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**PROPOSED INSTITUTIONAL CONTROLS FOR
MOLYCORP, INC.
WASHINGTON, PENNSYLVANIA FACILITY
DECOMMISSIONING PROJECT**

December 15, 1999

WMSOI Public

INTRODUCTION

This document sets forth the proposal of Molycorp, Inc. ("Molycorp") for the establishment of legally enforceable institutional controls and sufficient financial assurance to satisfy the regulatory requirements of the U.S. Nuclear Regulatory Commission ("NRC") as set forth at 10 C.F.R. § 20.1403 for license termination under restriction conditions. Section 1 of this proposal identifies the regulatory requirements for institutional controls, discusses NRC guidance and provides a general discussion of institutional controls. Section 2 sets forth Molycorp's proposed institutional controls and explains how the proposed institutional controls meet the regulatory criteria and NRC guidance. Section 3 identifies regulatory requirements for financial assurance and discusses NRC guidance. Section 4 sets forth Molycorp's proposed financial assurance mechanisms and explains how the mechanisms meet the regulatory criteria and NRC guidance.

use of institutional controls¹, the most important consideration in the use of governmental controls is that they are implemented by third parties (usually local governments) and rely on those parties for monitoring, maintenance and enforcement. Therefore, governmental controls are subject to variances or exceptions available from the implementing governments which, according to the EPA, affects their durability.

One of the most common land use restrictions is the exercise of zoning authority by local governments specifying allowed land uses for certain areas. Zoning can be utilized to prohibit activities that could disturb certain aspects of a remedy or to control certain exposures not otherwise protected under a remedy. Although zoning laws can be useful tools, they have limitations as well. They are not necessarily permanent in nature (i.e., they can be repealed or exceptions granted by the local government). They may also not be fully effective unless they are monitored and enforced over the long term, and local governments may not commit personnel the resources necessary to such oversight.

Building permits can also be utilized as a land use restriction. For example, an ordinance could be adopted requiring anyone seeking a building permit for construction activities in a particular area to be notified of contamination in the area and informed of any relevant management standards. Such an ordinance could also be used to prohibit types of construction that would result in unacceptable exposures (e.g., excavation in areas where subsurface contamination has not been fully removed). It should be noted, however, that not all excavation requires permitting (e.g., utility repair).

Groundwater use restrictions are directed at limiting or prohibiting certain uses of groundwater. Implementation of such restrictions are dependent on a state's groundwater ownership and use laws.

¹ "Institutional Controls: A Reference Manual," prepared by the U.S. EPA Workgroup on Institutional Controls, Workgroup Draft - March 1998.

Groundwater use restrictions commonly involve water and well use restrictions. They can include the establishment of groundwater management zones or protection areas; prohibitions or limitations on certain uses of groundwater in particular areas; capping or closing of wells; and limitations on the drilling of new wells. Inasmuch as there is no evidence of radiological groundwater contamination at the Molycorp site, the implementation of governmental groundwater use restrictions are not considered necessary or appropriate for the Molycorp site.

Local governments may exercise eminent domain authority to acquire property for a public purpose. One way of controlling land use may simply be for a local government to exercise this authority to take title to the property in question. For example, it might be decided that the best use of a site was as a public parking lot. Imposing use restrictions of this degree might require outright condemnation.

The main advantage of governmental controls is that they do not require the negotiation, drafting and recording of parcel-by-parcel restrictions. This is important where the restriction is intended to affect a large number of distinct parcels involving multiple property owners. In Molycorp's case, however, there is only one parcel of property which is to be effected by the institutional controls. The chief disadvantage of governmental controls is that they will almost always have to be adopted and enforced by a unit of government other than the NRC or the DEP, who are the lead remedial agencies. At least for controls adopted on a site-specific basis, local governments are almost always relied upon to implement and enforce such controls. The effectiveness of governmental controls thus depends in most cases upon the willingness of local governments to adopt them (unless they already exist), keep them enforced, and enforce them over the long term.

2. MOLYCORP'S PROPOSED INSTITUTIONAL CONTROLS

As noted above, Molycorp's proposal for institutional controls involves a layering of redundant controls including physical controls, proprietary controls and enforcement authorities. Molycorp's use of such redundant controls is intended to enhance the overall level of effectiveness and reliability of the institutional controls.

A. Proposed Physical Controls

The primary physical control will be the construction and long-term maintenance of the storage cell for the radioactive material. The storage cell will be described in more detail in Molycorp's decommissioning plan, but it will generally involve the construction of a storage cell that is lined with an impervious material such as compacted clay and/or a man-made synthetic liner to prevent migration of any of the stored material. The storage cell also will be capped with a similar impervious material to prevent any exposure to humans or wildlife as well as to prevent stormwater infiltration.

The area around the storage cell will be fenced to prevent unauthorized access to the storage cell. In addition, warning signs with cautionary language will be installed at appropriate intervals along the outside of the fenced area. The physical controls also will include long-term maintenance and periodic inspections of the closure cell, the fence and the warning signs.

Molycorp also plans to conduct environmental monitoring of the groundwater and the ambient air around the storage cell. As described in more detail below, this monitoring will, in the first instance, be performed by Molycorp and/or its consultants. If Molycorp is subsequently unable or unwilling to perform such monitoring, the monitoring will be taken over by an experienced governmental agency. As noted in more detail below, Molycorp believes that the best agency to fill this role is the Pennsylvania

Department of Environmental Protection ("DEP"). The results of the monitoring activities will be made available to the public. Molycorp will provide a copy of the analytical results to each of the Canton Township Library, the Canton Township Board of Supervisors and the governmental agency (e.g., DEP) providing oversight. An "administrative record" of the monitoring activities will thus be available to all interested parties at the local library.

