

UNITED STATES DISTRICT COURT

DISTRICT OF VERMONT

IN RE:)
)
RUTLAND FIRE CLAY CO.)
d/b/a Rutland Products,)
RUTLAND, INC.)
d/b/a Rutland Products,)
d/b/a Rutland, Inc. of Illinois,)
)
Debtors in Possession.)

Case No. 1:00-MC-49

UNITED STATES BANKRUPTCY COURT **US BANKRUPTCY COURT**
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NOV 17 2000

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FILED & ENTERED ON DOCKET
BY: DAVID A. SIME

Case No. 99-11390-cab # 325
Case No. 99-11391-cab # 21
Jointly Administered
Chapter 11 proceeding

**SECOND AMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW AND
ORDER GRANTING CONFIRMATION OF FIRST AMENDED JOINT PLAN OF
REORGANIZATION, DATED OCTOBER 13, 2000, FILED
BY RUTLAND FIRE CLAY COMPANY AND RUTLAND, INC.,
AND ORDER GRANTING PERMANENT CHANNELING INJUNCTION**

This matter came on for a hearing before the United States District Court for the District of Vermont ("District Court") and the United States Bankruptcy Court for the District of Vermont

("Bankruptcy Court"), sitting in joint session, on the 17th day of November, 2000 ("Confirmation Hearing"), to consider confirmation of the First Amended Joint Plan of Reorganization filed by Rutland Fire Clay Company and Rutland, Inc. (collectively, "Rutland", "Debtors" or "Debtors In Possession"), dated and filed October 13, 2000 (the "Plan"). Present at the Confirmation Hearing were Raymond Obuchowski, Esq. and Jennifer Emens-Butler, Esq., bankruptcy counsel for the Debtors in Possession, Gary R. Kupferer, Esq., general counsel for the Debtors in Possession, and Thomas Martin, President of the Debtors in Possession; John J. Preefer, Esq., counsel to the Official Asbestos Tort Claimants Committee (the "Committee"); Richard Levy, Jr., Esq., the Official Legal Representative of Future Asbestos Claimants (the "Legal Representative"); Nancy Worth Davis, Esq., Chair of the Official Asbestos Tort Claimants Committee; Sylvester F. Minter, III, Consultant to the Debtor ("Consultant") and the Proposed Trustee of the Rutland Fire Clay Company Asbestos Trust (the "Asbestos Trust"); and Kevin Purcell, Esq., Office of the United States Trustee. A limited objection to confirmation of the Plan was filed by the United States Trustee. No other objections were filed to confirmation of the Plan, and none were voiced at the hearing. At the Confirmation Hearing, the Courts received evidence presented by the Debtors in Possession in support of confirmation of the Plan, including live testimony of Mr. Martin and Judith Perritano, Esq., and various documentary materials. The Committee and the Legal Representative represented to the Court that they recommended and supported confirmation of the Plan. The objection of the United States Trustee was resolved in open court on the record of the Confirmation Hearing.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In accordance with the Federal Rules of Bankruptcy Procedure 7052 and 9014, the Court makes

the following findings of fact and conclusions of law in support of confirmation of the Plan.

I. JURISDICTION AND VENUE

1. Pursuant to sections 1334 and 157 of title 28 of the United States Code, the Bankruptcy Court has jurisdiction to hear and determine confirmation of the Plan.
2. The Confirmation Hearing is a core proceeding under section 157(b)(2)(L) of title 28 of the United States Code.
3. The Debtor is an entity eligible for relief under section 109 of title 11 of the United States Code (the "Bankruptcy Code").
4. Venue of the Debtors' cases and this proceeding is proper under section 1409 of title 28 of the United States Code.
5. By Order docketed September 7, 2000, the District Court, pursuant to section 157(d) of title 28 of the United States Code, withdrew the reference of this case from the Bankruptcy Court, in part, with respect to the hearing and determination of the Debtors' request for entry of the Permanent Channeling Injunction under the Plan pursuant to section 524(g) of the Bankruptcy Code.
6. All capitalized terms used herein have the meanings assigned to them in Article I of the Plan. Any term used in capitalized form that is not defined in the Plan but that is defined in the Bankruptcy Code or Federal Rules of Bankruptcy Procedures (the "Bankruptcy Rules") shall have the meaning ascribed to such term in the Bankruptcy Code or the Bankruptcy Rules.

II. BACKGROUND

7. On October 13, 1999, each of the Debtors filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Bankruptcy Code. Immediately thereafter, this Court ordered that the Debtors' cases be jointly administered by Order docketed October 14, 1999 (#43-1).

8. The Debtors continue to operate their business as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

9. On October 25, 1999, the United States Trustee appointed the Committee.

10. On October 25, 1999, the Court entered an Order appointing Richard Levy, Jr., Esq., as the Legal Representative to represent the rights and interests of future claimants, as described in Article 1.1 (57) of the Plan, pursuant to section 524(g)(4)(B)(i) of the Bankruptcy Code (#84-1).

11. Prior to the Petition Date, Rutland Fire Clay Company had been named as a defendant or co-defendant in a substantial number of lawsuits in which the plaintiffs alleged personal injury and/or wrongful death from exposure to asbestos-containing products manufactured or distributed by Rutland Fire Clay Company. The lawsuits alleged, in general, that Rutland and other manufacturers of asbestos and asbestos-containing products failed to warn of the potential hazard to health from the inhalation of asbestos fibers in their products. From around 1983 (the date the first asbestos-related case was filed against Rutland Fire Clay) until the Petition Date, Rutland disposed of approximately 25,000 claims through trial, dismissal, or settlement. On average in 1996, Rutland spent approximately \$562.00 per claim, excluding attorneys' fees and defense costs, to dispose of these claims.

12. As of the Petition Date, approximately 37,500 lawsuits on account of Asbestos Bodily Injury Claims were pending against Rutland. As of 1996, the Debtors anticipated that another 350,000 claims would be filed against Rutland, pursuant to an actuarial study by KPMG Peat Marwick dated July

2, 1996.

13. Prior to the Petition Date, the Debtors and their insurer, Fireman's Fund Insurance Co. ("Fireman's Fund"), were engaged in a dispute over the extent of the Debtors' insurance coverage issued by Fireman's Fund for asbestos related personal injury claims. Prior to the Confirmation Hearing, the Debtors and Fireman's Fund reached a settlement of all disputed issues between them, memorialized in a written settlement agreement between the Debtors and Fireman's Fund ("Fireman's Settlement"), which will become effective upon the entry of an Order approving the Fireman's Settlement. The Debtors filed a motion to approve the Fireman's Settlement (substantially in the form of an agreement attached to the motion) on November 13, 2000. Upon Bankruptcy Court approval of the Fireman's Settlement, and in accordance with the terms of the Fireman's Settlement, Fireman's Fund will pay approximately \$6.2 million to the Asbestos Trust over a period of years, and \$235,000 to the Debtors to fund payments to the holders of Settled Claims in Class 5 of the Plan on or about the Effective Date of the Plan, in settlement of all claims and disputes between the Debtors and Fireman's Fund.

14. Despite the Fireman's Fund insurance coverage held by the Debtors, and notwithstanding the Fireman's Settlement, the Debtors nevertheless are rendered, and have been since before the Petition Date, insolvent by reasons of the existing Asbestos-Related Bodily Injury Claims pending against them, which are treated under the Plan as Claims in Class 4A, and by the substantial anticipated claims yet to be filed against the Debtors for asbestos-related injuries, which are treated under the Plan as Demands.

