

SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE (the "Agreement") is made and entered into effective as of the 1st day of February, 2010 (the "Effective Date"), by and among BLACKWELL ZINC COMPANY, INC., a New York corporation ("BZC"), CYPRUS AMAX MINERALS COMPANY, a Delaware corporation ("CAMC"), FREEPORT-MCMORAN CORPORATION, a New York corporation f/k/a Phelps Dodge Corporation ("FMC"), FREEPORT-MCMORAN COPPER & GOLD INC., a Delaware corporation ("FCX"), together with BZC, CAMC and FMC being collectively referred to as "Freeport", the CITY OF BLACKWELL, a municipality chartered under the laws of the State of Oklahoma (the "City"), and the BLACKWELL MUNICIPAL AUTHORITY, an Oklahoma statutory public trust (the "BMA"), together with the City being collectively referred to as "Blackwell". BZC, CAMC, FMC, FCX, the City and the BMA may be referred to in this Agreement individually as a "Party" or collectively as the "Parties".

WITNESSETH:

WHEREAS, BZC previously owned and operated a zinc smelter facility, and has conducted and performed other activities in connection therewith, on real property in the City encompassing approximately 160 acres, more or less (the "Smelter"); and

WHEREAS, the Smelter is the subject of ongoing response actions addressing certain environmental conditions with the Oklahoma Department of Environmental Quality ("DEQ") pursuant to (i) a certain Consent Agreement and Final Order For Investigation and Remediation (EH-92-201) dated December 17, 1992, by and among the DEQ as successor to the Oklahoma State Department of Health, BZC, the BLACKWELL INDUSTRIAL AUTHORITY, a public trust of the State of Oklahoma (the "BIA"), and the City, as an intervenor, and all addendums thereto (the "CAFO"), (ii) a certain Record of Decision, Soil Remediation Unit issued by the DEQ on April 4, 1996 (the "SRU Rod"), (iii) a certain Record of Decision, Ecological Remediation Unit issued by the DEQ on April 24, 1998 (the "ERU Rod"), and (iv) a certain Record of Decision, Groundwater Remediation Unit issued by the DEQ on August 15, 2003 (the "Groundwater ROD"); and

WHEREAS, various disputes have arisen between the Parties which have resulted in litigation more particularly styled as *City of Blackwell, Oklahoma and Blackwell Municipal Authority v. Freeport McMoran Copper & Gold Inc., Freeport-McMoran Corporation f/k/a Phelps Dodge Corporation, Cyprus Amax Minerals Company and Blackwell Zinc Company, Inc.*, Kay County, Oklahoma District Court, Case No. CJ-2009-15B (the "Lawsuit"); and

WHEREAS, the Parties now desire to settle and release certain claims that Blackwell has or may have against Freeport, subject to certain reservation of claims and rights and the terms and conditions described in this Agreement.

NOW THEREFORE, in consideration of the mutual agreements and covenants contained in this Agreement, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. CONSIDERATION. As consideration for the release of claims and other consideration described in this Agreement, Freeport shall pay to Blackwell the amount of FIFTY-FOUR MILLION and 00/100 Dollars (\$54,000,000.00) by wire transfer to the trust account of Ryan Whaley Coldiron Shandy PLLC. Payment shall be made within ten (10) business days after Blackwell provides evidence to Freeport that it has (1) dismissed its claims against Freeport pursuant to Section 5 of this Agreement and (2) passed the necessary approvals and/or resolutions to have the authority to enter into this Agreement pursuant to Section 22 of this Agreement.

2. BLACKWELL RELEASE. In exchange for the payment of the consideration described in Section 1, Blackwell fully and forever releases, discharges, and covenants not to sue Freeport and/or their respective shareholders, members, partners, directors, managers, officers, agents, subsidiaries, successors and assigns (the "Freeport Released Parties") with respect to any and all claims, actions, damages (including, but not limited to, unjust enrichment, stigma damages, lost tax revenue, lost profits, punitive damages, and annoyance, inconvenience and discomfort), causes of action, expenses, losses and liabilities of whatever kind or nature in equity or at law, known or unknown, foreseen or unforeseen, suspected or unsuspected, asserted or unasserted, contingent or otherwise that relate to or otherwise involve (i) the historical operations of the Smelter, (ii) any contamination or pollution resulting from the Smelter, or (iii) Freeport's conduct, acts or omissions associated with such historical operations or contamination, including Freeport's conduct, acts or omissions to remediate contamination or pollution from the historical operations of the Smelter (the "Released Claims") but expressly excluding all Reserved Claims (as hereafter defined).