B. Proposed Enforcement Authority

As noted above, the NRC's Draft Regulatory Guide DG-4006 states that the physical controls described above do not satisfy the requirement in 10 C.F.R. § 20.1403(b) for legally enforceable institutional controls because they lack a mechanism for legal enforcement. Therefore, Molycorp proposes to use these physical controls in combination with a legal instrument that provides for their enforcement. Molycorp proposes to enter into an administrative consent order with an experienced governmental agency, such as the Pennsylvania DEP, to ensure the legal enforceability of the physical controls. The administrative consent order will document Molycorp's obligations to maintain and inspect the storage cell, the fencing and the warning signs. In addition, the administrative consent order will set forth with specificity the frequency and number of groundwater and air samples which Molycorp will be required to obtain and analyze. If Molycorp fails to comply with its obligations under the administrative consent order, the governmental agency can use its authority to compel such compliance. In the event that Molycorp is unable to comply (e.g., financially unable to perform), the consent order will provide that the governmental agency will take over the performance of the physical controls and the governmental agency will be reimbursed from the trust fund established for such purpose. (The trust fund is described in more detail in Section 4 of this proposal.)

In addition to providing the enforcement mechanism with respect to Molycorp's continuing obligations to perform and/or maintain the physical controls, the administrative consent order will contain

provisions directly restricting the use of the property by Molycorp. Although the administrative consent order in and of itself will not bind subsequent owners or users not named in the order (e.g., lessees), the order will be drafted to require Molycorp to notify the governmental agency of any anticipated change in ownership, the identity of any potential purchaser or lessee, and other information that would allow the governmental agency to assess whether a new order should be issued to the new purchaser or lessee. The proposed administrative consent order will also require Molycorp to disclose the order's existence to any potential purchaser or lessee.

The chief advantage of using the administrative consent order is that it is more expedient to establish than other types of proprietary or governmental institutional controls, particularly where the landowner (i.e., Molycorp) is conceptually agreeable to the terms of the order. The major disadvantage of an administrative consent order generally is its lack of enforceability against transferees. The importance of this disadvantage depends on how likely it is that the property will be transferred during the period that the restrictions are necessary. If ownership seems unlikely to change for a long time, an order may be a relatively effective means of institutional control. In addition, steps can be taken in the drafting of the order, as noted above, to ensure that the governmental agency will be aware of any subsequent transfer and could then reissue the order, by consent or unilaterally, if necessary, to the transferee.

C. Proposed Proprietary Controls

In addition to the physical controls and the administrative consent order described above, Molycorp also proposes the establishment of proprietary controls to guarantee the (i) durability and the enforceability of the land use restrictions and (ii) sufficient public notice to prevent the unintended disturbance of the storage cell. As noted above, proprietary institutional controls involve the landowner's transfer of rights that restrict the use of, or access to, the property to a third party. In other words, the

non-possessory third party has rights to control the landowner's use of his land. Easements and restrictive covenants are examples of such proprietary controls.

According to the NRC's Draft Regulatory Guide DG-4006, proprietary institutional controls on privately owned land should have the following characteristics:

The restrictions should (1) be enforceable against any owner of the affected property and any person who subsequently acquires the property or acquires any right to use the property, (2) be enforceable by parties, other than the landowner, who have the legal authority to enforce the restrictions, (3) be developed based on considerations of how durable the controls need to be, (4) include provisions to replace the party with authority to enforce the restrictions, (5) indicate actions the party with authority to enforce the restrictions should take, (6) remain in place for the duration of the time they are needed, (7) have appropriate funds set aside if funds are necessary, and (8) be appropriately recorded, including in the deed and in the land records, as appropriate.

NRC Draft Regulatory Guide DG-4006 at p. 39.

Under traditional real property law, easements, restrictive covenants and equitable servitudes were all non-possessory devices under which one party could control another's use of its own land. Historically, because they evolved in different contexts, each of these devices had its own distinctive requirements and limitations resulting in a more complex and confusing set of legal rules and terms. More recently, however, courts have begun moving toward a more unified, pragmatic approach that allows the parties to fashion their own agreements as they wish, and override common law doctrines, so long as their intentions are clearly specified and notices properly given to other parties against whom the agreements are being enforced (e.g., subsequent purchasers). Pennsylvania is one of the states which has taken the more pragmatic approach with respect to enforcing these devices, regardless of the label applied, as long as the legal document establishing the property right clearly states the parties' intentions

with regard to key issues. Therefore, for purposes of this proposal, Molycorp will refer to the proposed proprietary institutional controls as a restrictive covenant and a deed restriction.

The proposed restrictive covenant and deed restriction will impose limits on how Molycorp can use its property, will provide an experienced governmental authority, such as the DEP, with authority to enforce the use restrictions, and also will provide the governmental agency with access to the property in the event that the governmental agency takes over the performance of the physical controls (i.e., the maintenance and monitoring activities). The restrictive covenant will specifically reference the governmental agency's rights under the proposed administrative consent order.