III. VOTING ON THE PLAN

15. In accordance with the Modified Order Approving First Amended Disclosure Statement

and Establishing Solicitation and Voting Procedures For Class 4 and Class 5 Claims With Respect to the Debtors' First Amended Plan of Reorganization And Approving Plan Summary And Service Thereof, docketed October 18, 2000 ("Disclosure Statement Order") (#278-1), the Debtors, as proponents of the Plan, caused Solicitation Packages to be disseminated to all persons eligible to vote on the Plan and to all other parties in interest and others set forth in the Bankruptcy Court's mailing matrix, and caused other notice of the Plan and Confirmation Hearing to be given by mail or by publication. Pursuant to the Disclosure Statement Order, the Committee properly assisted the Plan Proponents in soliciting votes for the Plan from the impaired classes of Claims by answering various questions from holders of Claims regarding the Plan, with the guidance and advice of the Debtors' counsel, and appropriately soliciting the votes of the impaired classes of Claims in good faith in a manner consistent with the Bankruptcy Code.

16. Each impaired class of creditors accepted the Plan.

17. Article V of the Plan identifies each of the following Classes as unimpaired and are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code: Class 1 (Allowed Priority Claims), Class 2 (Allowed Secured Claims), Class 3 (Allowed General Unsecured Claims Excluding Asbestos Related Claims and Settled Claims), and Class 6 (Allowed PBGC Claims).

18. With respect to impaired classes of Claims entitled to vote on the Plan, each of the following classes accepted the Plan by at least two-thirds in amount and a majority in number of the Claims in each such class actually voting: Class 4 (Unsecured Asbestos Related Claims) and Class 5 (Settled Claims).

19. Class 4A (Allowed Asbestos Bodily Injury Claims and Allowed Asbestos Bodily-Injury

Contribution Claims against the Debtor) voted, by at least 75 percent (75%) of those voting, in favor of the Plan. Pursuant to the Report on Acceptances and Rejections of Plan ("Ballot Report") filed with the Bankruptcy Court, approximately 32,270 Class 4A Claimants voted in favor of the Plan and approximately 72 Class 4A Claimants opposed the Plan, bringing the percentage of those accepting the Plan to 99.78 %.

20. With respect to Class 4B (Allowed Asbestos In Building Claims against the Debtor), the Debtors have represented that there are no known Asbestos In Building Claims. No Asbestos In Building Claims were scheduled by or filed against the Debtors, and no ballots were filed in this class.

21. Pursuant to the Ballot Report, 114 Class 5 Claimants voted in favor of the Plan and no Class 5 Claimants opposed the Plan, bringing the percentage of those accepting the Plan to 100%. Pursuant to the Ballot Report, the dollar amount of the Class 5 Claimants who voted in favor of the Plan was \$137,000.00, which represents 100% of the dollar amounts voted in Class 5.

22. Class 7 (Equity Interest in the Debtors) is conclusively presumed to have rejected the Plan pursuant to section 1126(f) of the Bankruptcy Code.

23. The tabulation of the ballots is valid and correctly sets forth the number and amount of acceptances and rejections as is required under the Bankruptcy Code.

24. All holders of Claims who are impaired under the Plan were mailed Solicitation Packages, including Ballots, pursuant to Orders of this Court approving the solicitation of votes and the mailing of ballots and the notification of the hearing on the Confirmation.

IV. COMPLIANCE WITH THE REQUIREMENTS OF THE BANKRUPTCY CODE

Section 1129(a)(1)– Compliance of the Plan with the Applicable Provisions of the Bankruptcy Code

25. As set forth below, the Plan satisfies all of the applicable provisions of the Bankruptcy Code.

Section 1123(a)(1) Designation of Claims and Interests

26. Section 1123(a)(1) of the Bankruptcy Code provides that a plan must designate classes of claims and interests. In accordance with section 1123(a)(1) of the Bankruptcy Code, Article V of the Plan designates classes of Claims against and Equity Interests in the Debtors other than Administrative Expenses and Tax Claims. Classes of Administrative Expenses and Tax Claims are not required to be designated pursuant to section 1123(a)(1) of the Bankruptcy Code. The Plan adequately and properly classifies all Claims and Equity Interests and, accordingly, satisfies section 1123(a)(1) of the Bankruptcy Code.

Section 1122(a)– Classification

27. Section 1122(a) of the Bankruptcy Code provides that a plan may place a claim or interest in a particular class if such claim or interest is substantially similar to the other claims or interests of such class. A classification scheme satisfies section 1122(a) of the Bankruptcy Code when a reasonable basis exists for the classification scheme, and the claims or interests within each particular class are substantially similar. See *In re Boston Post Road L.P.*, 21 F.3d 477 (2d Cir. 1994), *cert. denied*, 513 U.S. 1109,

115 S. Ct. 897, 130 L. Ed. 2d 782 (1995); *In re Jersey City Medical Ctr.*, 817 F.2d 1055, 1060-61 (3d Cir.1987); *In re U.S. Truck Co.*, 800 F.2d 581, 586 (6th Cir.1986); *In re LeBlanc*, 622 F.2d 872, 879 (5th Cir.1980).

28. In accordance with section 1122(a) of the Bankruptcy Code, Article V of the Plan separately classifies Claims against and Equity Interests in the Debtors together with Claims against or Equity Interests that are substantially similar to the other Claims or Equity Interests of such class. The Plan accordingly satisfies section 1122(a) of the Bankruptcy Code.

Section 1123(a)(2)– Specification of Unimpaired Classes

29. Section 1123(a)(2) of the Bankruptcy Code provides that a plan must specify any class of claims or interests that is not impaired under the Plan. The Plan identifies unimpaired classes of Claims and Equity Interests and provides for their treatment.

30. Article V of the Plan identifies each of the following classes as unimpaired which are conclusively presumed to have accepted the Plan pursuant to section 1126(g) of the Bankruptcy Code: Class 1 (Allowed Priority Claims), Class 2 (Allowed Secured Claims), Class 3 (Allowed General Unsecured Claims Excluding Asbestos Related Claims and Settled Claims), and Class 6 (Allowed PBGC Claims).

31. Each of the remaining classes is identified under section 6.2 of the Plan as impaired.

32. The Plan satisfies section 1123(a)(2) of the Bankruptcy Code.

Section 1123(a)(3)– Specification of Impaired Classes

33. Section 1123(a)(3) of the Bankruptcy Code provides that a plan must specify the treatment of each impaired class of claims and interests.

34. Article VII of the Plan specifies the treatment of each impaired class of Claims and Equity Interests.

35. The Plan satisfies section 1123(a)(3) of the Bankruptcy Code.

Section 1123(a)(4)– Same Treatment Within Each Class Unless Holder Agrees to Different Treatment

36. Section 1123(a)(4) of the Bankruptcy Code requires a plan to provide the same treatment for each claim or interest of a particular class, unless the holder of the claim or interest agrees to less favorable treatment of such particular claim or interest.

37. With respect to each class of Claims and Equity Interests under the Plan, the Plan provides the same treatment for each Claim or Equity Interest in each such class.

Section 1123(a)(5)– Means of Implementation

38. Section 1123(a)(5) of the Bankruptcy Code provides that a plan must provide adequate means for its implementation.

39. Articles XIII and XIV of the Plan provides adequate means for implementation of the Plan. The provisions contained in Articles XIII and XIV of the Plan relate to, among other things, the following: vesting of property, transfer of the Asbestos Trust Distribution to the Asbestos Trust, implementation of management, date of distribution and the distribution agent, and the distribution of property of the Debtors'

estate to those creditors entitled to distributions under the Plan.