3. FREEPORT RELEASE. In exchange for the release of the Released Claims described in Section 2, Freeport fully and forever releases, discharges, and covenants not to sue Blackwell or their respective trustees, beneficiaries, directors, officers, employees, agents, representatives, successors, and assigns with respect to any and all claims it has relating to Released Claims, but expressly excluding the Reserved Claims.

4. RESERVED CLAIMS. For purposes of this Agreement, "Reserved Claims" shall collectively mean all claims for actual damages and/or abatement (or costs of abatement) occurring, continuing or arising on or after the Effective Date associated with any groundwater that is impacted or contaminated by or from any waste or materials originating or emanating from the Smelter which infiltrates into Blackwell's publicly owned treatment works and/or POTW treatment plant as such terms are defined in 40 C.F.R. § 403.3(q) and (r) (collectively, the "POTW"). Blackwell's Reserved Claims shall not seek any damages for (i) unjust enrichment, (ii) stigma, (iii) lost tax revenue, (iv) lost profits, (v) annoyance, inconvenience and discomfort, or (vi) punitive damages. The preceding sentence shall not be interpreted to prohibit Blackwell from making a Reserved Claim for nuisance against Freeport, but only that Blackwell will not seek the damages listed in the preceding sentence under such nuisance claim.

4.1 Accrual of Claims; Agreement as to Pre-Judgment Interest. Freeport does not believe Blackwell is entitled to pre-judgment interest on the Reserved Claims based on the law as it existed on October 15, 2009. Nevertheless, should the court or the trier of fact on any Reserved Claim determine in the future that Blackwell is entitled to pre-judgment interest on any Reserved Claim, Blackwell shall be paid for any Reserved

Claim for which pre-judgment interest is applicable at a rate of five and one-quarter percent (5.25%). For purposes of determining Blackwell's entitlement to pre-judgment interest, and calculating the date from which such pre-judgment interest shall be paid, the court or the trier of fact shall rely upon the law as it existed on October 15, 2009, and calculate such pre-judgment interest as though any subsequent suit on any Reserved Claim was filed on October 15, 2009. Freeport does not believe that any of the Reserved Claims accrued on or before October 15, 2009. Nevertheless, should the court or the trier of fact on any Reserved Claim determine that any of the Reserved Claims accrued on or before October 15, 2009, any such Reserved Claim shall be governed by the laws of the State of Oklahoma in force and effect as of October 15, 2009.

4.2 Insignificant Claims. Blackwell agrees that it will not in the future pursue any Reserved Claim against Freeport for any insignificant infiltration into or insignificant impact on the POTW.

4.3 Jurisdiction for Reserved Claims. The Parties agree that all Reserved Claims shall be decided by the state court in Oklahoma, and the Parties shall each submit to the jurisdiction of such court and agree that service of process by certified mail, return receipt requested, shall be sufficient to confer said courts with *in personam* jurisdiction. Freeport further agrees not to remove any proceeding involving any Reserved Claims to federal court.

5. DISMISSAL. Within two (2) business days after the Effective Date, the Parties agree and covenant to dismiss the Released Claims with prejudice and the Reserved Claims without prejudice. The Parties shall bear their respective attorneys' fees and costs in the Lawsuit and make no agreement as to who shall bear costs and/or attorneys' fees in any subsequent proceedings involving the Reserved Claims.

6. TOLLING OF RESERVED CLAIMS. For the period of time commencing from the Effective Date through July 1, 2012, or such other period as the Parties may otherwise agree in writing (the "Tolling Period"), the Parties shall not commence or pursue any action or proceeding of any nature or type whatsoever against any other Party related to or involving the Reserved Claims; except Blackwell shall, in its sole discretion, have the right to re-file the Reserved Claims at any time prior to the expiration of the Tolling Period, if Blackwell reasonably anticipates that any change in the substantive law of Oklahoma may materially impact the right of Blackwell with respect to the Reserved Claims. In the event Blackwell re-files any Reserved Claims prior to the expiration of the Tolling Period, the Parties agree that the re-filed case will be stayed until the expiration of the Tolling Period. The Parties agree that the Tolling Period shall not be included in computing the running of, or deadline under, any statute of limitations, statute of repose, laches or other defense based upon the lapse of time related to the Reserved Claims. Nothing in this Section 6 shall be construed in any manner (i) to revive any cause of action upon which the statute of limitations has already expired prior to the Effective Date, (ii) as an acknowledgement by a Party that any claim or defense is barred, or is about to be barred by the statute of limitations, laches or other defense based on the lapse of time, or (iii) as an admission of liability by a Party.