The restrictive covenant and deed restriction will be appropriately recorded in the same manner as the deed to the property in land records of Washington County so that prospective purchasers and adjacent property owners will have public notice of the restrictions on the use of the property. These restrictions will include Molycorp's covenant not to take any action with respect to the property that would threaten the effectiveness of the storage cell (e.g., no excavating into the cell cap). The restrictive covenant will state clearly and unambiguously that it "runs with the land" so that the restrictions will be enforceable against any subsequent owner of the property and any person who acquires any right to use the property.

The proposed restrictive covenant will involve the transfer of property rights from Molycorp to the governmental agency, its successors and assigns. Therefore, the restrictive covenant is designed to remain in place for the duration of the time that the use restrictions are necessary. Inasmuch as the Pennsylvania DEP is a stable institution which possesses the necessary expertise in the area of radiation control (through DEP's Bureau of Radiation Protection) and is charged with representing the interests of the citizens of the Commonwealth, Molycorp believes that the DEP is the most appropriate governmental agency to enforce the restrictive covenant. The selection of the DEP as the party to enforce the restrictive

covenant would provide the proposed institutional controls with the durability required by the NRC's regulations. Molycorp has approached the DEP to inquire whether the DEP is willing to serve in this role, but the DEP has not, as of this date, agreed to be the enforcing governmental agency.

A preliminary draft of the proposed restrictive covenant and deed restriction is attached hereto as Exhibit A. Note that the final language of the restrictive covenant and deed restriction will be subject to negotiations with the NRC and the enforcing governmental agency (i.e., DEP).

3. REQUIREMENTS FOR FINANCIAL ASSURANCE

The NRC's regulatory requirements for financial assurance with respect to a site which is being considered for license termination under restricted conditions are set forth at 10 C.F.R. §§ 20.1403(c) and 20.1403(d)(1)(ii):

(c) The licensee has provided sufficient financial assurance to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site. Acceptable financial assurance mechanisms are -

(1) Funds placed into an account segregated from the licensee's assets and outside the licensee's administrative control as described in § 30.35(f)(1) of this chapter.

(2) Surety method, insurance, or other guarantee method as described in § 30.35(f)(2) of this chapter.

(3) A statement of intent in the case of Federal, State or local Government licensees, as described in § 30.35(f)(4) of this chapter; or

(4) When a government entity is assuming custody and ownership of a site, an arrangement that is deemed acceptable by such governmental entity.

10 C.F.R. § 20.1403(c).

(1) Licensees proposing to decommission by restricting use of the site shall seek advice from such affected parties regarding the following matters concerning the proposed decommissioning -

* * *

(ii) Whether the licensee has provided sufficient financial assurance to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site;

10 C.F.R. § 20.1403(d)(1)(ii).

In summary, Molycorp must provide financial assurance sufficient to enable an independent third party to assume and carry out responsibilities for any necessary control and maintenance of the site. Financial assurance mechanisms that are acceptable to the NRC for providing this assurance are listed in 10 C.F.R. § 20.1403(c). The mechanisms are (1) funds placed into an account segregated from the licensee's assets and outside the licensee's administrative control, (2) a surety method, insurance or other guarantee method, or (3) a statement of intent by federal, state or local government licensees or an arrangement deemed acceptable by a governmental entity assuming custody and ownership of a site. Section 20.1403(c) refers specifically to the financial assurance requirements for decommissioning in 10 C.F.R. § 30.35(f)(1), (f)(2) and (f)(4), respectively, as providing further description for what is required of each of the mechanisms listed above.

As noted in the NRC Draft Regulatory Guide DG-4006, specific guidance on the financial assurance mechanisms for decommissioning that are required under 10 C.F.R. § 30.35, including review checklists and recommended wording for the mechanisms, is contained in the NRC's Regulatory Guide 3.66, "Standard Format and Content of Financial Assurance Mechanisms Required for Decommissioning under 10 C.F.R. Parts 30, 40, 70, and 72" (hereinafter "Regulatory Guide 3.66"). Please note that the NRC has issued a proposed revision to Regulatory Guide 3.66 which is entitled "Draft Regulatory Guide DG-3014". Because Draft Regulatory Guide DG-3014 represents the NRC's latest thinking on methods acceptable for implementing the NRC's regulations on financial assurance, Molycorp has reviewed the provisions of both Regulatory Guide 3.66 and Draft Regulatory Guide DG-3014 in developing its proposal for financial assurance to satisfy the requirements of 10 C.F.R. § 20.1403(c).

4. MOLYCORP'S PROPOSED FINANCIAL ASSURANCE MECHANISMS

Molycorp's proposed financial assurance mechanisms consist of a letter of credit to be issued by a respected financial institution as well as a trust agreement which establishes a standby trust fund into which the letter of credit proceeds can be deposited and used when necessary to finance the performance and/or maintenance of the physical controls at the site. The calculation of the amount of letter is described in more detail below.

A. Proposed Letter of Credit

The letter of credit will be a binding arrangement by which the issuing party (i.e., a financial institution) agrees on behalf of Molycorp to place funds in the standby trust account in the event of any default by Molycorp in the performance and/or maintenance of the physical institutional controls. The letter of credit will specify the document necessary to establish the fact of Molycorp's failure to maintain the physical institutional controls as required, and the issuing party must pay the beneficiary (i.e., the Pennsylvania DEP) upon presentation of the document. The issuing party extends this credit in exchange for a fee paid by Molycorp.

