

PUBLIC MEETING
CERCLA CONSENT DECREE
KENNECOTT-OPERABLE UNIT 2
SOUTHWEST JORDAN VALLEY GROUND WATER CLEANUP PROJECT

AUGUST 29, 2007 * 6:00 - 7:30 P.M.

LOCATION: South Jordan City Hall
1600 West Towne Center Drive
South Jordan, Utah

MODERATORS:

Doug Bacon
UDEQ - DERR Project Manager

Rebecca J. Thomas, EPA
Remedial Project Manager

PUBLIC COMMENTS BY:

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Reporter: Jennifer E. Garner, RPR
Notary Public in and for the State of Utah

PUBLIC MEETING

1
2
3 MR. BACON: Okay. Good evening. At this
4 time, we'll initiate the public meeting for this
5 evening. First, we want to thank you for attending
6 this evening and providing us an opportunity to hear
7 your concerns. At this time, we would like to begin
8 the public meeting.

9 This evening's meeting was advertised in
10 the Salt Lake Tribune and the Dessert News on Monday,
11 August 20, 2007 and then on Tuesday, August 21, 2007.
12 The meeting for this evening is scheduled from 6:00
13 to 7:30 p.m.

14 This evening, EPA and DEQ will not be
15 providing a presentation, answering questions, or
16 addressing comments raised directly. If, after
17 tonight, you would like to follow up with one of the
18 project managers, feel free to contact either Ms.
19 Rebecca Thomas or myself at the phonenumber listed
20 on the various notices provided to date. Both Ms.
21 Thomas and myself are happy to address technical
22 questions, and if you have any legal questions,
23 please direct those to either Mr. Jerry Ellington
24 with the Department of Justice or Mr. Fred Nelson
25 with the Utah Attorney General's Office whose contact

1 information is also on the notice.

2 Pursuant to the request filed with respect
3 to the Federal Government's covenant not to sue under
4 Section 7003 of RCRA (42 U.S.C. Section 6973)
5 provided for within the Consent Decree, a court
6 reporter from CitiCourt LLC is here tonight to
7 transcribe the receipt of comments. Tonight's
8 transcript will be evaluated by EPA, the Department
9 of Justice and DEQ and the Utah Attorney General's
10 Office, along with the comments received during the
11 public comment period that was held on the Consent
12 Decree from July 19, 2007 to August 20, 2007. The
13 evaluation will be completed prior to the United
14 States and Utah rendering a decision to motion the
15 Court to enter the Consent Decree.

16 At that, we would like to now provide an
17 opportunity for those who would like to provide a
18 comment to do so.

19 As you came in, there was a sign-in sheet
20 for those who would like to provide a comment, and we
21 shall proceed with those individuals first.
22 Thereafter, once each of those individuals have
23 spoken, we will proceed to open the floor to other
24 individuals that would like to provide a comment on
25 the Consent Decree.

1 For purposes of ensuring that everyone has
2 an opportunity to speak tonight, we would like to
3 have the initial provisional of comments limited to
4 five minutes.

5 Once everyone has had an opportunity to
6 provide a comment, we will then open up the floor for
7 those who would like to expound upon their comments
8 further to approach the microphone and further their
9 comment provision. Please keep in mind that the
10 meeting tonight is scheduled until 7:30. The meeting
11 will close promptly at 7:30 p.m.

12 And at this time, we will initiate the
13 public comment receipt with -- and please excuse me
14 if I get the names misspelled here -- Mr. Steve
15 Homer. We'd like you to approach the microphone at
16 the podium. Please state your name and then your
17 comment.

18 MR. HOMER: My name is Steve Homer. My
19 address is 2877 West 9150 South in West Jordan, Utah
20 84088.

21 For the record, I am the attorney for
22 Mr. Belchak. You may or may not know that
23 Mr. Belchak, through me and another person, Mr. Peter
24 Conte, have entered a petition to intervene in the
25 actual lawsuit. So we're legally connected to this

1 issue and I'll be brief.