7. FURTHER DUTIES AND OBLIGATIONS. In addition to any other duties, obligations or responsibilities described in this Agreement, the Parties agree and covenant to the following:

7.1 Groundwater Delta Costs. Through the Tolling Period, Freeport shall reimburse Blackwell for any and all additional actual costs, expenses and fees (including, but not limited to, attorney's fees) reasonably incurred by Blackwell as a result of any groundwater that is impacted or contaminated by or from waste or materials originating or emanating from the Smelter, except for those costs and expenses associated with Blackwell's obligations under Section 7.2. Freeport shall not be obligated to reimburse Blackwell for any other costs, expenses and fees, including, but not limited to, those costs, expenses and fees associated with investigating, preparing, or asserting Reserved Claims. As soon as possible after the close each calendar month, Blackwell shall submit to Freeport a written statement identifying all such costs incurred by Blackwell during the previous calendar month that Blackwell reasonably believes qualify under this Section 7.1 (a "Reimbursement Request"). Each Reimbursement Request shall be supported by invoices, receipts and other documentation reasonably requested by Freeport to allow Freeport to verify that each such cost identified in the Reimbursement Request qualifies under this Section 7.1. Within forty-five (45) days of receiving a Reimbursement Request (the "Review Period"), Freeport shall either pay or disapprove the Reimbursement Request. If Freeport disapproves any portion of the Reimbursement Request, Freeport shall provide Blackwell with written notice that identifies the portion and rationale for the disapproval (the "Disapproval Notice") within fifteen (15) days of the close of the Review Period and pay Blackwell the amount of any undisputed portion of the Reimbursement.

7.2 Soil, Groundwater, and Smelter Material Management. Blackwell shall be responsible for and agrees to manage, at its own expense, any and all groundwater extracted or capable of being extracted with a vacuum truck and soils impacted or contaminated by the Smelter or any other visible Smelter waste encountered during or generated by any activities of Blackwell or its contractors on any Blackwell owned property, leased property, easements, or right-of-ways. Following commencement of operations of Freeport's groundwater treatment plant being constructed near the POTW, Freeport shall be responsible for and agrees to store, treat and dispose of any groundwater extracted by or for the benefit of Blackwell from the groundwater management area designated by DEQ unless Blackwell otherwise agrees to store, treat and/or manage any such groundwater. Blackwell agrees to negotiate in good faith and enter into a consent decree or order with DEQ wherein it will agree with DEQ to the obligations in this Section 7.2; provided, that such consent decree or order contains such terms and conditions that are reasonably acceptable to Blackwell and does not prejudice Blackwell's ability or right to pursue the Reserved Claims.

7.3 Financial Assurance. FCX shall provide Blackwell with a demonstration of financial assurances in the amount of financial assurance it agrees to provide DEQ for performing its obligations under the SRU Rod, ERU Rod and Groundwater ROD. Freeport may demonstrate such financial assurance in accordance with the requirements of 40 C.F.R. §264.140 *et seq.* Freeport shall provide this financial assurance to Blackwell

when financial assurance is provided to DEQ. Until such time as financial assurance is provided to DEQ, Freeport shall provide Blackwell with a copy of its annual report showing its financial capability. Freeport shall provide notice of the financial assurance and any changes thereto when it provides these notices to DEQ. This financial assurance requirement shall remain in full force and effect until such time as the SRU Rod, ERU Rod, and Groundwater ROD have been completed as determined by DEQ. If Freeport can demonstrate to DEQ that the estimated cost to complete the remaining work required under the SRU Rod, ERU Rod, and Groundwater ROD has diminished below the amount set forth above after the Effective Date of this Agreement, Freeport may reduce the amount of the financial assurance provided herein to the estimated cost of the remaining work to be performed.

8. NOTICES. All correspondence and communications to a Party under this Agreement 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.