A preliminary draft of the proposed letter of credit is attached hereto as Exhibit B. The proposed letter of credit is based upon the model letter of credit found in the NRC's Draft Regulatory Guide DG-3014. Note that the final language of the letter of credit is subject to negotiations among Molycorp and the NRC, the enforcing governmental agency (e.g., DEP) and the issuing party.

B. Proposed Standby Trust Agreement

A standby trust fund is simply a trust fund that is not yet funded, but is otherwise ready to accept monies in the event that they are received from a particular source (such as a surety bond, letter of credit, line of credit, or insurance). Once a standby trust is funded, the funds would then be available to pay the costs of performing and/or maintaining the physical controls at the Molycorp site. Monies in the standby trust fund are legally segregated for a specific purpose and are administered by a trustee with a fiduciary responsibility to keep or use the property in the fund for the benefit of the beneficiary.

As noted above, Molycorp will in the first instance be responsible for performing and/or maintaining the physical controls at the site. In the event that Molycorp is unable to perform or maintain the physical controls, the enforcing governmental agency (e.g., DEP) will take over the performance and maintenance of the physical controls and the governmental agency will be reimbursed from the standby trust fund. Therefore, the governmental agency will be the named beneficiary in the standby trust agreement. Under the NRC's Draft Regulatory Guide DG-3014, a financial institution that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency is an acceptable trustee.

A preliminary draft of the proposed standby trust agreement is attached hereto as Exhibit C. The proposed standby trust agreement is based upon the model agreement found in the NRC's Draft Regulatory Guide DG-3014. Note that the final language of the final standby trust agreement is subject to negotiations among Molycorp and the NRC, the enforcing governmental agency (e.g., DEP) and the financial institution selected to serve as the trustee.

C. Amount of Financial Assurance

Molycorp is still in the process of calculating the amount of financial assurance that will be required in the proposed letter of credit. The financial assurance amount will be based upon the cost to perform and/or maintain the physical controls at the Molycorp site for an appropriate timeframe.

SUMMARY AND CONCLUSIONS

Molycorp's proposed institutional controls, in combination with the financial assurance mechanisms, exceed the NRC's regulatory requirements for license termination under restricted conditions. Molycorp has proposed a layering of redundant institutional controls to enhance the overall level of reliability of the controls.

The proposed physical controls will assure that any potential exposure will be below the specified criteria. Molycorp will maintain the physical controls and perform the periodic monitoring design to confirm the effectiveness of the controls. In the event that Molycorp is unable to perform or maintain the physical controls, an experienced governmental agency, such as the Pennsylvania DEP, will take over such performance and will be reimbursed for its expenses through the financial assurance mechanisms.

The proposed controls will also be legally enforceable. Both the administrative consent order and the restrictive covenant and deed restriction will be legal documents that can be enforced by the governmental agency. Any changes to these restrictions will require the written consent of the governmental agency.

Finally, Molycorp's proposed controls will not impose undue burdens on the local community or other affected parties. Molycorp's proposal does not rely upon local government enforcement of the controls (although the local government will receive copies of the analytical results demonstrating the effectiveness of the physical controls). Instead, Molycorp's proposal calls for oversight and enforcement by a governmental agency with expertise in the area of radiation control. All restrictions will be limited to Molycorp's property and no adjoining properties will require any restrictions. In addition, the financial assurance mechanisms will ensure that there is no financial burden on the local community if Molycorp is unable to perform in the future.

*THIS DOCUMENT IS TO BE RECORDED IN THE SAME MANNER AS ARE DEEDS AND
OTHER INTERESTS IN REAL PROPERTY*

COVENANTS, RESTRICTIONS AND NEGATIVE EASEMENTS

The following Covenants, Restrictions and Negative Easements ("Indenture") are conveyed and given by MOLYCORP, INC., a California corporation, the grantor under this Indenture ("**Grantor**"), to those parties listed on **Schedule I** attached hereto and made a part hereof (individually a "**Grantee**" and collectively, the "**Grantees**"), as of the ____ day of _____, 1999.

WHEREAS, Grantor is the owner in fee simple of a certain parcel of real property designated as Lot Number 1 in the Molycorp Plan of Lots, prepared by Pilston Surveying, recorded in the Office of the Recorder of Deeds of Washington County, Pennsylvania in Plan Book Volume 38, page 31 together with all buildings and improvements that are or may hereafter be constructed thereon and rights appurtenant and adjacent thereto (the "**Premises**");

WHEREAS, Grantor and Grantees have entered into an [administrative consent order] dated as of _____ 1999 (the "**Consent Order**") with the [governmental agency] (the "**AGENCY**") reserving to the Grantees the right to perform certain studies, investigations, remedial actions and monitoring activities on the Premises as more particularly described in the Consent Order (the "**Work**");

WHEREAS, a material inducement for Grantees and the AGENCY to agree to allow Grantor to enter into the Consent Order was the agreement of Grantor to impose the covenants, restrictions and negative easements set forth in the following paragraphs and to execute, acknowledge and record this instrument in the land records of Washington County, Pennsylvania, so as to evidence Grantor's conveyance and Grantees' acceptance of the covenants, restrictions and negative easements and Grantor's agreement that Grantor, Grantor's successors and/or assigns and the Premises shall hereinafter be bound; and

NOW, THEREFORE, in consideration of the mutual agreement of the parties, the entry into the Consent Order by the AGENCY and the Grantees and for other good and valuable consideration, the receipt and adequacy of which are hereby conclusively acknowledged, the parties hereby agree, Grantor hereby conveys and Grantees hereby accept the following covenants, restrictions and negative easements:

1. Grantor, for itself, its successors and/or assigns and all future grantees or holders of any interest in the Premises agrees that the Premises shall be permitted to be used only for the limited use as parkland or for industrial and no portion of the Premises shall be used for residential or commercial purposes or any other purpose and no use shall be made of the groundwater (perched or otherwise) under the Premises for purposes of drinking water, manufacturing, irrigation or any other purpose and no excavation shall be permitted within the cross-hatched area at the Premises except and to the extent deemed necessary or useful by Grantees to perform the Work or effectuate the removal and remediation of the Premises pursuant to paragraph 4 below ("**Prohibited Purposes**"), and these restrictions shall be covenants running with the Premises. By recording of this instrument Grantor also hereby grants to Grantees and to their successors

and assigns, a perpetual easement permitting Grantees, their successors and assigns and all future grantees or holders of any interest in the Premises the ability to enforce the restrictions set forth herein including the prohibition of using the Premises, in whole or in part, for any of the Prohibited Purposes. This easement shall include the right to immediately take such action including, but not limited to, action at law or in equity, as may be appropriate or useful in enforcing the easements rights conferred upon and granted to Grantees and their successors and assigns by this instrument, including the right to obtain injunctive relief allowing any Grantee or its successors or assigns to enter upon the Premises, with workers and equipment, to (i) raze any structure or appurtenance that is wholly or partially devoted to such Prohibited Purposes, or (ii) take such action as may be necessary or appropriate to prevent the groundwater (perched or otherwise) from being used for drinking water, manufacturing, irrigation or to prevent unauthorized excavation at the Premises or any other Prohibited Purpose.

2. This instrument including the covenants, restrictions and negative easements, created, granted and/or conveyed herein, shall be binding upon Grantor, its successors and assigns and any holder of any interest in or claim to the Premises and shall inure to the benefit of Grantees and Grantees' successors and assigns. Grantor and Grantee have included the covenants, restrictions and negative easements in this instrument knowing and intending that it shall be recorded in the land records of Washington County, Pennsylvania as being a part of the land records. The Negative Easements contained in this instrument shall burden the Premises in perpetuity and the rights of Grantees under said easements shall be freely transferable by Grantees in whole or in part. The covenants and restrictions and other provisions contained in this instrument shall also be deemed to be covenants running with the Premises and shall be deemed to be newly made upon each subsequent conveyance or encumbrance of the Premises with a term equal to the longest term then available under applicable law.

3. Grantor, for itself, its successors and assigns and all future grantees or holders of any interest in the Premises has hereby caused this instrument creating, granting and/or imposing the covenants, restrictions and negative easements to be executed and acknowledged by a person duly authorized to bind Grantor, its successors and assigns and all future grantees and holders of any interest in the Premises, in order to acknowledge and evidence the creation, grant and/or imposition of the covenants, restrictions and negative easements in this instrument encumbering the Premises.

4. Grantor acknowledges and agrees that the Work to be performed at the Premises may include remediation which shall be to the criteria set forth in the decommissioning plan approved by the United States Nuclear Regulatory Commission (the "NRC") in the remediation of the soil and/or groundwater contamination at the Premises, including but not limited to, the use of engineering and/or institutional controls whenever possible (the "**Remediation Standards**"). Grantor agrees to execute or, by this instrument, to require any current record owner of all or any portion of the Premises, to execute such document(s) as may be requested by Grantee, or in connection with the Remediation Standards in connection with any soil and/or groundwater contamination which may remain at the Premises in connection with the Work, which document(s) may include but not be limited to the imposition of a deed notice in the form attached hereto as **Exhibit "A"** or in such other form as Grantee, NRC and/or AGENCY may request.

Grantees hereby accept for themselves and their successors and assigns the foregoing covenants, restrictions and negative easements. Grantees also hereby accept the creation and grant by Grantor of the covenants, restrictions and negative easements which shall be deemed to be initially made and granted by Grantor to Grantee by the recording of this instrument.

ATTEST:

FOR: _____
Company Name

By: _____
Name:
Title:

By: _____
Name:
Title:

COMMONWEALTH OF PENNSYLVANIA)
)
COUNTY OF WASHINGTON)

SS:

On this _____ day of _____, 1999, before me, a Notary Public, personally appeared _____, who acknowledged himself/herself to be the _____ of _____ a _____ corporation (the "Corporation"), and that he/she as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing his/her name as _____ of and on behalf of the Corporation.

IN WITNESS WHEREOF, I hereunto set my hand and affix my seal.

Notary Public

My Commission Expires:

[SEAL]

COVENANTS RESTRICTIONS AND NEGATIVE EASEMENTS
EXHIBIT A

*THIS DOCUMENT IS TO BE RECORDED IN THE SAME MANNER AS ARE DEEDS AND
OTHER INTERESTS IN REAL PROPERTY*

DEED NOTICE

This Deed Notice is made as of the _____ day of _____, 1999, by a corporation of the State of California (together with its successors and assigns, collectively "Owner").