40. Article XII of the Plan provides for the assumption and continuation of certain executory contracts.

41. Article VIII of the Plan establishes the Asbestos Trust, the assumption of liability of the Asbestos Trust for all asbestos bodily injury claims and property damage claims, and proposes the method to fund the Asbestos Trust.

42. The Plan satisfies section 1123(a)(5) of the Bankruptcy Code.

Section 1123(a)(7)– Selection of Officers and Directors

43. Section 1123(a)(7) of the Bankruptcy Code requires that the manner of selection of any director, officer, or trustee of the reorganized debtor, or any successor to such officer, director, or trustee, be consistent with the interests of creditors and equity interest holders and with public policy.

44. In accordance with section 1123(a)(7) of the Bankruptcy Code, section 9.2 of the Plan provides that the selection of the new management, officers and directors of the Reorganized Debtor shall be at the sole discretion of the Trustee.

45. In accordance with section 1123(a)(7) of the Bankruptcy Code, section 9.2 further provides for the continuation of the Board of Directors in accordance with the Rutland by-laws.

46. Section 1123(a)(7) does not apply to either the trustees of the Asbestos Trust or the members of the Trust Advisory Committee established thereunder.

47. The Plan complies with section 1123(a)(7) of the Bankruptcy Code.

Section 1123(b)(2)– Executory Contracts and Unexpired Leases

48. The Debtor engaged in a thorough review of the executory contracts and unexpired leases to which any of the Debtors is a party.

49. Article XII of the Plan provides for the assumption of the executory contracts and unexpired leases. There are no defaults under any of the executory contracts and unexpired leases.

50. The assumption and execution pursuant to the Plan of the executory contracts and unexpired leases set forth in Article XII of the Plan is (i) in the best interests of the Debtors, their estates, and their creditors, (ii) based upon and within the Debtor's sound business judgment, and (iii) necessary for the implementation of the Plan.

51. The Plan complies with section 1123(b)(2) of the Bankruptcy Code.

Section 1123(b)(6)– Other Provisions Not Inconsistent
With Applicable Provisions of the Bankruptcy Code

52. The Plan includes additional appropriate provisions that are not inconsistent with applicable provisions of the Bankruptcy Code.

Section 1129(a)(2)– Compliance with Applicable Provisions of the Bankruptcy Code

53. Section 1129(a)(2) of the Bankruptcy Code requires the proponent of a plan to comply with all of the applicable provisions of the Bankruptcy Code.

54. The Debtors complied with the operating guidelines and financial reporting requirements enacted by the United States Trustee by (i) timely filing all operating reports and consolidated financial

statements, and (ii) maintaining and providing proof of insurance.

55. The Debtors paid all statutory fees required to be paid during the Chapter 11 Cases.

56. The Debtor timely filed with the Bankruptcy Court all schedules, lists of executory contracts, and statements of financial affairs.

57. The Debtors and their respective directors, officers, employees, agents, and professionals acted in "good faith" within the meaning of sections 1125(e), 1126(e), and 1129(a)(3) of the Bankruptcy Code.

58. The Debtors complied with the provisions of the Bankruptcy Code, the Bankruptcy Rules, applicable non-bankruptcy law, the Local Bankruptcy Rules, and the specific rules of the Bankruptcy Court throughout the Chapter 11 Case.

59. The solicitation of votes from holders of Claims was made following approval and dissemination of the Disclosure Statement to holders of Claims and Equity Interests in classes that are impaired under the Plan, and was made in good faith and in compliance with the applicable provisions of the Bankruptcy Code and the Bankruptcy Rules. The Ballots of holders of Claims entitled to vote on the Plan were properly solicited and tabulated.

60. The Debtors complied with all orders of the Bankruptcy Court and fulfilled all of the obligations and duties owed to the estates as required by and set forth in sections 1107 and 1108 of the Bankruptcy Code.

61. The Debtors complied with all applicable provisions of the Bankruptcy Code, as required by section 1129(a)(2) of the Bankruptcy Code, including the provisions governing notice, disclosure, and solicitation in connection with the Plan, the Disclosure Statement, and all other matters considered by the

Bankruptcy Court in connection with the Chapter 11 Case.

62. Good, sufficient, and timely notice of the Confirmation Hearing and all other hearings in the Chapter 11 Cases was given to all holders of Claims and Equity Interests and all other parties in interest to whom notice was required to have been given. The Debtor published notice of the Confirmation Hearing, voting requirements and procedures in the national edition of USA TODAY on September 14, 2000. The Debtor published the same notice in *Andrews Asbestos Reporter* on September 14, 2000, and in *Mealey's Asbestos Reporter* on September 22, 2000.

63. The Debtor has complied with section 1129(a)(2) of the Bankruptcy Code.

Section 1129(a)(3)– Proposal of the Plan in Good Faith

64. Section 1129(a)(3) of the Bankruptcy Code requires that a plan must be proposed in good faith and not by any means forbidden by law.

65. The Debtors, the Committee and the Legal Representative were actively involved in all negotiations and proceedings regarding the Plan.

66. From the totality of the circumstances surrounding its formulation, the Plan is based on extensive negotiations among the Debtors, the Committee, the Legal Representative, and other parties in interest.

67. The Plan was proposed with the legitimate and honest purpose of reorganizing the Debtors' businesses and affairs, restructuring their asbestos-related liability, and maximizing the value available to creditors.

68. The Plan was proposed in good faith and not by any means forbidden by law, and therefore

complies with section 1129(a)(3) of the Bankruptcy Code.

Section 1129(a)(4)– Bankruptcy Court Approval of Certain Payments as Reasonable

69. Section 1129(a)(4) of the Bankruptcy Code requires that all payments made or to be made by the Debtors, for services or for costs and expenses in or in connection with the case, or in connection with the plan and incident to the case, have been approved by, or are subject to the approval of, the court as reasonable.

70. The Chapter 11 Operating Reports filed by the Debtors and the Applications for Interim Compensation and Expenses for all Professionals are or will be a matter of public record

71. Pursuant to section 2.1 of the Plan, all payments to professionals will be (i) subject to review and approval by the Bankruptcy Court upon final application pursuant to sections 327, 328, 330, 331, 503(b), or 1103 of the Bankruptcy Code, or (ii) paid in accordance with prior orders of the Bankruptcy Court approving the retention of certain professionals.

72. The Plan complies with section 1129(a)(4) of the Bankruptcy Code.

Section 1129(a)(5)–Disclosure of Identity and Affiliations of Proposed Management, Compensation of Insiders and Consistency of Management Proposals with the Interests of Creditors and Public Policy

73. The Debtors disclosed in the Disclosure Statement and Plan the identity of the individuals who will hold positions with the Debtors immediately after confirmation of the Plan and demonstrated at the Confirmation Hearing that the service of such individuals is consistent with the interests of creditors and with public policy.

74. The Debtors disclosed in the Disclosure Statement and the Plan the identity of any insider who will be employed or retained by the Debtors immediately after confirmation of the Plan and the nature of any compensation for such insider.

75. The Plan complies with section 1129(a)(5) of the Bankruptcy Code.

Section 1129(a)(6)– Approval of Rate Changes

76. Section 1129(a)(6) of the Bankruptcy Code requires a debtor to obtain the approval of any governmental regulatory commission, with jurisdiction over the debtor, with respect to any rate changes provided for in the debtor's plan of reorganization.