To Freeport: L. Richards McMillan, Esq.
General Counsel
Freeport-McMoRan Copper & Gold Inc.
One North Central Avenue
Phoenix, Arizona 85004

With a copy to: Gallagher & Kennedy, P.A.
2575 East Camelback Road
Phoenix, Arizona 85016-9225
Attn: David L. Wallis, Esq.

And a copy to: Vinson & Elkins LLP
1455 Pennsylvania Avenue
Washington DC 20004
Attn: Kevin Gaynor

To Blackwell: City of Blackwell
211 South Main Street
Blackwell, Oklahoma 74631
Attn: City Manager

With a copy to: Ryan Whaley Coldiron Shandy PLLC
119 North Robinson
Oklahoma City, Oklahoma 73102
Attn: Donald K. Shandy, Esq.

9. NO ADMISSION OF LIABILITY. This Agreement and any payments made or funds provided hereunder shall not constitute, nor be interpreted, construed or used as evidence of, any admission of liability, law or fact, as a waiver of any right or defense, or as an estoppel against any Party by Parties as among themselves or by any other person not a Party except as specifically provided under this Agreement.

10. CONFLICT OF INTEREST. Each Party hereby waives any claim of conflict of interest that might arise by virtue of the participation of its attorneys (including law firms and in-house counsel) in developing this Agreement.

11. RELATIONSHIP OF PARTIES. No Party, or representative, or counsel for any Party, has acted as counsel for any other Party with respect to such Party entering into this Agreement, except as expressly engaged by such Party with respect to this Agreement, and each Party represents that it has sought and obtained any appropriate legal advice it deems necessary prior to entering into this Agreement. No Party or its representative shall act or be deemed to act as legal counsel or a representative of any other Party, unless expressly retained by such Party for such purposes, and, except for such express retention, no attorney-client relationship is intended to be created between representatives and the Parties.

12. EXTENT OF AGREEMENT. With the exception of the Surviving Agreements (as hereafter defined), which shall remain in full force and effect after the Effective Date, this Agreement constitutes the entire agreement and understanding between the Parties with respect to the subject matter hereof and expressly supersedes and revokes all other prior or contemporaneous promises, representations, and assurances of any nature whatsoever with respect to the subject matter hereof. For purposes of this Agreement, "Surviving Agreements" shall collectively mean (i) that certain Extraction Well and Pipeline Access Agreement dated April 30, 2009, by and among BZC, FCX and Blackwell, (ii) that certain Funding Agreement dated July 20, 2009, by and between CAMC and the BMA, (iii) that certain Joint Defense Agreement dated July 1, 2000, by and among CAMC, FMC, the City and the BIA, (iv) that certain Agreement For Limited Access to Rights of Way in Blackwell, Oklahoma effectively dated May 5, 2009, by and among Blackwell and BZC, (v) that certain Substation Easement Agreement dated July 10, 2009, by and between CAMC and the BMA, License Agreement filed in the office of the Kay County Clerk on July 15, 2009, in Book 1467, Page 0940, and (vi) that certain License Agreement dated August 3, 2009, by and among CAMC, BZC, FCX, the BIA and the City filed in the office of the Kay County Clerk on September 4, 2009, in Book 1472, Page 0758 (the "License Agreement"). Nothing in this Agreement shall be construed, interpreted or inferred to shift, transfer or reassign any duties, obligations, liabilities or responsibilities from Freeport to Blackwell under any order, decree or directive of any state or federal regulatory agency or authority except as otherwise expressly provided in this Agreement.

13. THIRD-PARTY BENEFICIARIES. This Agreement is intended only for the benefit of the Parties, and there shall be no third-party beneficiaries to this Agreement. This Agreement is not intended to affect or alter any Party's rights (including, but not limited to, indemnity and/or contribution) in the event of future litigation by others not a party to this Agreement. Nevertheless the preceding sentence does not preclude Freeport from asserting that any claim brought by others not parties to this Agreement is all or in part the responsibility of Blackwell as a consequence of it being caused in whole or in part by Blackwell's negligence, gross negligence or willful misconduct or because it falls within the scope of the claims asserted by Blackwell in its petition in the Lawsuit that have been released pursuant to Section 2.

14. ASSIGNMENT; AMENDMENTS. No Party shall assign or delegate any of its rights, duties, obligations or responsibilities under this Agreement without the prior written consent of the other Parties, except to the designees of the Parties expressly contemplated and

provided for in this Agreement. No amendment or modification of this Agreement shall be valid unless evidenced in writing and signed by all of the Parties.