WITNESSETH:

WHEREAS, Owner is the owner in fee simple of certain real property (the "Property") designated as Lot Number 1 in the Molycorp Plan of Lots, prepared by Pilston Surveying, recorded in the Office of the Recorder of Deeds of Washington County, Pennsylvania in Plan Book Volume 38, page 31; and

WHEREAS, a certain _____ storage cell (the "Site") is located on the Property and the [governmental agency] ("AGENCY") and Owner have entered into a certain [administrative consent order] _____ in connection with the Site on _____, 1999; and

WHEREAS, this Deed Notice itself is not intended to create any interest in real estate in favor of the AGENCY, nor to create a lien or encumbrance against the Property, but merely is intended to provide record or deed notice of certain conditions and restrictions on the Property and to reflect the regulatory obligations imposed as a condition of using institutional and/or engineering controls; and

WHEREAS, the areas described on Exhibit 1 attached hereto and made a part hereof (the "Affected Areas") contain contaminants above the applicable standards that would allow for the unrestricted use of the Property; and

WHEREAS, the type, concentration and specific location of the contaminants are described on one or more diagrams, maps, and/or tables on Exhibit 1 attached hereto and made a part hereof; and

WHEREAS, a narrative description of all institutional controls and/or engineering controls and associated monitoring and maintenance activities is provided in Exhibit 2 attached hereto and made a part hereof; and

WHEREAS, for good and valuable consideration the receipt of which is hereby acknowledged, Owner has agreed to subject the Property to certain regulatory requirements

which impose restrictions upon the use of the Property, and to restrict certain activities at the Property, as set forth below; and

WHEREAS, Owner intends to notify all interested parties that such regulatory restrictions shall be binding upon and enforceable against Owner and Owner's successors and assigns while any such successors and assigns own the Property and/or operate at the Property.

NOW, THEREFORE, Owner agrees to the conditions and restrictions listed below and hereby notifies all interested parties, owners, lessees and operators that the applicable regulations and statutes require of each such person while owning, leasing or operating the Property as follows:

1. Restricted Uses. Owner, and all operators of all or any portion of the Affected or Unaffected Areas, shall not allow any of the following uses of the following portions of the Affected or Unaffected Areas:

Affected Area

Restricted Use

The Affected Area as identified in Exhibit 1.

The use shall be restricted [non-residential uses only and] pursuant to Paragraph 2.

Unaffected Area

Restricted Use

The Unaffected Area as identified in Exhibit 1

2. Alterations, Improvements, and Disturbances.

(a) No owner or operator shall make, or allow to be made, any alteration, improvement, or disturbance in, to, or about the Affected Areas which disturbs any engineering control that is intended to minimize the risk of exposure of humans or the environment to contamination in the Affected Areas without first obtaining the express written consent of the AGENCY. Nothing herein shall constitute a waiver of the Owner's or operator's obligation to comply with all applicable laws and regulations.

(b) Notwithstanding subparagraph 2(a) above, the AGENCY's consent is not required for any alteration, improvement, or disturbance provided the Owner or operator:

- i. Provides for restoration of any disturbance of an engineering control to pre-disturbance conditions within sixty (60) calendar days after the initiation of the alteration, improvement or disturbance; and
- ii. Does not allow any exposure level above those noted under Restricted Uses, and obtains all necessary governmental approvals.

3. Access. While this Deed Notice is in effect, Owner agrees to allow the AGENCY, its agents and representatives access to the Property to inspect and evaluate the

continued effectiveness of the institutional or engineering controls to ensure the protection of the public health and safety and the environment.

4. Notice to Lessees and Other Holders of Property Interests. Owner shall cause all leases, grants, and other written transfers of interest in the Affected Areas to contain a provision expressly requiring all holders thereof to take the Property subject to the restrictions contained herein and to comply with all, and not to violate any of the conditions of this Deed Notice. Nothing contained in this Paragraph 4 shall be construed as limiting any obligation of Owner to provide any notice required by any law, regulation, or order of any governmental authority.

5. Enforcement of Violations. The restrictions provided herein may be enforceable by the AGENCY against any person who violates this Deed Notice. A violation of this Notice shall not affect the status of the ownership of or title to the Property.

6. Severability. if any court of competent jurisdiction determines that any provision of this Deed Notice are invalid or unenforceable, such provision shall be deemed to have been modified automatically to conform to the requirements for the validity and enforceability as determined by such court. In the event that the provision invalidated is of such a nature that it cannot be so modified, the provision shall be deemed deleted from this instrument as though it had never been included herein. In either case, the remaining provisions of this Deed Notice shall remain in full force and effect.

7. Successors and Assigns. This Deed Notice shall be binding upon Owner and upon Owner's successors and assigns while each is an owner or operator of the Property, and the AGENCY.

8. Requirement of Notification. Owner shall notify any person who intends to excavate on the Property of the nature and location of any contamination existing on the Property and of any conditions or measures necessary to prevent exposure to contaminants.

9. Termination and Modification.

(a) This Deed Notice shall terminate only upon filing of an instrument, executed by the AGENCY, in the office of the Recorder of Deeds of Washington County, Pennsylvania, expressly terminating this Deed Notice.

(b) Any person may request in writing at any time that the AGENCY modify or terminate this Deed Notice or initiate termination proceedings based on, for example, a proposal that the Property does not pose an unacceptable risk to public health and safety or the environment. Within ninety (90) calendar days after receiving such a request the AGENCY will either:

i. Approve the request and have the Owner:

Record with the office of the county recording officer a notice executed by the AGENCY that the use of the Property is no longer restricted and the Deed Notice is terminated or record a modified Deed Notice delineating the new restrictions; and

Provide written notice to each municipality in which the Property is located, with a copy to the AGENCY, of the removal or change of the restrictions contained herein; or

ii. Issue a written notification of intent to deny the request pursuant to (c) below.