77. The Plan does not provide for any changes in rates that require regulatory approval of any governmental agency.

78. The Plan complies with section 1129(a)(6) of the Bankruptcy Code.

Section 1129(a)(7)– Best Interests of Creditors

79. Section 1129(a)(7) of the Bankruptcy Code requires that each creditor or equity interest holder in an impaired class must either have voted to accept the plan of reorganization, or will receive or retain under such plan on account of such claim or interest property of a value, as of the effective date of such plan, that is not less than the amount that such holder would receive or retain if the debtor were liquidated under chapter 7 of the Bankruptcy Code.

80. Based upon the evidence presented at the Confirmation Hearing and as set forth in the Disclosure Statement and Plan, with respect to each impaired class of Claims and Equity Interests for each

) Debtor, each holder of a Claim or Equity Interest will receive or retain under the Plan on account of such Claim or Equity Interest property of a value, as of the Effective Date, that is not less than the amount that such holder would receive or retain if the Debtor were liquidated on the Effective Date under chapter 7 of the Bankruptcy Code.

81. All impaired classes of claims voted to accept the Plan.

82. The Plan complies with section 1129(a)(7) of the Bankruptcy Code.

Section 1129(a)(8)– Acceptance of the Plan by Each Impaired Class

83. Section 1129(a)(8) of the Bankruptcy Code requires that, with respect to each class of claims or interests under a plan, such class has either accepted the plan or is not impaired under the plan.

84. Class 4A and Class 5 Claims are impaired and have voted to accept the Plan. Class 7 Equity Interests are impaired and pursuant to section 1126(g) of the Bankruptcy Code are deemed to have rejected the Plan.

85. Each of the unimpaired classes of Claims under the Plan and each holder of a Claim in each such class is conclusively presumed to have accepted the Plan, and, in accordance with section 1126(f) of the Bankruptcy Code, solicitation of acceptance with respect to each such class is not required.

86. Subject to section 1129(b)(1) of the Bankruptcy Code, the Plan complies with section 1129(a)(8) of the Bankruptcy Code.

Section 1129(a)(9)– Treatment of Claims Entitled to Priority Pursuant to Section 507(a) of the Bankruptcy Code

87. Section 1129(a)(9) of the Bankruptcy Code provides for certain mandatory treatment of claims entitled to priority under the Bankruptcy Code.

88. Section 2.1 of the Plan provides that each holder of an Allowed Administrative Expense will be paid in full, in cash, on the Effective Date; provided, however, that (i) Administrative Expenses representing (a) liabilities incurred in the ordinary course of business by the Debtors in Possession or (b) liabilities arising under loans or advances to the Debtors in Possession, whether or not incurred in the ordinary course of business, shall be assumed and paid by the respective Reorganized Debtor in accordance with the terms and conditions of the particular transactions and any agreements relating thereto; (ii) the deadline for the filing of all applications for final allowances of compensation or reimbursement of expenses under section 330 of the Bankruptcy Code shall be December 31, 2000; and (iii) if an Administrative Expense, other than a trade payable incurred in the ordinary course of business by either Debtor in Possession, is a Contingent Claim or Unliquidated Claim as of the Effective Date, the Debtors may request the Bankruptcy Court to estimate such Administrative Expense pursuant to section 502(c) of the Bankruptcy Code, in which case the Allowed Amount of such Administrative Expense shall be paid in full, in cash, on the date that an order estimating such Administrative Expense becomes a Final Order. The deadline for the filing of any Requests for Payment of Administrative Expenses shall be December 31, 2000.

89. As required by section 1129(a)(9)(A) of the Bankruptcy Code, section 5.1 of the Plan provides that, each holder of an Allowed Priority Tax Claim shall receive on account of such claim cash equal to the allowed amount of such claim.

90. The Debtors have sufficient cash to fund payments of Allowed Administrative Expenses

) and Allowed Priority Tax Claims, and will have sufficient cash in the future to do so, according to evidence presented at the Confirmation Hearing.

91. The Plan complies with section 1129(a)(9) of the Bankruptcy Code.

Section 1129(a)(10)– Acceptance by at Least One Impaired Class

92. Section 1129(a)(10) of the Bankruptcy Code provides that at least one impaired class of claims must accept a plan of reorganization, determined without including any acceptance of such plan by any insider.

93. At least one impaired class in the Plan voted to accept the Plan determined without including any acceptance of the Plan by an insider holding a Claim in each such class. Class 4A and Class 5 impaired claims voted to accept the Plan.

94. The Plan complies with section 1129(a)(10) of the Bankruptcy Code.

Section 1129(a)(11)– Feasibility of the Plan

95. Section 1129(a)(11) of the Bankruptcy Code requires that the debtor or its successor under a plan not be likely to require liquidation or further financial reorganization, except as provided under such plan. This is the test of "feasibility" of a plan.

96. On the basis of the information presented in the Plan, the evidence presented at the Confirmation Hearing, and as detailed in the Disclosure Statement, confirmation of the Plan is not likely to be followed by the liquidation of, or the need for further financial reorganization of, either Debtor.

97. The Plan complies with section 1129(a)(11) of the Bankruptcy Code.

Section 1129(a)(12)– Payment of Bankruptcy Fees

98. Section 1129(a)(12) of the Bankruptcy Code requires that either all fees payable under 28 U.S.C. § 1930, as determined by the court at the hearing on confirmation of the plan, have been paid or that the plan provides for the payment of all such fees on the effective date of the plan.

99. Section 17.11 of the Plan provides that all fees payable pursuant to 28 U.S.C. § 1930 shall be paid by the Reorganized Debtor on the Effective Date.

100. The Plan complies with section 1129(a)(12) of the Bankruptcy Code.

Section 1129(a)(13)– Retiree Benefits

101. Section 1129(a)(13) of the Bankruptcy Code requires the continuation of payment of all retiree benefits, at the level established pursuant to section 1114 of the Bankruptcy Code at any time prior to confirmation of the plan, for the duration of the period for which the debtor has obligated itself to provide such benefits.

102. Section 13.6 of the Plan provides that all plans, policies and programs for payment of retiree benefits are deemed assumed under the Plan, and the Debtors' obligations under such plans, policies, and programs shall be deemed assumed pursuant to section 365(a) of the Bankruptcy Code, survive confirmation of the Plan, remain unaffected thereby, and not be discharged in accordance with section 1141 of the Bankruptcy Code. This assumption includes payment of all retiree benefits due through the Effective Date of the Plan.

103. The Plan complies with section 1129(a)(13) of the Bankruptcy Code.

Section 1129(d)– Tax Avoidance

104. No objection has been filed by any governmental unit or any party in interest alleging that the principal purpose of the Plan is avoidance of taxes or avoidance of the requirements of section 5 of the Securities Act of 1933, as amended.

105. The principal purpose of the Plan is not avoidance of taxes or avoidance of the requirements of section 5 of the Securities Act of 1933, as amended.

106. The Plan complies with section 1129(d) of the Bankruptcy Code.

Section 1129 (b) (1)– Fair and Equitable

107. Section 1129(b)(1) provides that notwithstanding section 510(a) of the Bankruptcy Code, if all of the applicable requirements of section 1129(a) other than subsection (a)(8) are met, the Court, on the request of the proponent of the Plan, shall confirm the Plan notwithstanding the requirements of such paragraph if the Plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that are impaired under, and has not accepted, the plan.

108. Section 1129(b)(1)(C) provides that for the purposes of section 1129(b) of the Bankruptcy Code, the condition that a plan be fair and equitable with respect to a class of interests includes that (i) the plan provide that each holder of an interest of such class receive or retain on account of such interest property of a value, as of the effective date of the plan, equal to the greatest of the amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price to which such holder is entitled, or the value of such interest; or (ii) the holder of any interest that is junior to the interests of such

class will not receive or retain under the plan on account of such junior interest any property.

