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Environmental Response & Remediation

Kelly Payne, P.G.
Principal Advisor, Closure & Remediation
Kennecott Utah Copper Corporation
P.O. Box 6001
Magna, Utah, 84044-6001

RE: Kennecott Utah Copper Corporation's (Kennecott) letters entitled *Annual Report on Zone A Plant Operations and Acid Plume Extraction Under NRD Consent Decree & 2007 Adjustment To NRD Irrevocable Letters of Credit*, both dated September 27, 2007.

Dear Mr. Payne:

As the State Trustee for Natural Resource Damages (Trustee), I have received the above referenced annual report which covers the operational period between June 1, 2006 and May 31, 2007 and the ILC adjustment request letter. The Division of Environmental Response & Remediation (DERR) has also completed a review of both reports. I have some comments on the annual report that are provided in the first enclosure, please direct your attention to those comments. Kennecott has otherwise satisfactorily reported on the operational history for the first year of operations.

Kennecott has proposed the general format and topics for subsequent annual reports by the submission of this first anniversary report (September 27, 2007). I concur with the recommended format.

Kennecott has requested that the annual operational reporting period be set as June 1st to May 31st of each year. I concur with this request since June 1st is the anniversary date of the Zone A Plant's startup.

Kennecott has requested that the reporting period for the acid core extractions in the Zone A plume, previously reported from September 1st to August 31st, be adjusted to June 1st to May 31st to correlate with the annual report on treatment operations. For purposes of coordinating the two reporting topics, I concur with the request.

Based on a review of the Kennecott ILC adjustment request letter, I concur with the face values Kennecott has reported for the various adjustments to the Zone A and B Irrevocable Letters of Credit (ILCs). It is understood that Kennecott has forty-five days from the date (September 20, 2007) of the Trustee's annual notification of the average annual PTIF rate (2007 - 5.2096%), to cause for the ILCs to be adjusted for said interest rate (Paragraph II.B 2004 NRD Three Party Agreement). Since the ILC for Zone A requires an adjustment for both the 15% reduction based upon treatment operations and an increase due to the annual PTIF interest rate, one transaction for the Zone A ILC should be performed. I have included (as the second enclosure) a copy of the Trustee letter providing the instructions to cause for the various adjustments on the two ILCs by the financial institution. Please ensure that the financial institution reports to Mr. Douglas Bacon (DERR) and Mr. Craig Silotti of the Department of

Environmental Quality (DEQ) that the adjustments were performed and documents the new applicable face values for both the Zone A & B ILCs.

If you have any questions, please do not hesitate to call Mr. Bacon (801-536-4282).

Best regards,



Dianne R. Nielson, Ph.D.
State Trustee for Natural Resource Damages

Enclosure(s)

cc: Richard Sprott, Executive Director – Department of Environmental Quality
Brad T Johnson, Director – Division of Environmental Response & Remediation
Fred Nelson, Utah Attorney General Office
Douglas Bacon, Division of Environmental Response & Remediation
Frank Roberts, Division of Drinking Water
Craig Silotti, Utah Department of Environmental Quality
Mark Attencio, Jordan Valley Water Conservancy District

**Comments by the State of Utah Trustee for Natural Resource Damages –
Kennecott’s September 27, 2007 NRD Annual Report**

Operations

- 1) As specified in Paragraph G.2 of the 2004 NRD Three Party Agreement, the requisite 3500 acre-feet per year of Municipal Quality Water from the Zone A Plant will be determined on each anniversary of the Zone A Plant completion date on a rolling average basis over a five-year period. Hence, at the end of each five-year operational period 17,500 acre-feet of water is required to have been produced from the Zone A Plant. Kennecott has completed the first operational year of the current five year reporting period (2007 – 2011), and the Trustee notes the Zone A Plant has produced 3,843 acre-feet this first year. The reported volume falls within the upper 10% volume provision allowed for under the 2004 NRD Three Party Agreement. Though the Trustee will render a decision on the ability of Kennecott to comply with the production requirement in 2011, it is noted that a yearly reporting will allow the Trustee to work in conjunction with Kennecott to address any production hindrances that may arise each operational year. Please continue to report the monthly and yearly production volumes (as provided in Table 1) for subsequent years and include a running total for annual productions.

Water Quality

- 2) As specified in Paragraph G.2 of the 2004 Three Party Agreement, the treated water produced at the Zone A Plant is to be of municipal quality. As defined in Paragraph 1.25 of the 2004 Project Agreement, “Municipal Quality Water” means water with chemical concentrations at or below 250 mg/l sulfate and 500 mg/l total dissolved solids (TDS) for water extracted from the area west of the Welby Canal, and 250 mg/l sulfate and 800 mg/l TDS for water extracted east of the Welby Canal, and which otherwise meets primary drinking water standards for other contaminants. Kennecott reports that it provided the required volume of “Treated Water” (as defined in Paragraph 1.39 of the 2004 Project Agreement, water at the Zone A Meter Station that has chemical concentrations at or below 250 mg/l sulfate and 250 mg/l TDS, which otherwise meets primary drinking water standards for other contaminants, and is free of objectionable tastes and odors) meeting the prescribed quality standards. The Trustee acknowledges that Kennecott complied with the lower sulfate and TDS standards described under the definition of “Treated Water” (Table 2) and the taste/odor requirement.

Though the definition of Municipal Quality Water could require Kennecott to report on their compliance history for “other contaminants” to the Trustee as it pertains to the treated water, it is a desired goal to avoid duplicative oversight. As such, the Trustee acknowledges that Kennecott’s compliance with meeting applicable drinking water standards for other contaminants will be assessed by the permitting agency, the Division of Drinking Water (DDW). Please note that if at some point a Trustee selected standard (different than what the DDW may require) is established by a Trustee action, Kennecott might be required to report separately to the Trustee as they currently do for sulfate and TDS. At this time, the Trustee requests that Kennecott revise the referenced annual report to document this decision.

- 3) It is understood that Kennecott has initiated monthly sampling for TDS, sulfate and specific conductance to increase the data richness for these parameters during subsequent reporting periods. Kennecott is encouraged to consider graphically showing the data (once populated)

provided in Table 2 so as to visually document the linear relationship that exists between these parameters as discussed under the report header entitled "*Quality of Delivered Water*".

Future Modifications

- 4) The Trustee recognizes Kennecott's efforts to manage the efficiency of the treatment operations at the Zone A Plant. The Trustee does not have any concerns with Kennecott's intention to keep well No. LTG1147 in service as a back-up water supply, instead of its current role as a source for blend water. It is understood from the annual report that Barrier Wells No. B2G1193 and BFG1200 will be pumped for the full volume of feed and blend water production. However, the Trustee would appreciate more information pertaining to how this change will affect the current rate of operational efficiency. Please coordinate a response with Mr. Douglas Bacon of the Division of Environmental Response and Remediation.

Acid Plume Extractions

- 5) After review of Table 3, which documents the volume of water extracted at the two acid wells individually, a combined extracted total, a combined and cumulative extracted total, and the 5-year rolling average extracted, the Trustee acknowledges Kennecott's continued efforts to meet the minimum extraction rate of 400 acre-feet per year based on a five year rolling average from the acid plume. For the reporting period of 2002 to 2007 the Trustee agrees that Kennecott exceeded the minimum extraction rate, having extracted on average 2,194 acre-feet per year over the past five years. Since 2002, Kennecott has been in compliance with this measured parameter.