2 I believe -- and in speaking as a public
3 citizen, my history of this -- I used to be a
4 government employee for West Jordan. I certainly am
5 not speaking for West Jordan, okay, just so we're
6 clear on that. But as a public citizen and as I've
7 reviewed this, probably more so than anybody else
8 other than Mr. Belchak, it just seems to me that as I
9 understand the history, and I may be wrong on the
10 history. I may be wrong on the science of it, and I
11 may be even incorrect on the law side of all of this,
12 but it just seems to me that as I understand it, that
13 the proposed Consent Decree focuses on the so-called
14 Operating Unit 2, the OU2 area. As I understand
15 that, that's perhaps as small as 160 acres. From
16 what I understand, the somewhat generalized
17 contaminated area may be in the tens of thousands of
18 acres.

19 And so what the national government and
20 the state government are doing -- in my mind, they've
21 seemingly kind of sold out, if I may be a little rude
22 here, through Kennecott and its interests and the
23 economic interests that Kennecott has -- made an
24 unholy alliance, as I'd like to call it, and created
25 a bargain in this Consent Decree.

1 And the danger of the bargain that the
2 Consent Decree represents is the following: As I
3 look at the history of both of the national
4 environmental laws, which basically started in the
5 early '70s and similarly then some early litigation
6 that was perhaps filed in 1986 -- I'm a little more
7 familiar with the 1995 Consent Decree.

8 Now this Decree, it seems like every ten
9 years or so that the national government and state
10 DEQ get together and kind of arm wrestle Kennecott a
11 little bit and come up with a Consent Decree. And
12 it's quickly unpublicized. I mean, it's publicized,
13 but that nobody would know because I don't think that
14 anybody in Utah is necessarily reading the Federal
15 Register.

16 They come up with a Consent Decree -- a
17 sweetheart deal for most of its provisions.
18 Kennecott is mandated to clean up, for the most part,
19 this very small area. And then the government, you
20 know, kind of leaves them alone for ten years.

21 And I'm not sure that's the EPA's role in
22 this. As I read the statute, and I lose track of the
23 chapter and verse, but it seems like Section 96-13 or
24 -17. It's one of those that says if there's
25 groundwater contamination and it goes to drinking

1 water, it's supposed to be a high priority on the
2 EPA's priority list. I know those words are probably
3 the wrong words.

4 But it just seems like the EPA is not
5 doing its job. And I suppose that's probably the
6 thrust of our motion to intervene in the lawsuit and
7 the response time for the actual party litigants to
8 that lawsuit is still pending, so I'm not trying to
9 litigate the case here.

10 But anyway, it just doesn't seem like the
11 national regulatory agencies are doing enough, and
12 the deal that the Consent Decree represents is
13 probably a little too much of a sweetheart deal.
14 Obviously, the problem has taken a long time to get
15 to where we're at, and undoubtedly it will take a
16 long time to fix, and it will be very expensive.

17 But I think the Consent Decree, within its
18 generalized parameters, assuming it goes for ten more
19 years, assuming as you have indicated, there is a
20 covenant not to sue to get really tough with
21 Kennecott, those are kind of the things I think -- I
22 just don't think the EPA or the Department of
23 Justice -- we appreciate the job that they have done,
24 but I think they could do more and maybe be little
25 tougher with Kennecott.

1 Because ultimately, it's our drinking
2 water that is at risk here. And it's not
3 just theoretically at risk. It truly is at risk.
4 And so those are my comments.

5 We appreciate the opportunity to thank
6 you. And just for the record, most of these people
7 who are here are here pursuant to a notification that
8 Mr. Belchak sent out. And I think you should thank,
9 if need be -- but anyway, he sent out some
10 notifications and got maybe 20 or 30 people here.
11 That's noteworthy because but for that, nobody would
12 know. Thank you.

13 MR. BACON: Thank you. The next
14 individual we'd like to invite to the podium is
15 Mr. Rodney Dansie. Again, if you would, please state
16 your name and your comment.

17 MR. DANSIE: My name is Rod Dansie. I
18 live at 7198 West 13090 South in Herriman. I didn't
19 prepare a written speech because I didn't know I was
20 going to say a lot, but I do have a lot of thoughts
21 on this subject and I can say most of them probably
22 from my memory.

23 I'd like to back up a little bit and say
24 that I started to become aware of the EPA and the
25 State of Utah's involvement in this situation back in

1 the early '80s -- in '83, '86, '87, '88, and '90.
2 And I've stayed pretty involved. And I think they
3 have done a lot of hard work. And the EPA has done a
4 lot of hard work to get to where we're at.