109. Based on the evidence presented at the Confirmation Hearing, Class 7 equity interests do not have any fixed liquidation preference or any fixed redemption price. There are no interests junior to Class 7. The value of such equity interests is zero, and the requirements of section 1129(b)(1) of the Bankruptcy Code that the Plan be fair and equitable as to Class 7 Interests is satisfied.

Bankruptcy Rule 3016(a)– Identification of Plan

110. The Plan is dated and identifies the entity submitting the Plan.

111. Based on the evidence presented at the Confirmation Hearing, the Debtors will be able to make all payments under the Plan and comply with the Plan.

V. DISTRIBUTIONS

112. Article XIV of the Plan contain the provisions governing distributions under the Plan, and such provisions are fair and reasonable.

VI. PLAN MODIFICATIONS

113. Section 17.5 of the Plan provides the procedures for modification of the Plan both prior to confirmation and after the entry of the Confirmation Order. Such provisions are fair and reasonable. The Plan has not been modified as of the date of this Order.

VII. CONDITIONS PRECEDENT TO CONFIRMATION

114. The conditions precedent set forth in Article XI, section 11.1 of the Plan are hereby approved, and are incorporated by reference as if they had been fully set forth herein. Those conditions will be satisfied by entry of the order confirming the Plan.

115. Class 4A (Asbestos Bodily Injury Claims and Asbestos Bodily Injury Contribution Claims) voted, by at least 75 percent (75%) in amount of those voting, in favor of the Plan.

116. There are no known claims in Class 4B (Asbestos In Building Claims) as of the date of the Confirmation Hearing.

117. The Debtor, the Committee and Legal Representative advised the Court that this order is, in form and substance, acceptable to them.

**VIII. THE TRANSFERS OF PROPERTIES UNDER THE PLAN ARE
GOVERNED BY THE EXEMPTIONS PROVIDED IN
SECTION 1146(c) OF THE BANKRUPTCY CODE**

118. In order to fund the Plan, the Debtor will distribute to the Asbestos Trust the assets described in section 14.3 of the Plan.

119. Consistent with the requirements of section 1146(c) of the Bankruptcy Code, the transfers are not subject to taxation under any state or local law imposing a stamp, transfer, or similar tax.

IX. INJUNCTIONS— SECTION 524(G) INJUNCTION

120. The Plan establishes, in section 7.4 and in Article VIII, the Asbestos Trust, to which all Class 4 Asbestos Bodily Injury Claims Asbestos-Related Personal Injury Contribution Claims are

channeled.

121. The identities of the proposed trustees of the Asbestos Trust were disclosed at the Confirmation Hearing and are as follows: Sylvester F. Minter, III and the Wilmington Trust Company. The identity of the proposed members of the Trustees' Advisory Committee (the "TAC") were disclosed at the Confirmation Hearing and in the Disclosure Statement and are as follows: Nancy Worth Davis, Mary Skelnik, and Sanders McNew.

122. This Confirmation Order contains and constitutes the Permanent Channeling Injunction.

123. At the time of the order for relief with respect to Rutland, each Debtor had been named as a defendant in personal injury, wrongful death, and property damage actions seeking recovery for damages allegedly caused by the presence of, or exposure to, asbestos or asbestos-containing products.

124. In order to supplement the injunctive effect of the Discharge Injunction entered below pursuant to section 1141(d) of the Bankruptcy Code, and, pursuant to section 524(g) of the Bankruptcy Code, the Permanent Channeling Injunction shall be entered as part of this Order and shall take effect as of the Confirmation Date, pursuant to section 16.2 of the Plan.

125. Pursuant to the Plan, the Asbestos Trust will be funded with all of the assets listed in Article 14.3 of the Plan.

126. Pursuant to the Plan, the Asbestos Trust is to be partly funded by all of the common stock of Rutland. The Asbestos Trust will own all of the voting shares of Rutland.

127. The Debtors were and are faced with substantial future Demands for payment arising out of the same or similar conduct or events that give rise to the Claims that are addressed by the Permanent Channeling Injunction.

128. The actual amounts, numbers, and timing of the Demands cannot be determined.
129. Pursuit of the Demands against the Debtors, outside the procedures prescribed by the Plan, is likely to threaten the Plan's purpose to deal equitably with Claims and Demands.
130. The terms of the Permanent Channeling Injunction, including any provisions barring actions against third parties pursuant to section 524(g)(4)(A) of the Bankruptcy Code, are set out in the Plan and in the Disclosure Statement.
131. The Plan establishes, in Classes 4A and 4B (Asbestos Related Personal Injury Claims, Asbestos Related Personal Injury Contribution Claims, Asbestos In Buildings Claims and Asbestos In Buildings Contribution Claims) separate classes of claimants whose Claims are to be addressed by the Asbestos Trust.
132. Class 4A (Asbestos Related Personal Injury Claims and Asbestos Related Personal Injury Contribution Claims) voted, by at least 75 percent (75%) of those voting, in favor of the Plan.
133. Pursuant to court orders or otherwise, the Asbestos Trust will operate through mechanisms such as structured, periodic, or supplemental payments, pro rata distributions, matrices, or periodic review of estimates of the numbers and values of present Claims and future Demands, or other comparable mechanisms, that provide reasonable assurance that the Asbestos Trust will value, and be in a financial position to pay, present Claims and future Demands that involve similar claims in the same manner.
134. The Legal Representative, Richard Levy, Jr., Esq., was appointed as part of the proceedings leading to issuance of the Permanent Channeling Injunction for the purpose of protecting the rights of persons that might subsequently assert Demands that are addressed in the Permanent Channeling Injunction and transferred to the Asbestos Trust.

135. Identifying each Protected Party (as defined in section 1.1 (70) of the Plan) in the Permanent Channeling Injunction is fair and equitable with respect to persons that might subsequently assert Demands against each such Protected Party, in light of the benefits provided, or to be provided, to the Asbestos Trust by or on behalf of any such Protected Party; provided, however, that upon Court approval of the Fireman's Settlement, the Protected Parties under the Permanent Channeling Injunction shall include Fireman's Fund.

136. The Asbestos Trust satisfies the requirements for a trust under section 524(g) of the Bankruptcy Code.

137. The District Court has jurisdiction to enter the Permanent Channeling Injunction under sections 157(d) and 1334(a), (b), and (d) of title 28 of the United States Code, and section 524(g) of the Bankruptcy Code.

138. Sections 105(a) and 524(g) of the Bankruptcy Code permit approval and entry of the Permanent Channeling Injunction, especially where, as here, such an injunction is essential to the formulation and implementation of the Plan as provided in section 1123(a)(5) of the Bankruptcy Code, confers material benefits on the Debtors' estate, is in the best interests of holders of Claims against the Debtors, and complies in all respects with the requirements of section 524(g) of the Bankruptcy Code.

139. The Permanent Channeling Injunction is consistent with sections 105(a), 524(g), and 1129 of the Bankruptcy Code and other applicable provisions of the Bankruptcy Code. The Permanent Channeling Injunction is in the best interests of the Debtor's estate. See *In re Eagle-Picher Indus., Inc.*, 203 B.R. 256 (Bankr. S.D. Ohio 1996); *A.H. Robins Co., Inc. v. Piccinin*, 788 F.2d 994, 1002-03 (4th Cir. 1986), *cert. denied*, 479 U.S. 876, 107 S. Ct. 251, 93 L. Ed. 2d 177(1986); *In re Johns-Manville*

Corp., 801 F.2d 60, 63-64 (2d Cir. 1986).