(c) The AGENCY will set forth in a notice of intent to deny a request to modify or terminate this Deed Notice the basis for its decision. The party that submitted the request to the AGENCY can respond to the intent to deny by providing new or additional information or data. The AGENCY will review any such new or additional information or data and issue a final decision to grant or deny the request within sixty (60) calendar days after the AGENCY's receipt of the new or additional information or data.

IN WITNESS WHEREOF, Owner has executed this Deed Notice as of the date first written above.

ATTEST:

MOLYCORP., INC.

Name:
Title:
COMMONWEALTH OF PENNSYLVANIA
COUNTY OF WASHINGTON

By: _____
Name:
Title:
)
) SS:
)

On this _____ day of _____, 1999, before me, a Notary Public, personally appeared _____, who acknowledged himself/herself to be the _____ of Molycorp, Inc., a California corporation (the "Corporation"), and that he/she as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing his/her name as _____ of and on behalf of the Corporation.

IN WITNESS WHEREOF, I hereunto set my hand and affix my seal.

Notary Public

My Commission Expires:

[SEAL]

COVENANTS, RESTRICTIONS AND NEGATIVE EASEMENTS
SCHEDULE I
[Grantees]

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [insert number]

This Credit Expires [insert date]

Issued to: Pennsylvania Department of Environmental Protection
Harrisburg, Pennsylvania 17105

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit No. ____ in your favor, at the request and for the account of Molycorp, Inc. ("Molycorp") up to the aggregate amount of [insert dollar amount in words], U.S. dollars \$ _____, available upon presentation of:

- (1) your sight draft, bearing reference to this Letter of Credit No. _____, and
- (2) your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the U.S. Nuclear Regulatory Commission and pursuant to the Administrative Consent Order No. _____ between Molycorp and the [Enforcing Governmental Agency]".

This letter of credit is issued in accordance with regulations issued under the authority of the U.S. Nuclear Regulatory Commission ("NRC"), an agency of the U.S. Government, pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974. The NRC has promulgated regulations in Title 10, Chapter I of the Code of Federal Regulations, Part 20, which require that a holder of a materials license which is to be terminated under restricted conditions pursuant to 10 CFR Section 20.1403 provide assurance that funds will be available to enable an independent third party to assume and carry out responsibilities for any necessary control and maintenance of the site being considered for license termination under restricted conditions.

This letter of credit is effective as of [insert date] and shall expire on [insert date at least 1 year later], but such expiration date shall be automatically extended for a period of [insert time period of at least 1 year] on [insert date] and on each successive expiration date, unless, at least 90 days before the current expiration date, we notify both you and Molycorp, by certified mail, as shown on the signed return receipts. If Molycorp is unable to secure alternative financial assurance to replace this letter of credit within 30 days of notification of cancellation, the [Enforcing Governmental Agency] may draw upon the full value of this letter of credit prior to cancellation. The bank shall give immediate notice to the applicant and the [Enforcing Governmental Agency] of any notice received or action filed alleging (1) the insolvency or bankruptcy of the financial institution or (2) any violation of regulatory requirements that could result in suspension or revocation of the bank's charter or license to do business. The financial institution also shall give immediate notice if the bank, for any reason, becomes unable to fulfill its obligation under the letter of credit.

Whenever this letter of credit is drawn on, under and in compliance with the terms of this letter of credit, we shall duly honor such draft upon its presentation to us within 30 days, and we shall deposit the amount of the draft directly into the standby trust fund of Molycorp in accordance with your instructions.

Each draft must bear on its face the clause: "Drawn under Letter of Credit No. _____, dated _____, and the total of this draft and all other drafts previously drawn under this letter of credit does not exceed [insert amount of letter of credit]."

[signature(s) and title(s) of official(s) of issuing institution]

Date:

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce," or "the Uniform Commercial Code."]

STANDBY TRUST AGREEMENT

TRUST AGREEMENT, the Agreement entered into as of [insert date] by and between Molycorp, Inc., a California corporation, herein referred to as the "Grantor," and [insert name and address of a trustee acceptable to NRC], the "Trustee."

WHEREAS, the U.S. Nuclear Regulatory Commission ("NRC"), an agency of the U.S. Government, pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, has promulgated regulations in Title 10, Chapter I, of the Code of Federal Regulations, Part 20. These regulations, applicable to the Grantor, require that a holder of a materials license which is to be terminated under restricted conditions pursuant to 10 CFR Section 20.1403 provide assurance that funds will be available to enable an independent third party to assume and carry out responsibilities for any necessary control and maintenance of the site being considered for license termination under restricted covenants; and

WHEREAS, the Grantor has elected to use a letter of credit to provide all of such financial assurance for the facilities identified herein; and

WHEREAS, when payment is made under a letter of credit, this standby trust shall be used for the receipt of such payment; and

WHEREAS, the Grantor, acting through its duly authorized officers, has selected the Trustee to be trustee under this Agreement, and the Trustee is willing to act as trustee;

NOW, THEREFORE, the Grantor and the Trustee agree as follows:

Section 1. Definition. As used in this Agreement:

(a) The term "Grantor" means the NRC licensee who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means the trustee who enters into this Agreement and any successor trustee.

Section 2. Cost of Performing and Maintaining Institutional Controls. This Agreement pertains to the costs of performing and maintaining the institutional controls required by 10 CFR Section 20.1403, as shown in Schedule A.