5 I believe Kennecott has cooperated in the
6 general sense. And you'll laugh at this, but it's
7 kind of like when you have a car accident, the
8 insurance agent gets out there quickly and writes the
9 check before you know all the accident problems. But
10 anyway, it cooperated, to make a long story short.

11 And you have to realize that the people
12 that are in Kennecott today may not have been the
13 total perpetrators of the environment back when it
14 happened. Maybe it was with knowledge, maybe it was
15 without knowledge, but the rules have changed and the
16 laws have changed.

17 So with that background said, I would like
18 to thank the EPA and DEQ for the work that they have
19 done. However, that being said -- and Kennecott for
20 standing up to the plate to a large degree. But that
21 being said, I believe there is much, much, much,
22 much, much, much, much more that needs to be done.
23 Because I believe that if you took this valley prior
24 to the mining activity and looked at it and looked at
25 the water and all of those things, it was different.

1 And you say, "Well, everything was different," and
2 that's true. The government was different. The
3 rules were different. Everybody operated different.

4 But after we're all gone -- you know, and
5 I've seen many, many Kennecott managers, presidents,
6 EPA people, governments, all that, come and go. But
7 the environment will be here after we're all long
8 gone and these papers or microphone have
9 disintegrated. And I think that's the important part
10 of what we're talking about here tonight is the
11 long-term.

12 If you look at the west mountains before
13 mine activity, it was different. Now, the other side
14 of that is they provided many, many jobs over the
15 years, and lots of businesses got rich and did well
16 because they supplied supplies for the mining
17 company. And that's admirable and that's good
18 because we all have to earn livings and we all have
19 to do things.

20 And over the years, different mining
21 companies were bought up and they maybe had some
22 atrocities and they were bought up, but they didn't
23 always take the coupon book. Sometimes they did take
24 the coupon book, which was the liabilities that were
25 attached to the previous mining activities.

1 And I guess I need to get back to the
2 Consent Decree, but I think I need to give that
3 background. The Consent Decree was put together in
4 1995. And I followed it pretty close to try to help
5 clean up the plume. We believe that's probably
6 happening to some degree. We believe the cost of
7 cleaning up has been definitely shifted onto the
8 water users and the people that buy water out of
9 their taps because of the way the Consent Decree is
10 structured. And maybe there was no other way to
11 structure it other than to let it be in court for ten
12 years or to start a Superfund site, so there may be
13 some different sides to that.

14 But the people in this valley have been
15 burdened by and will be burdened for many, many
16 centuries by the result of the mine activity that has
17 taken place. Now, a lot of us had jobs in the mining
18 activity, and that kind offsets it. But I think that
19 most of the money today flows out of the state, out
20 of the U.S., to other mine interests. And there's
21 nothing wrong with that because they have the power
22 to come in and do things very well.

23 And if you look a Rio Tinto's annual
24 report, and if you look on their website, they talk a
25 lot about environment, and they talk a lot about

1 wanting to do the right thing and to clean things up
2 and do it and make it work.

3 I think it's time for the regulators to
4 continue to say, "If you are going to talk the talk,
5 then be prepared to walk the walk."

6 And I don't think that is happening
7 totally. I'll give you an example. I have a copy of
8 a new agreement that was dated in July of '07. It's
9 called the BNM Clean-up Agreement. I read that.
10 That is a very strong, iron-clad agreement. I don't
11 know why the Consent Decree -- I realize that was one
12 that someone volunteered to and this was one that was
13 brought about by parties, but that agreement is 100
14 times better than this agreement.

15 However, there are some great provisions
16 in this agreement. It says, "The state reserves the
17 right to file for the damaged claims," but someone
18 said they can't file lawsuits, "if new factual
19 information becomes available after the entry of the
20 decree and the conditions were previously unknown to
21 the State."

22 Well, here is an example. The BNM ditch
23 has been there since the 1930s. It's never been
24 talked about. It's come to light and I think
25 somebody is stepping up to the plate to deal with it.