THE FOREGOING CONSTITUTES THE COURT'S FINDINGS OF FACT AND CONCLUSIONS OF LAW.

ORDER ON CONFIRMATION OF PLAN

This case having come on for a joint hearing before the Bankruptcy Court and the District Court on confirmation of the Plan, and the issues having been duly heard and considered, and upon the foregoing Findings of Fact and Conclusions of Law, it is

ORDERED, ADJUDGED AND DECREED, as follows:

Confirmation of the Plan

1. The Plan, as modified in the manner to which reference is made in this Order, be, and it hereby is, CONFIRMED. All objections to confirmation are withdrawn, rejected, or resolved as stated in open court on the record of the Confirmation Hearing.
2. The record of this Confirmation Hearing be, and it hereby is, closed.
3. The provisions in Article XV the Plan governing distributions, reserves, and the procedures for resolving and treating Disputed Claims under the Plan be, and they hereby are, approved and found to be fair and reasonable.

4. In accordance with section 1141 of the Bankruptcy Code, the provisions of the Plan be, and they hereby are, binding upon the Debtors, and any other entity that is giving or receiving property under the Plan, any lessor or lessee of property to or from the Debtor, and any holder of a Claim against or Equity Interest in the Debtors, whether or not the Claim or Equity Interest of such creditor or Equity Interest holder is impaired under the Plan and whether or not such creditor or Equity Interest holder has filed, or is deemed to have filed, a proof of Claim or proof of Equity Interest or has accepted the Plan.

5. On the Effective Date, in accordance with section 1141 of the Bankruptcy Code and section 13.1 of the Plan, the Reorganized Debtors be, and they hereby are, revested with the assets of the Debtors free and clear of all encumbrances, Claims, Equity Interests, and other interests, except to the extent specifically provided herein or in the Plan.

Permanent Channeling Injunction

6. This Order shall constitute the Permanent Channeling Injunction under the Plan.

7. From and after the Effective Date, and except as provided in the Plan or in this Order, every Entity be, and hereby is, permanently and forever stayed, restrained, and enjoined from taking any of the following actions for the purpose of, directly or indirectly, collecting, recovering, or receiving payment of, on, or with respect to any Asbestos Related Personal Injury Claims, Asbestos Related Personal Injury Contribution Claim, Asbestos In Buildings Claim and Asbestos in Buildings Contribution Claim (other than actions brought to enforce any right or obligation under the Plan, any Exhibits to the Plan, or any other agreement or instrument between any of the Debtors or the Reorganized Debtors and the Asbestos Trust, which actions shall be in conformity and compliance with the provisions of the Plan):

) (a) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding (including, without express or implied limitation, a judicial, arbitral, administrative, or other proceeding) in any forum against or affecting any Protected Party or any property or interests in property of any Protected Party;

(b) enforcing, levying, attaching (including, without express or implied limitation, any prejudgment attachment), collecting, or otherwise recovering by any means or in any manner, whether directly or indirectly, any judgment, award, decree, or other order against any Protected Party or any property or interests in property of any Protected Party;

(c) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance against any Protected Party or any property or interests in property of any Protected Party;

(d) setting off, seeking reimbursement of, contribution from, or subrogation against, or otherwise recouping in any manner, directly or indirectly, any amount against any liability owed to any Protected Party or any property or interests in property of any Protected Party; and

(e) proceeding in any manner in any place with regard to any matter that is subject to resolution pursuant to the Asbestos Trust, except in conformity and compliance therewith.

8. For purposes of this Permanent Channeling Injunction, capitalized terms used in the injunction shall have the meanings given elsewhere in this Order. In addition, the following terms shall have the following meanings:

(i) "*Entity*" means any individual, corporation, partnership, joint venture, association, joint stock company, limited liability company, estate, entity, trust, trustee,

unincorporated organization, government, governmental unit (as defined in section 101(27) of the Bankruptcy Code), agency or political subdivision thereof, or any other entity; *provided, however*, that for purposes of this Permanent Channeling Injunction, the definition of "Entity" shall not include the United States Trustee.

(ii) "*Protected Party*" means any of the following parties:

(a) the Debtors, the Reorganized Debtors, and any of their pre- and post-Confirmation Date officers, directors, stockholders, agents, employees, members, representatives, advisors, financial advisors, accountants and attorneys;

(b) the Asbestos Trust, and any of its Trustees, officers, directors, agents, employees, representatives, advisors, financial advisors, administrators, accountants and attorneys and the TAC, and any of its agents, employees, representatives, advisors and attorneys;

(c) the Legal Representative, the Consultant, and their agents, employees, members, equity owners, representatives, advisors and attorneys;

(d) the members of the Committee and their agents, employees, representatives, advisors and attorneys;

(e) any Entity that, pursuant to the Plan or after the Effective Date, becomes a direct or indirect transferee of, or successor to, any assets of the Debtors, the Reorganized Debtors, or the Asbestos Trust

(but only to the extent that liability is asserted to exist by reason of becoming such a transferee or successor);

(f) any Entity that, pursuant to the Plan or after the Effective Date, makes a loan to either or both of the Reorganized Debtors or the Asbestos Trust or to a successor to, or transferee of, any assets of the Debtors, the Reorganized Debtors, or the Asbestos Trust (but only to the extent that liability is asserted to exist by reason of such Entity becoming such a lender or to the extent any pledge of assets made in connection with such a loan is sought to be upset or impaired); or

(g) any Entity to the extent he, she, or it is alleged to be directly or indirectly liable for the conduct of, Claims against, or Demands on the Debtors, the Reorganized Debtors, or the Asbestos Trust on account of Asbestos Related Personal Injury Claims, Asbestos Related Personal Injury Contribution Claims, Asbestos In Buildings Claims and Asbestos In Buildings Contributions Claims (collectively the "Asbestos Related Claims") by reason of one or more of the following:

(1) such Entity's ownership of a financial interest in the Debtors or the Reorganized Debtors, or predecessor in interest of the Debtors or the Reorganized Debtors;

(2) such Entity's involvement in the management of the Debtors or the Reorganized Debtors or any predecessor in

interest of the Debtors or the Reorganized Debtors;

(3) such Entity's service as an officer, director, or employee of the Debtors, the Reorganized Debtors, or related parties;

(4) such Entity's provision of insurance to the Debtors, the Reorganized Debtors or related parties with respect to Asbestos Related Claims; provided, however, that in the event such entity denies coverage or alleges that any provision of this Plan voids such coverage then as to such entity the Permanent Channeling Injunction shall not apply and such Entity shall not be a "Protected Party" unless and until it is the specifically named beneficiary of an Insurance Carrier or Surety Settlement Order; or

(5) such Entity's involvement in a transaction changing the corporate structure, or in a loan or other financial transaction affecting the financial condition, of the Debtors, the Reorganized Debtors, or any of the related parties, including, but not limited to: (A) involvement in providing financing (debt or equity), or advice to an Entity involved in such transacting; or (B) acquiring or selling a financial interest in an Entity as part of such transaction;

provided, however, that notwithstanding this or any other provision of this Order or of the Plan

to the contrary, and except as otherwise set forth in this Order, an Entity's "Protected Party" status shall not preclude the Asbestos Trust from pursuing claims against any insurance carrier or surety that issued, or is alleged to have issued, a policy or policies of insurance to, or on behalf of, or for the benefit of Rutland; and *provided, further*, that upon Bankruptcy Court approval of the Fireman's Settlement, Fireman's Fund shall be a Protected Party under the Permanent Channeling Injunction.

