

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:	) Chapter 11
	)
W. R. GRACE & CO., et al., <sup>1</sup>	) Case No. 01-01139 (AMC)
	) (Jointly Administered)
Reorganized Debtor.	)
	) <b>Hearing Date: 10:00 a.m. E.T., May 1, 2023</b>
	) <b>Objection Deadline: March 21, 2023</b>

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**NOTICE OF STATE OF MONTANA’S RESPONSE IN SUPPORT OF  
REORGANIZED DEBTOR’S MOTION TO APPROVE SETTLEMENT  
AGREEMENT RESOLVING STATE OF MONTANA’S REMAINING CLAIM 18496-1**

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To: (i) The Office of the United States Trustee; (ii) Counsel for the WRG Asbestos PI Trust; (iii) Counsel for the Asbestos PI Future Claimants Representative; (iv) Counsel for the Asbestos PD Future Claimants Representative; (v) Counsel for the WRG Asbestos PD Trust (7A); (vi) Counsel for the WRG Asbestos PD Trust (7B); (vii) Counsel for the CDN ZAI PD Claims Fund; (viii) Those parties that requested service and notice of papers in accordance with Fed. R. Bankr. P. 2002; (ix) Counsel for Reorganized Debtors; and (x) counsel for United States.

On January 10, 2023, the Reorganized Debtor filed the *Reorganized Debtor’s Motion to Approve Settlement Agreement Resolving State of Montana’s Remaining Claim 18496-1* (the “Motion”) with the United States Bankruptcy Court for the District of Delaware, 824 Market Street, Wilmington, Delaware 19801 (the “Bankruptcy Court”). The State of Montana, through the Department of Environmental Quality (DEQ) and the Natural Resource Damage Program (NRDP), now provides the Court with the *State of Montana’s Response in Support of Reorganized Debtor’s Motion to Approve Settlement Agreement Resolving State of Montana’s*

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<sup>1</sup> W. R. Grace & Co. (f/k/a Grace Specialty Chemicals, Inc., or “Grace”) is the sole remaining “Reorganized Debtor,” and Case No. 01-1139 is the sole remaining open chapter 11 case.

*Remaining Claim 18496-1 (Response in Support)*, along with the attached public comments received and the State of Montana's responses to the public comment.

A copy of the State of Montana's Response in Support is provided to the following:

- (i) Counsel for the Reorganized Debtor, Roger J. Higgins, Esq., The Law Offices of Roger Higgins, LLC, 516 North Ogden Ave., Suite 136, Chicago, IL 60642, and Laura Davis Jones, Esq. and James E. O'Neill, Esq., Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, 17th Floor, PO Box 8705, Wilmington, DE 19899-8705 (Courier 19801);
- (ii) The Office of the United States Trustee, Richard L. Schepacarter, Esq., U.S. Department of Justice, Office of the U.S. Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801;
- (iii) Counsel for the WRG Asbestos PI Trust, Marla Rosoff Eskin, Esq., Campbell & Levine, LLC, 222 Delaware Avenue, Suite 1620, Wilmington, DE 19801, and Philip E. Milch, Esq., Campbell & Levine, LLC, 310 Grant Street, Suite 1700, Pittsburgh, PA 15219;
- (iv) Counsel for the Asbestos PI Future Claimants Representative, John C. Phillips, Jr., Esq., Phillips, Goldman, McLaughlin & Hall, P.A., 1200 North Broom Street, Wilmington, DE 19806;
- (v) Counsel for the Asbestos PD Future Claimants Representative, R. Karl Hill, Esq., Seitz, Van Ogtrop & Green, P.A., 222 Delaware Avenue, Suite 1500, P.O. Box 68, Wilmington, DE 19899, and Alan B. Rich, Esq., Attorney and Counselor, 4244 Renaissance Tower, 1201 Elm Street, Dallas, TX 75270;
- (vi) Counsel for the WRG Asbestos PD Trust (7A), Richard B. Schiro, WRG Asbestos PD Trust, c/o Wilmington Trust, Attn: Corporate Trust Administration, 1100 N. Market Street, Wilmington, DE 19890-1625, and Deborah D. Williamson, Esq., Dykema Cox Smith, 112 E. Pecan Street, Suite 1800, San Antonio, TX 78205;
- (vii) Counsel for the WRG Asbestos PD Trust (7B), Edward B. Cottingham, Jr., Esq., The Cottingham Law Firm, 317 Wingo Way, Suite 303, P.O. Box 810, Mt. Pleasant, SC 29465, and M. Dawes Cooke, Esq., Barnwell Whaley Patterson & Helms LLC, P.O. Drawer H, Charleston, SC 29402; and
- (viii) Counsel for the CDN ZAI PD Claims Fund, Daniel K. Hogan, Esq., The Hogan Firm, 1311 Delaware Avenue, Wilmington DE 19806, and Yves Lauzon, Esq., Michel Belanger, Esq., Lauzon Belanger Lesperance Inc., 286, Rue St-Paul Ouest, Bureau 100, Montreal, Quebec, H26 2A3 Canada.