1 But that's probably because the regulators have
2 stepped up.

3 Now, I realize we're in a Republican
4 administration and they don't grant the EPA quite as
5 much money as the Democratic administrations. I
6 realize that Kennecott is very well connected through
7 its senators, through its representatives, through
8 its government -- state government, and through the
9 regulatory heads and officials. They all have to
10 work together. And that's admirable because I think
11 you get more done by working together.

12 But I do believe that the people are being
13 shorted in this particular situation, and I would
14 strongly ask that the judge that's going to review
15 this not sign this Consent Decree or move it forward
16 or whatever the legal terms are on it.

17 I believe that there should be a review
18 period now because we've learned a lot since 1995.
19 The costs have gone up. Not only have the costs of
20 cleaning the plume gone up, but the profits of the
21 company that has the responsibility -- and they
22 accepted the liability -- for cleaning that up, have
23 gone up also.

24 In '97, the company was looking at going
25 out of business because there was too much pressure

1 going on because the market just wasn't there. That
2 is a different picture today. There are billions of
3 dollars -- and I don't know these numbers exactly.
4 I've reviewed them, so if I'm quoting them wrong, I
5 apologize. But billions of dollars are being
6 annually paid back to shareholders, and that's good
7 because that's people who invest money.

8 MR. BACON: Mr. Dansie, I'd just note that
9 five minutes has expired -- actually, a minute past
10 that. And I would like to let everybody else have an
11 opportunity, but we will invite you back up.

12 MR. DANSIE: I'll stop there. There were
13 some specific things, but I wanted to lay that
14 framework for what I'm going to say a little later.

15 MR. BACON: Sure. Thank you.

16 At this time, I'd like to invite Ms.
17 Loretta Wilcox to the podium.

18 MS. WILCOX: Yes. My name is Loretta
19 Wilcox. I live at 125 South 4000 West in Riverton.
20 84096.

21 I've asked before what they were going to
22 do about our water. I know they want to take it and
23 they'll end up draining it all out and selling it
24 back to us.

25 But when they cleaned up Herriman, the

1 environmentalists couldn't have been on the job very
2 much when they cleaned up Herriman because they took
3 it out and dumped it on the north side of Herriman
4 and let it sit there for months and months and months
5 and then blew it right back. And I don't know if
6 they'd call that clean-up. I can't see how they'd
7 call that a clean-up, but they don't do it.

8 They built all them houses on top of those
9 ponds they had out there. We got stuff blowing from
10 there onto our property for months and months and
11 months and have been cleaning it up.

12 I've lost two registered Arabian stallions
13 through the well water. The vet said that it's the
14 arsenic in the water. They drank it for 17 years,
15 and I lost two of them because of it. And they just
16 sweep that under the rug. Nobody has ever contacted
17 me about it.

18 And I'd just like to know when the
19 environmentalists are going to check up on these
20 guys. Somebody needs to go back and check on these
21 guys to see that they do it and do it right.

22 On Daybreak, I understand they had to sign
23 a thing stating that they didn't care how deep they
24 went, if they run into anything that was contaminated
25 or not. Now, I can't say that for sure. And I don't

1 have any proof, but that's what I heard. It would be
2 nice to see somebody checking up on all these here
3 things instead of taking our water and stuff away
4 from us. Thank you.

5 MR. BACON: Thank you. We'd like to
6 invite Mr. Dix McMullin to the podium.

7 MR. McMULLIN: Thank you. My name Dix
8 McMullin. I live at 10516 South 1540 West.

9 Just for the record, I've had quite a bit
10 of experience on the legal side or the legislative
11 side in the Senate and the House and also a previous
12 mayor in South Jordan and participated in some of
13 these events that have taken place, the decrees
14 they're referring to.

15 Just a quick history about the ponds they
16 are referring to. In the '40s, our farm was just
17 east of the settling ponds, and I visited those ponds
18 with my father. And the contaminants were so bad
19 that there were hundreds, if not thousands, of birds
20 that were laying around the shoreline on the ponds
21 that they are now hauling the tailings back up into
22 the mountain and redepositing it.