9. Nothing contained in this Permanent Channeling Injunction shall constitute or be deemed a waiver of any claim, right, or cause of action that the Debtors, the Reorganized Debtors, or the Asbestos Trust may have against any Entity in connection with or arising out of an Asbestos Related Personal Injury Claim, Asbestos Related Personal Injury Contribution Claim, Asbestos In Buildings Claim or an Asbestos In Buildings Contribution Claim, and the Permanent Channeling Injunction shall not apply to the assertion of any such claim, right, or cause of action by the Debtors, the Reorganized Debtors, or the Asbestos Trust.

Discharge

10. In exchange for the consideration provided for under the Plan, and in accordance with section 1141 of the Bankruptcy Code, the Debtors be, and hereby are, DISCHARGED and RELEASED of and from any and all Claims, including, without limitation, Asbestos Related Personal Injury Claims and Asbestos Related Personal Injury Contribution Claims, Asbestos In Buildings Claims, Asbestos Related Building Contribution Claims, against the Debtors or any part of their respective estates that arose before the Effective Date, including, without limitation, any interest accrued or expenses incurred thereon from and after the Debtors' Petition Date or any Claim of a kind specified in sections 502(g) or 502(i) of the

Bankruptcy Code, whether or not (a) a proof of Claim based upon such Claim is filed or deemed filed under section 501 of the Bankruptcy Code, (b) such Claim is allowed under section 502 of the Bankruptcy Code, or (c) the holder of such Claim has accepted the Plan.

11. Except as otherwise specifically provided by the Plan and the Asbestos Trust documents contained in documents that are exhibits to the Plan ("Plan Exhibits"):

(a) the distributions and rights that are provided in this Plan shall be in complete satisfaction, release and, to the extent permitted by applicable law, discharge of (A) all Claims and Demands against, liabilities of, liens on, obligations of and Interests in the Debtors, the Reorganized Debtors or the Asbestos Trust or the assets and properties of the Debtors, the Reorganized Debtors or the Asbestos Trust, whether known or unknown, and (B) all causes of action, whether known or unknown, either directly or derivatively through the Debtors or the Reorganized Debtors, against the Released Parties based on the same subject matter as any Claim, Demand or Interest, in each case, regardless of whether a proof of Claim or Interest was filed, whether or not Allowed, and whether or not the holder of such Claim or Interest has voted on this Plan, or based on any act or omission, transaction or other activity or security, instrument or other agreement of any kind or nature occurring, arising or existing prior to the Effective Date that was or could have been the subject of any Claim, Demand or Interest, in each case, regardless of whether a proof of Claim or Interest was filed, whether or not Allowed and whether or not the holder of such Claim or Interest has voted on this plan.

(b) Furthermore, but in no way limiting the generality of the foregoing, except as otherwise specifically provided in this Plan, any Entity accepting any distributions or rights pursuant

to this Plan shall be presumed conclusively to have released the Released Parties to the extent provided in the Plan from any cause of action based on the same subject matter as the Claim, Demand or Interest on which the distribution or right is received to the full extent permitted by applicable law.

(c) The satisfactions, releases and discharges set forth in the Plan shall also act as an injunction against any Entity commencing or continuing any action, employment of process or act to collect, offset, affect or recover any Claim, Demand, Interest or cause of action satisfied, released or discharged hereunder.

(d) Notwithstanding this Order or any other provision of the Plan to the contrary, the release and injunction set forth in the section 16.1(a) of the Plan shall not serve to release or enjoin claims by the Asbestos Trust against any insurance carrier or surety that issued, or is alleged to have issued, a policy or policies of insurance to, or on behalf of, Rutland unless such insurance carrier or surety is specifically named as a beneficiary of or a party to an Insurance Carrier or Surety Settlement Order pursuant to section 1.1(55) of the Plan.

Implementation of the Plan

12. In accordance with section 1142 of the Bankruptcy Code, the Debtors and any other Entity designated pursuant to the Plan be, and they hereby are, authorized, empowered and directed to execute, deliver, file and record any document, and to take any action necessary or appropriate to implement, consummate and otherwise effect the Plan in accordance with its terms in all material respects, and all such entities shall be bound by the terms and provisions of all documents executed and delivered by them

necessary or appropriate to effectuate the transactions contemplated by the Plan.

13. All entities holding Claims against or Equity Interests in the Debtors that are treated under the Plan be, and they hereby are, directed to execute, deliver, file or record any document, and to take any action necessary to implement, consummate and otherwise effect the Plan in accordance with its terms, and all such entities shall be bound by the terms and provisions of all documents executed and delivered by them in connection with the Plan.

14. On the Effective Date, pursuant to sections 365(a) and 365(f)(1) of the Bankruptcy Code, all executory contracts and unexpired leases of the Debtors identified to be assumed in accordance with Article XII of the Plan shall be, and they hereby are, deemed assumed by the Debtor, notwithstanding any provision in such contracts or leases prohibiting assignment or transfer.

15. Any Claims created by the expiration or termination of any executory contract or unexpired lease prior to the date of entry of this order or the rejection pursuant to section Article XII of the Plan of executory contracts or unexpired leases, if not heretofore evidenced by a filed proof of claim, shall be filed and served on the Debtors within thirty (30) days from the entry of this Order. Any Claims for which a proof of claim is not filed and served within such time shall be forever barred from assertion and shall not be enforceable against the Debtors, their estates, assets, properties, or interests in property, or the Reorganized Debtors or their estates, assets, properties, or interests in property, or the Asbestos Trust or its estate, assets, properties or interests in property.

16. Subject to further order of the Bankruptcy Court, the Debtors are authorized to amend or modify the Plan at any time prior to the Effective Date, but only in accordance with section 17.5 of the Plan and section 1127 of the Bankruptcy Code.

17. In the event of any inconsistency between the Plan and any agreement, instrument or document intended to implement the Plan and this Confirmation Order, the provisions of this Confirmation Order shall govern and shall supersede any orders of this Court issued prior to the Effective Date that may be inconsistent herewith.

18. The parties to any agreement or other document that is a Plan Exhibit shall be authorized to modify such Plan Exhibits consistent with the terms of the Plan Exhibits without further order of this Court or further notice to any entities.

Retention of Jurisdiction

19. Until the Effective Date, the Bankruptcy Court retains exclusive jurisdiction over the Debtors, their properties and operations. Until the final adjudication of the Debtors' motion for approval of the Fireman's Settlement, the Bankruptcy Court retains exclusive jurisdiction over all matters arising under or relating to the Fireman's Settlement. In the event that the Fireman's Settlement is not approved, the Bankruptcy Court retains exclusive jurisdiction to adjudicate any disputes between the Asbestos Trust and Fireman's Fund relating to the pertinent insurance coverages.

20. On and after the Effective Date, the District Court retains exclusive jurisdiction for all purposes relating to the Permanent Channeling Injunction, including, without limitation, any proceeding that involves the validity, application, construction, or modification of the Permanent Channeling Injunction, with the effect that any party challenging such injunction shall be required to raise such challenge in the District Court, except to the extent that the District Court may refer such proceedings to be heard and determined by the Bankruptcy Court pursuant to section 157(b) of title 28 of the United States Code.

