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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

UNITED STATES OF AMERICA, and
STATE OF UTAH,

Plaintiffs,

vs.

KENNECOTT UTAH COPPER
CORPORATION,

Defendant

Case No. 2:07-cv-00485-DAK

Judge Dale A. Kimball

MOTION TO ENTER AND APPROVE CONSENT DECREE

The United States of America, on behalf of the U.S. Environmental Protection Agency (“EPA”), and the State of Utah (the “State”), on behalf of the Utah Department of Environmental Quality (“UDEQ”), (jointly the “Governments”), submit this Motion to Enter and Approve the Consent Decree with Kennecott Utah Copper Corporation (“KUCC”) lodged with this Court on July 9, 2007 (the “Decree”). This Motion is accompanied by a separate Memorandum and supporting Exhibits.

1. The Decree requires KUCC to: (a) complete the remediation of an extensive groundwater plume of contamination, comprising the Zone A portion of the area designated by EPA as Operable Unit 2 (“OU2”) of the Kennecott South Zone Superfund Site (the “South Zone Site”); (b) pay all EPA’s future costs associated with overseeing such work; and (c) reimburse all remaining unpaid or previously uncompromised past response costs of the United States associated with all operable units comprising both the South Zone Site and the related Kennecott North Zone Superfund Site (“North Zone Site”), totaling slightly over \$5 million.

2. EPA’s record of decision for OU2 that KUCC is required to implement by the Decree does not require any further action to address a separate plume of contamination, known as the “Zone B” plume, beyond that work being done by KUCC in settlement of the State’s natural resource damage claim. The OU2 ROD also coordinated the CERCLA remedial action addressing the Zone A plume with requirements of the settlement of the State’s NRD claim, and ground water protection and UPDES discharge permits. The Decree reserves, and does not settle, KUCC’s potential liability to take further CERCLA response actions to address the Zone B plume and for matters now covered by applicable state permits.

3. The United States published notice of the lodging of the present Decree in the Federal Register on July 19, 2007, and solicited public comments. *See* 72 Fed. Reg. 39640. The State additionally published notice in local newspapers and also solicited public comments on the lodged Decree. EPA and UDEQ also held a public meeting on the Decree on August 29, 2007.

4. The Governments received numerous written and oral comments on the lodged Decree. Many of the comments concern the implementation of the project undertaken by KUCC to settle the State's NRD claim, and the adequacy of State permits. Many commenters expressed concern over the draw down of the aquifer, and that they were not receiving the benefits they expected to receive by the State's NRD settlement.

5. The accompanying Memorandum and supporting exhibits explain the steps that have been taken by KUCC and the Utah State Engineer to manage the beneficial use of the aquifer, and clarifies the overlap between the lodged Decree and the NRD project and how State permit requirements are utilized by the CERCLA remedial action. All the comments are summarized in the accompanying Memorandum, followed by a response to the comments.

6. In preparing their response to comments the Government's realized that a citation in the Decree to a section of the National Contingency Plan was outdated. That error is corrected by a separate Joint Stipulation in the Consent Decree executed by counsel for all the parties and is filed herewith.

WHEREFORE, for the reasons set forth above, in the accompanying Memorandum, and with the correction made to the citation pursuant to the Joint Stipulation, the Governments

respectfully request that the Court approve and enter the lodged Decree.

Respectfully submitted,

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/s/ Jerry Ellington
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CERTIFICATE OF SERVICE

I hereby certify that on April 17, 2008, a copy of the foregoing **MOTION TO ENTER AND APPROVE CONSENT DECREE** was served on the following persons by the following means:

1 - 2 CM/ECF
1 Hand Delivery
2- 4 Mail
_____ Overnight Delivery Service
_____ Fax
_____ E-Mail

1. Clerk, U.S. District Court

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