23 There was a comment about Kennecott having
24 the right to pump good water up to the west and let
25 it filter back down through. They have operated a

1 pump in the West Jordan area that pumps out of the
2 Jordan River -- I don't know the year that it was
3 started, but I'm sure that it was back in the '50s,
4 probably maybe the '60s. And I'm not positive of the
5 time, but they've always pumped water from the Jordan
6 River to the top of Kennecott and let it leach back
7 through the settling debris -- the waste that they
8 put on the face and then at the bottom, they would
9 collect the minerals, which included all types of
10 minerals. I know, gold -- and I won't go through
11 them all -- was collected there and then deposited
12 back down in the settling ponds. And the river that
13 ran from the Oquirrh Mountains into the Jordan River
14 has long ago dried up.

15 Now, currently, we own -- we, meaning
16 myself and my family -- we own two well rights. One
17 off of 1300 and one off of 2700 West in South Jordan.
18 And with the new materials and the new evidence that
19 is being proposed, I would hope that they would
20 reevaluate and consider all the property owners who
21 own wells, whether they be small or large, that they
22 not be lumped into the previous settlement that gives
23 all of the power to the Water Conservancy District.

24 I'm not opposed to the Water Conservancy
25 District and what they are doing because it is a step

1 in the right direction. And of course, we all depend
2 upon the Water Conservancy District for the current
3 water that we use, both for animals and for our
4 household use.

5 I am opposed to the control that's taking
6 place by the purchasing of a lot of water rights by
7 the large companies and forcing the smaller water
8 user to follow their guidelines and their rules and
9 their work as they assign the water out. I am a
10 water user, and I have water rights, along with our
11 family, for irrigation purposes, as well as animals
12 and any other use.

13 Now, with the additional information
14 that's coming forth and things that could be
15 reviewed -- and I'm not blaming the regulatory
16 agencies. I think they've done a good job with the
17 skills and the ability that they have. And I'm glad
18 that we have the DEQ and the EPA and any other
19 agencies that help to stand up for citizens in any
20 oppositions or discussions with the people that cause
21 this problem.

22 Now, it's not 160 acres. I saw the map
23 when I was serving as mayor, and the plume that we
24 are talking about cleaning up starts at the base of
25 the Oquirrh Mountains and western part of South

1 Jordan and West Jordan and Riverton and part of
2 Herriman and part of Bluffdale to the Jordan River.
3 And so it's thousands and thousands of acres that
4 we're talking about cleaning up and making it good
5 water.

6 Now, the process that they are going
7 through has some real concerns about, are they just
8 cleaning it up and washing the materials down lower
9 in the valley? And I think there is probably a way
10 to exchange some of those materials, but the cost is
11 going to be high. And I think it's wrong that even
12 though they are selling homes to people that are
13 going to be living on the areas that they've cleaned
14 up, to hold them completely harmless, I think
15 citizens ought to have -- if it's harmless based upon
16 the knowledge that they have at that time, I think
17 that's one thing. But to commit them forever, I
18 can't go along with that because new technology
19 always comes forward and it will in the next decade
20 or two --

21 MR. BACON: Mr. McMullin, I'm sorry. I do
22 want to note that the five minutes has exceeded.
23 We'd like to -- if you are almost done, I'll give you
24 the time.

25 MR. McMULLIN: I'll sum it up in one

1 sentence. I just hope that from this hearing that we
2 can get extended review and analysis of the situation
3 and treat the people and those who have water rights,
4 irrigation rights and well rights fairly. Make them
5 equal to the large contributor, which is Kennecott
6 Copper. Thank you.

7 MR. BACON: Thank you.

8 Okay. I'm going to attempt this next one.
9 So Charlynn Walker.

10 MS. WALKER: I have to say that --

11 MR. BACON: For the record, could you
12 state your name?

13 MS. WALKER: Yes. I'm Charlynn Walker,
14 and I live at 35004 West Graymalkin Circle in South
15 Jordan.

16 I do own a well, but my knowledge on this
17 issue is very minimal. But I do have an opinion. I
18 am concerned about the water quality for the future,
19 and I feel that the extent of the water contamination
20 isn't adequately addressed and that I would like to
21 see that the small property owner and the future use
22 of the water by small property owners is addressed
23 and considered.

24 That's all I have to say.

25 MR. BACON: Thank you. Mr. Ivan Weber?

1 MR. WEBER: Thank you. Sorry, I'll adjust
2 the microphone here. Thank you for allowing me to
3 address you tonight. My name is Ivan Weber. I live
4 in the opposite corner of the valley at 953 1st
5 Avenue in Salt Lake City.

