) this Settlement Agreement shall be null and void and 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; and (c) this Settlement Agreement and any documents prepared in connection herewith shall have no residual or probative effect or value, and it shall be as if they had never been executed.

15. If this Settlement Agreement is approved, but the Bankruptcy Cases are subsequently dismissed or converted to cases under Chapter 7 of the

Bankruptcy Code, Debtors shall continue to implement and direct the performance of the "Reach 7" and RAS Remediation Work using the funds in the Escrow Account. If the "Reach 7" and RAS Remediation Work is completed pursuant to this Paragraph, and there are leftover funds in the Escrow Account, Debtors shall transfer the remaining funds to the Special Account.

16. The Bankruptcy Court shall retain jurisdiction over both the subject matter of this Agreement and the Parties hereto, for the duration of the performance of the terms and provisions of this Agreement for the purpose of enabling any of the Parties to apply to the Bankruptcy Court at any time for such further order, direction and relief as may be necessary or appropriate for the construction or interpretation of this Agreement, or to effectuate or enforce compliance with its terms; provided, however, that nothing herein shall impair the jurisdiction of the United States District Court for the Northern District of Illinois under the Federal Consent Decree and the Local Communities Consent Decree.

17. The signatories for the parties each certify that he or she is authorized to enter into the terms and conditions of this Settlement Agreement, and to execute and bind legally such party to this document.

AGREED TO BY:

Dated: _____
New York, New York

KIRKLAND & ELLIS
Attorney for the Debtors and Debtors in Possession

_____

Jonathan S. Henes
Citigroup Center
601 Lexington Avenue
New York, New York 10022-4611
Tel: (212) 446-4800

Dated: _____
New York, New York

PREET BHARARA
UNITED STATES ATTORNEY
Attorney for the United States of America

_____

Robert William Yalen
Joseph A. Pantoja
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Assistant United States Attorneys
86 Chambers Street
New York, New York 10007
Tel: (212) 637-2800

Dated: _____
New York, New York

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

_____

Cynthia Giles
Assistant Administrator
U.S. EPA Office of Enforcement and Compliance Assurance
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Tel: (202) 564-2440

ATTACHMENT A

Residential Areas Site Properties List

	EPA Property ID Number
1.	#015
2.	#020
3.	#024
4.	#035
5.	#055
6.	#075
7.	#076
8.	#077
9.	#100
10.	#111

ATTACHMENT B TO SETTLEMENT AGREEMENT

PRE-DISBURSEMENT COST SUMMARIES AND CERTIFICATIONS TO FACILITATE DISBURSEMENTS OF SPECIAL ACCOUNT FUNDS

1. Pre-Disbursement Cost Summaries/Certifications in Advance of Requests for Disbursement of Special Account Funds.

a. Debtors shall submit to US EPA a Cost Summary and Certification, as defined in Subparagraph 1b, for the first $3 million of response work performed by the Debtors under the Settlement Agreement, along with the request for disbursement from the Special Account to the West Chicago Trust Environmental Cost Accounts.

b. The Cost Summary and Certification shall include a complete and accurate written [ ] and certification of the necessary costs incurred and paid, or to be incurred pursuant to a written contract, by Debtors for the Work covered by the particular submission, excluding costs not eligible for disbursement under Paragraph 2. The Cost Summary and Certification shall contain the following statement signed by the Debtors' [Comptroller], independent Certified Public Accountant [or functional equivalent]:

> "To the best of my knowledge, after thorough investigation and review of Debtors' documentation of costs incurred and paid for Work performed pursuant to this Consent Decree, I certify that the information contained in or accompanying this submittal is true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fine and imprisonment."

The Debtors' [Comptroller], independent Certified Public Account [or functional equivalent] shall also provide US EPA a list of the [ ] that he or she reviewed in support of the Cost Summary and Certification. Upon request by US EPA, Debtors shall submit to US EPA any additional information that US EPA deems necessary for its review and approval of the Cost Summary and Certification.

c. If US EPA finds that the Cost Summary and Certification includes a mathematical accounting error, costs or cost estimates excluded under Paragraph 2, costs or cost estimates that are inadequately documented, or costs or cost estimates submitted in a prior Cost Summary and Certification, US EPA will notify Debtors and provide an opportunity to cure the deficiency by submitting a revised Cost Summary and Certification. If Debtors fail to cure the deficiency within thirty (30)

days after being notified of, and given the opportunity to cure, the deficiency, US EPA will recalculate Debtors' costs eligible for disbursement for that submission.

2. Costs Excluded from Disbursement

The following costs should not be submitted as part of the Cost Summary and Certification as they are excluded from disbursement from the Special Account: (a) response costs paid by Kerr-McGee Chemical LLC pursuant to the Federal Consent Decree; (b) attorneys' fees and costs, except to the extent that such costs qualify as response costs under CERCLA; (c) costs of any response activities Debtors perform that are not required under, or approved by US EPA pursuant to the Kress Creek Final Design Work Plans or RAS Work Plans; (d) costs related to the Debtors' litigation, settlement, development of potential contribution claims, or identification of defendants; or (e) internal costs of the Debtors including, but not limited to, salaries, travel, or in-kind services, except for those costs that represent the work of employees of the Debtors directly performing the US EPA-approved Kress Creek Final Design Work Plans or RAS Work Plans.