15. SUCCESSORS AND ASSIGNS. This Agreement shall inure to the benefit of, be binding upon, and be enforceable by the Parties and their respective successors and permitted assigns.

16. HEADINGS. Any headings or captions used herein are for reference purposes only, and shall not in any way affect the meaning or interpretation of this Agreement.

17. INTERPRETATION. The Parties acknowledge that this Agreement constitutes a negotiated compromise between persons sophisticated and knowledgeable in the matters dealt with in this Agreement. The Parties agree that any rule of construction under which any ambiguities are construed against the drafter of a legal document is not applicable and shall not apply to this Agreement. Except as expressly set forth in this Agreement, no Party has relied on any representation or statement made by the other Party in the negotiation, drafting, or execution of this Agreement. No Party has any fiduciary or other duty to the other Party in respect of the negotiating, drafting, or execution of this Agreement.

18. MULTIPLE COUNTERPARTS. This Agreement may be executed, by facsimile or otherwise, in any number of counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument.

19. PLURAL; GENDER. Words used in this Agreement in the singular, where the context so permits, shall be deemed to include the plural and vice versa. Words used in the masculine or the feminine, where the context so permits, shall be deemed to mean the other and vice versa. The definitions of words in the singular in this Agreement shall apply to such words when used in the plural where the context so permits and vice versa, and the definitions of words in the masculine or feminine in this Agreement shall apply to such words when used in the other form where the context so permits and vice versa. Any reference to a section number in this Agreement shall mean the section number in this Agreement unless otherwise expressly stated.

20. GOVERNING LAW. All issues and questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by, and construed in accordance with, the laws of the State of Oklahoma, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Oklahoma or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Oklahoma.

21. DEFAULT. In the event that a Party defaults in the performance of any of their respective duties or obligations under this Agreement, the other Party(ies) may at its option obtain specific performance of this Agreement against the defaulting Party(ies).

22. AUTHORITY. The individuals who have executed this Agreement on behalf of the Parties expressly represent and warrant that they (i) are authorized to sign on behalf of the Parties for binding the Parties to this Agreement and (ii) have obtained all of the necessary approvals and resolutions needed to execute and implement this Agreement.


23. VALIDITY. The Parties agree not to challenge the enforceability or validity of this Agreement or any of its provision.

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IN WITNESS WHEREOF, the Parties have executed and delivered the Agreement as of the Effective Date.

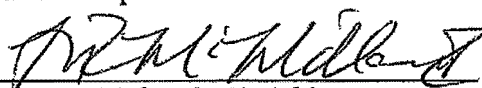
"BZC"

BLACKWELL ZINC COMPANY, INC.,
a New York corporation

By: 
Name: L. Richards McMillan, II
Title: Senior Vice President

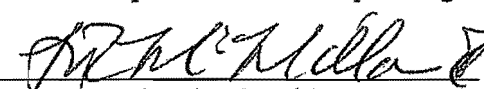
"CAMC"

CYPRUS AMAX MINERALS COMPANY,
a Delaware corporation

By: 
Name: L. Richards McMillan, II
Title: Senior Vice President

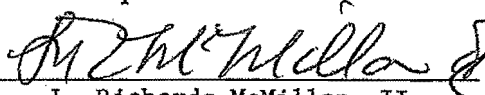
"FMC"

FREEPORT-McMORAN CORPORATION,
a New York corporation f/k/a Phelps Dodge Corporation

By: 
Name: L. Richards McMillan, II
Title: Senior Vice President

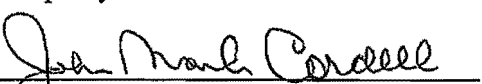
"FCX"

FREEPORT-McMORAN COPPER & GOLD INC.,
a Delaware corporation

By: 
Name: L. Richards McMillan, II
Title: Senior Vice President, General Counsel

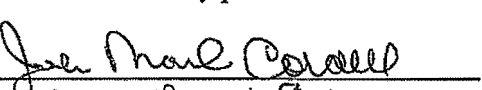
"CITY"

CITY OF BLACKWELL,
a municipality chartered under the laws of the State of Oklahoma

By: 
Name: JOHN MARK CORDELL
Title: Mayor

"BMA"

BLACKWELL MUNICIPAL AUTHORITY,
an Oklahoma statutory public trust

By: 
Name: JOHN MARK CORDELL
Title: Chairman