Dated: March 21 ,2023

/s/ Jessica Wilkerson

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Jessica Wilkerson  
MDEQ Legal Counsel

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**STATE OF MONTANA’S RESPONSE IN SUPPORT OF REORGANIZED DEBTOR’S  
MOTION TO APPROVE SETTLEMENT AGREEMENT RESOLVING STATE OF  
MONTANA’S REMAINING CLAIM 18496-1**

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**INTRODUCTION**

The State of Montana requests the Court enter an order substantially in the form of Docket No. 929655-2 (the “Approval Order”) and approve the settlement agreement (the “Settlement Agreement”) attached thereto as an Exhibit, thereby settling Claim No. 18496-1, in which the Montana Department of Environmental Quality (“MDEQ”) has asserted claims concerning Operable Unit 3 (“OU3”) of the Libby Asbestos Superfund Site.

**BACKGROUND**

The State of Montana, through the Department of Environmental Quality (DEQ) and the Natural Resource Damage Program (NRDP), solicited public comments on the proposed Settlement Agreement for an initial thirty-day period from January 12, 2023, to February 13, 2023, as required by Section 713 of the Montana Comprehensive Cleanup and Responsibility Act (CECRA), Montana Code Annotated (MCA) Section 75-10-713. In response to a public comment request, the State of Montana extended the public comment period through March 15, 2023, and held a public meeting on March 6, 2023, where people also provided oral public comment. Numerous members of the public submitted comments, both in support of and raising concerns

with the Settlement Agreement for the Libby Operable Unit 3 (OU3) Bankruptcy Settlement with W.R. Grace & Co. (Grace).

The State of Montana considered all comments received. All received public comments are provided in full in Attachment A. In the State of Montana's response to public comments, similar comments are categorized together, summarized, and answered overall, with specific responses to comments as needed.

#### **ANALYSIS**

1. Through consideration of all public comments, the State of Montana has determined that the public comments do not disclose factors or information that indicate that the Settlement Agreement is inappropriate, improper, or inadequate; the State of Montana therefore supports prompt entry of an order by the Court approving the Settlement Agreement. The State of Montana has determined that the settlement is fair, adequate, reasonable, and consistent with the goals of the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. § 9601 et seq. (CERCLA) and CECRA, § 75-10-701 *et seq.*

#### **RELIEF REQUESTED**

2. The State of Montana Debtor respectfully requests that the Court approve the Settlement Agreement and enter the proposed Approval Order in substantially the form as shown in Docket No. 929655-2.

#### **NOTICE**

3. Notice of this Motion has been given to: (i) the Office of the United States Trustee; (ii) Counsel for the WRG Asbestos PI Trust; (iii) Counsel for the Asbestos PI Future Claimants Representative; (iv) Counsel for the Asbestos PD Future Claimants Representative; (v) Counsel for the WRG Asbestos PD Trust (7A); (vi) Counsel for the WRG Asbestos PD Trust (7B); (vii)

Counsel for the CDN ZAI PD Claims Fund; (viii) those parties that requested service and notice of papers in accordance with Fed. R. Bankr. P. 2002; (ix) counsel for the Reorganized Debtors; and (x) counsel for United States.

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WHEREFORE, the State of Montana requests the Court enter the Approval Order in substantially the form in Docket No. 929655-2: (i) approving the Settlement Agreement; (ii) Allowing the Allowed State Claim on the terms set forth in the Settlement Agreement; (iii) dismissing the Partial Allowance Motion and MDEQ Response as moot; (iv) completing the mediation; (v) authorizing Reorganized Debtor and the State to enter into and take all actions contemplated in the Settlement Agreement; and (vi) granting such other relief as may be appropriate.

Dated: March 21, 2023

/s/ Jessica Wilkerson

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Jessica Wilkerson  
MDEQ Legal Counsel

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