21. From and after the Effective Date, except as otherwise provided by law, the Bankruptcy Court retains exclusive jurisdiction over the Reorganized Debtors, the Asbestos Trust and the Chapter 11 Cases for the purpose of determining all other disputes and other issues presented by or arising under the Plan including, without limitation, the following matters:

(a) to allow, disallow, estimate, liquidate or determine any Claim against or Interest in the Debtors and to enter or enforce any order requiring the filing of any such Claim or Interest before a particular date, and to resolve any and all disputes relating to any Claim or Interest, except in each case an Asbestos-Related Personal Injury Claim or an Asbestos In Buildings Claim.

(b) to determine requests for payment of Claims entitled to priority under section 507(a)(1) of the Bankruptcy Code, including any and all interim and final applications for compensation for professional services rendered and disbursements incurred in connection therewith;

(c) to resolve any and all controversies and disputes regarding the interpretation and enforcement as may be necessary to effectuate the consummation and full and complete implementation of this Plan;

(d) to resolve any and all controversies and disputes regarding the implementation or interpretation of the Asbestos Trust and related matters, including, without limitation, the settlement of accounts, the resolution of disputes between the TAC and the Trustees, and the termination of the Asbestos Trust, as those matters are provided for in paragraphs 2.2(f), 5.1(c) and 6.2(a)(iii), respectively, of the Asbestos Trust Agreement, but excluding all matters related to the Permanent Channeling Injunction, as set forth in Section 16.2 hereof;

(e) to enter orders in aid of the execution of this Plan, and releases provided for in this Plan, including, without limitation, appropriate orders (which may include contempt or other sanctions) to protect the Debtors, its affiliates and other Entities from actions prohibited under Article XVII of this Plan;

(f) to remedy any defect or omission or reconcile any inconsistency in the Confirmation Order;

(g) to determine any and all applications, motions, adversary proceedings and contested matters pending on the Effective Date and arising under, arising in or related to the Chapter 11 Case or this Plan, including any remands of appeals that may be pending on the Effective Date;

(h) to enforce the provisions of this Plan relating to the distributions to be made hereunder;

(i) to resolve any action brought to avoid or otherwise determine the validity, extent, enforceability, priority and perfection of any lien or other encumbrance on any property of the Debtors;

(j) to determine any and all pending applications for the rejection or disaffirmance of executory contracts or leases, and to hear and determine, and if need be to liquidate, any and all Claims arising therefrom;

(k) to resolve any disputes concerning any reserve established for Disputed Claims or the administration thereof;

(l) to resolve any disputes concerning any release of non-Debtors hereunder or the

injunction against acts, employment of process or actions against such non-Debtors arising hereunder;

(m) to resolve any disputes concerning whether a Entity had sufficient notice of the Chapter 11 Case, any applicable Claims bar date, the hearing on the approval of the Disclosure Statement as containing adequate information, and the hearing on the confirmation of this Plan for the purpose of determining whether a Claim, Demand or Interest is satisfied, released or discharged hereunder or for any other purpose;

(n) to determine such other matters as may be set forth in the Confirmation Order or that may arise in connection with the implementation of this Plan;

(o) to resolve any disputes regarding any invoice submitted to the Reorganized Debtors by a professional for fees and/or expenses associated with the prosecution or settlement of objections to Claims or Interests; and

(p) to enter a final decree closing the Chapter 11 Case.

19. In addition, on and after the Effective Date, except as otherwise provided by this Order or in the Plan, in accordance with Article XVII of the Plan and sections 105(a) and 1142 of the Bankruptcy Code, the Debtors, their properties and operations shall be released from the custody and jurisdiction of the Bankruptcy Court.

20. The Bankruptcy Court further reserves jurisdiction to enter any orders that may be necessary and proper pursuant to sections 105(a) and 1142 of the Bankruptcy Code.

Discharge and Termination of Authority of the Committee, the Legal Representative, the Consultant, and Their Professionals

21. On the later of (a) the Effective Date, (b) the date of a Final Order denying any timely filed motion or proceeding to revoke, modify or set aside the Confirmation Order, and (c) the date of consummation of a settlement of insurance coverage with Fireman's Fund, the Committee shall be dissolved, and the members of the Committee and their counsel and representatives, the Legal Representative, the Consultant and their respective professionals, and the Debtors' legal and financial advisors, shall thereupon be released and discharged of and from all further duties, responsibilities and obligations, if any, related to, arising from and in connection with services rendered in their respective capacities in the Chapter 11 Cases. The discharge of the Committee and the Legal Representative shall not abrogate the obligations of the Reorganized Debtors to pay any fees and expenses of the Committee, the Legal Representative and their professionals, if any, through the date of discharge.

Miscellaneous

22. The provisions of this Confirmation Order are integrated with each other and are non-severable and mutually dependent.

23. The Debtors shall continue to make timely payments to the United States Trustee pursuant to 28 U.S.C. § 1930(a)(6) until the case is converted, dismissed, or closed by a final decree, and the Debtors shall provide operating statements for the month of October within ten (10) days of the dated of this Order, and, the Debtors shall provide an appropriate affidavit indicating the cash disbursements for the relevant subsequent calendar quarters within thirty (30) days following the end of the quarter until the case is converted, dismissed, or closed by Court Order.

24. All dividends shall be disbursed in accordance with the claims deemed allowed pursuant

to section 1111 of the Bankruptcy Code. Any deviation therefrom shall be made only after application and approval of this Court.


25. Within thirty (30) days after the date of this Order, the Debtors shall file with this Court a report concerning the actions taken and the progress made in the consummation of the Plan, and thereafter shall file a similar report every three (3) months until the Plan has been consummated.

26. Within thirty (30) days after the later of consummation of the Plan or the fixing of final professional compensation, the Debtors shall file an application for a final decree showing that the Plan has been consummated, the name and addresses, if known, of the holders of claims against the Debtors or interests in the Debtors that have not been surrendered or released in accordance with the provisions of the Plan, and the nature of the amounts of those claims or interests, a reconciliation of the consummated Plan to the claims deemed allowed under section 1111 of the Bankruptcy Code, and other facts and disclosures as may be necessary to enable the Court to issue a final decree.

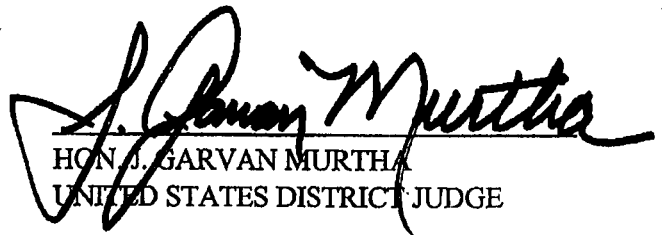
27. Within ninety (90) days after consummation of the Plan, the Debtors must file with the Clerk of the Court all objections to claims, or be barred from asserting any objections after that date.

28. This Order and simultaneously filed Findings of Fact and Conclusions of Law shall be entered both in the District Court and the Bankruptcy Court. The Clerk of the Bankruptcy Court shall post this Order on the Bankruptcy Court's internet web site (<http://www.vtb.uscourts.gov>).

ORDERED AND DECREED on this the 17th day of November _____, 2000, at Rutland, Vermont.


HON. COLLEEN A. BROWN
UNITED STATES BANKRUPTCY JUDGE

ORDERED, DECREED AND AFFIRMED on this the 17th day of November, 2000, at Rutland, Vermont.


HON. J. GARVAN MURTHA
UNITED STATES DISTRICT JUDGE

The attached page displays the United States District Court, District of Vermont, stamp file for the jointly confirmed District/Bankruptcy Court case Rutland Fire Clay Co. and Rutland, Inc., District Court case 1:00-MC-49, document 16.