6 And in many ways, I think my concerns here
7 boil down to kind of the opposite of the concerns
8 that you are hearing about from citizens who live
9 more nearby. Mine are primarily ecological, public
10 safety, connected with future developments proposed
11 in areas to which contamination is being relocated
12 and also a set of concerns about the propriety of
13 moving contamination off of the site where it was
14 generated and disposed for so many years.

15 My involvement in this issue has spanned
16 probably 18 years or so as a representative of an
17 environmental group, then an employee of Kennecott,
18 then representing the environmental group again, and
19 now just representing myself as a concerned citizen.

20 And my concerns have migrated from that of
21 aquifer protection and restoration to -- as the
22 disposition of this contamination has shifted, over
23 to ecological protection more than anything else.

24 My awareness of the importance of the
25 migratory waterfowl and bird population of the Great

1 Salt Lake has grown over the years too, and we can't
2 help but see that there are a great many other
3 threats to that same ecosystem from all around. The
4 urban encroachment, contamination from other
5 industrial sources and population growth is probably
6 ultimately the thing that threatens the lake most of
7 all -- and who knows, maybe the local climate change
8 too.

9 So we are dealing with a precarious
10 ecosystem that is of hemispheric, if not global
11 importance, and we're doing it without a lot of
12 scientific knowledge. Unfortunately, we've started
13 late in the studies that are now underway thanks to
14 the selenium task force and other initiatives under
15 the DEQ, which are laudable.

16 And it's painful to express these concerns
17 because Kennecott, and I can testify first-hand,
18 reported a great deal of it to the EPA and DEQ and so
19 forth. Kennecott did a terrific job of soils and
20 source control clean-up. And so this is an
21 aberration in this general picture of a responsible
22 -- what would otherwise be a responsible company
23 activity.

24 There is a serious need for greater study
25 of the transported fate of this contamination through

1 the tailings line and into the Great Salt Lake,
2 probably through the tailings pond. The tailings
3 pond is not meant to be a containment mechanism.
4 It's a pass-through mechanism. That's what it was,
5 is, and always will be.

6 It is sort of a fad, fashionable,
7 acceptable technology around the world of mining
8 communities to dispose of mine waste in bodies of
9 water, and that just doesn't get it. I'm sorry, but
10 there is no way to put lipstick on that pig. But
11 it's happening world-wide and this lake probably
12 can't take it.

13 So I've said all this ad nauseam. I'm
14 tired of it. I'm sure you are too. In my written
15 comments -- I brought copies of them along. I only
16 sent them to DOJ, but it seems as though they've made
17 their way around as have other comments. So I won't
18 burden you with more copies unless you want them.

19 So I'm going to let that stand on its own.
20 But it seems to me as though if we are not really
21 sure of what we're doing in putting this
22 contamination -- and it does make it out the other
23 end of the pipe. If you put it in one end of the
24 pipe, it comes out the other end. This isn't Harry
25 Potter. We don't have incantations that can

1 overcome, "plumi s disappearis," or something like
2 that.

3 So it will be like a sort of doppelganger
4 Superfund site in the tailings pond. If it isn't in
5 the tailings pond, then it's in the Great Salt Lake,
6 and it doesn't belong in either place, nor does there
7 deserve to be a public responsibility for extensive
8 urban and industrial developments on that very
9 tailings pond within which these contaminants have
10 been stored. There is some logical disconnects here,
11 and they deserve to be thought out holistically.
12 I'll leave it at that. Thanks very much.

13 MR. BACON: Thank you.

14 Mr. Tom Belchak.

15 MR. BELCHAK: I'm not ready. Is there
16 anybody else?

17 MR. BACON: Would you like us to come
18 back?

19 MR. BELCHAK: Please.

20 MR. BACON: We will move Mr. Belchak to
21 the end of the list. We will move on with Mr. Steve
22 McDowell.

23 MR. McDOWELL: I think I'll just listen.

24 MR. BACON: Okay. Sure. With that, we
25 will move to Mr. Don Stallings.

1 MR. STALLINGS: I'm Don Stallings. I live
2 at 1527 West 11400 South, South Jordan.

3 We presently have a well that we irrigate
4 from and water our livestock, and I would just like
5 to know more about the contamination and everything
6 that is coming our way, or if it is contaminated. I
7 don't think it's ever been checked, but I would just
8 like to be -- like the former Mayor Dix McMullin
9 said, I'd like for it to come down a little bit from
10 the Conservancy District and maybe be broadened a
11 little bit so the private well owners and individuals
12 could be more involved in it and be a part of the
13 process. Thank you.