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a standby trust fund (the "Fund") for the benefit of the [Enforcing Governmental Agency]. The Grantor and the Trustee intend that no third party shall have access to the Fund except as provided herein.

Section 4. Payments Constituting the Fund. Payments made to the Trustee for the Fund shall consist of cash, securities, or other liquid assets acceptable to the Trustee. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. Such property and any other property subsequently transferred to the Trustee are referred to as the "Fund," together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount of,

or adequacy of the Fund, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the [Enforcing Governmental Agency].

Section 5. Payment for Required Activities. In the event of the Grantor's default or inability to perform or maintain the required institutional controls, the Trustee shall make payments from the Fund as the [Enforcing Governmental Agency] shall direct, in writing, to provide for the payment of the costs of required activities covered by this Agreement. The Trustee shall reimburse the [Enforcing Governmental Agency] or other persons as specified by the [Enforcing Governmental Agency] from the Fund for expenditures for required activities in such amounts as the [Enforcing Governmental Agency] shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the [Enforcing Governmental Agency] specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

Section 6. Trust Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge its duties with respect to the Fund solely in the interest of the beneficiary and with the care, skill, prudence and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

- (a) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended (15 U.S.C. 80a-2(a)), shall not be acquired or held, unless they are securities or other obligations of the Federal or a State government;
- (b) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal government, and in obligations of the federal government such as GNMA, FNMA and FHLM bonds and certificates or state and municipal bonds rated BBB or higher by Standard & Poor's or Baa or higher by Moody's Investment Services; and
- (c) For a reasonable time, not to exceed 60 days, the Trustee is authorized to hold uninvested cash, awaiting investment or distribution, without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

- (a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and
- (b) To purchase shares in any investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), including one that may be created, managed, underwritten, or to which investment advice is rendered, or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretion conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

- (a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale, as necessary to allow duly authorized withdrawals at the joint request of the Grantor and the [Enforcing Governmental Agency] or to reinvest in securities at the direction of the Grantor;
- (b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;
- (c) To register any securities held in the Fund in its own name, or in the name of a nominee, and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, to reinvest interest payments and funds from matured and redeemed instruments, to file proper forms concerning securities held in the Fund in a timely fashion with appropriate government agencies, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee or such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the U.S. Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;
- (d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal government; and
- (e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation. After payment has been made into its standby trust fund, the Trustee shall annually, at least 30 days before the anniversary date of receipt of payment into the standby trust fund, furnish to Grantor and to the [Enforcing Governmental Agency] a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days before the anniversary date of the establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the [Enforcing Governmental Agency] shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to the matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting on the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing with the Grantor. (See Schedule C.)

Section 13. Successor Trustee. Upon 90 days notice to the [Enforcing Governmental Agency] and the Grantor, the Trustee may resign; upon 90 days notice to the [Enforcing Governmental Agency] and the Trustee, the Grantor may replace the Trustee; but such resignation or replacement shall not be effective until the Grantor has appointed a successor Trustee, the successor accepts the appointment, the successor is ready to assume its duties as trustee, and the [Enforcing Governmental Agency] has agreed, in writing, that the successor is an appropriate state or federal government agency or an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. The successor Trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. When the resignation or replacement is effective, the Trustee shall assign, transfer, and pay over to the successor Trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor Trustee or for instructions. The successor Trustee shall specify the date on which it assumes administration of the trust, in a writing sent to the Grantor, the [Enforcing Governmental Agency] and the present Trustee, by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such person as are signatories to this Agreement or such other designees as the Grantor may designate in writing. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. If the [Enforcing Governmental Agency] issues orders, requests, or instructions to the Trustee these shall be in writing, signed by the [Enforcing Governmental Agency] or its designees, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the [Enforcing Governmental Agency] hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the [Enforcing Governmental Agency], except as provided for herein.

Section 15. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee and the [Enforcing Governmental Agency], or by the Trustee and the [Enforcing Governmental Agency] if the Grantor ceases to exist. All amendments shall meet the relevant regulatory requirements of the NRC.

Section 16. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 15, this trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the [Enforcing Governmental Agency], or by the Trustee and the [Enforcing Governmental Agency] if the Grantor ceases to exist. Upon termination of the trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor or its successor.

Section 17. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this trust, or in carrying out any directions by the Grantor or the [Enforcing Governmental Agency] issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the trust fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 18. This Agreement shall be administered, construed and enforced according to the laws of the State of [insert name of state].

Section 19. Interpretation and Severability. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement. If any part of this Agreement is invalid, it shall not affect the remaining provisions which will remain valid and enforceable.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by the respective officers duly authorized and the incorporate seals to be hereunto affixed and attested as of the date first written above.

ATTEST:

GRANTOR

[title]
[seal]

[title]

ATTEST:

TRUSTEE:

[title]
[seal]

[title]

SCHEDULE A

This Agreement demonstrates financial assurance for the following cost estimates or certification amounts for the following licensed activities:

U.S. Nuclear Regulatory Commission License Numbers	Name and Address of Licensee	Address of Licensed Activity	Cost Estimates for Regulatory Assurances Demonstrated by This Agreement

The cost estimates listed here were last adjusted and approved by the NRC on [insert date].

SCHEDULE B

Dollar Amount \$ _____

As Evidenced by _____

SCHEDULE C

Trustee's fees shall be \$ _____ per year.