14 MR. BACON: Thank you.

15 That brings us back to Mr. Belchak.

16 MR. BELCHAK: Nobody else?

17 Good evening. Thank you for coming.

18 Thank you for being here. Thank you all.

19 MR. BACON: If you could please state your
20 name for the record.

21 MR. BELCHAK: I think I can. Tom Belchak.
22 B-E-L-C-H-A-K.

23 MR. BACON: Thank you.

24 MR. BELCHAK: And I've lived in South
25 Jordan since 1984.

1 This public meeting is for the purpose of
2 discussing the Consent Decree, I suppose. The
3 Consent Decree that's in front of the judge now is
4 this document. It's about 101 pages, I believe. It
5 says 98 pages. My printer said 101. There could be
6 a mistake somewhere. I don't trust the technology
7 sometimes.

8 I'm looking for my copy of the Complaint,
9 which is the 15-page document, and I'm pretty sure I
10 have it. And I want to make sure I point out the
11 thought of the OU2 site, quote, unquote, as defined
12 in the Complaint. And it's also defined in the
13 actual Consent Decree. I want to read from the
14 Complaint because it's much shorter -- 15 pages. And
15 these documents are available on the DEQ website, so
16 there is no secret.

17 Okay. In 2000 when the OU2 -- I believe
18 it's called the Record of Decision, Kennecott South
19 Zone Groundwater Plumes OU2. So my impression of the
20 document is that the people are defining two plumes
21 when I'm prepared to suggest that there is just one
22 source, different points of injection into the
23 aquifer. I'd like to -- I would really like to see
24 the definition of the political terms "Zone A" and
25 Zone B" to be dispensed with and there be one source,

1 being the copper producers over time.

2 In the Complaint, there are some factual
3 errors. For example, on page six, I'm going to point
4 this out because the Consent Decree points to
5 definitions that are in the Complaint.

6 On June -- this is C. It's Number 11 on
7 page four of the Complaint. I'm sorry -- it would be
8 15 C. "On June 30, 1989, the user changed its name
9 to Kennecott Corporation. On that same day, Gazelle
10 changed its name to Kennecott Utah Copper Corporation
11 which is the named defendant in this action. Gazelle
12 is a wholly-owned subsidiary of Kennecott
13 Corporation, which in turn is a wholly-owned
14 subsidiary of RTZ Corporation, PLC."

15 Now, RTZ Corporation, PLC, stopped doing
16 business in 1997 when Rio Tinto became listed as a --
17 I think it was '95 when Rio Tinto became a dualistic
18 company.

19 So this is -- on page six, "RTZ
20 Corporation" should say, "Rio Tinto, PLC," which is
21 the British company that owns the mining operation.

22 Okay. Under -- okay, the part that refers
23 to the OU2 site; I'm not finding it right now. It's
24 the OU2 site -- I'm very concerned about this
25 definition because in the Complaint, it defines the

1 OU2 site as 160 acres. Okay. So wherever it is, it
2 says 160 acres, and in the Consent Decree itself,
3 which is the --

4 MR. BACON: Mr. Belchak?

5 MR. BELCHAK: Yes?

6 MR. BACON: I'm sorry to interrupt. The
7 five minutes has expired. I'd like to open the
8 comment period to the floor and then invite those
9 that want to continue with their comments to please
10 do so and continue.

11 MR. BELCHAK: Okay. We'll come back.

12 MR. BACON: Okay. Thank you.

13 At this time, for those individuals that
14 have signed up, we have gone through the list. We'd
15 like to open the floor to those individuals who would
16 like to approach the microphone and provide comment
17 this evening, if there are any individuals that would
18 like to do so.

19 MR. BOLAY: My name is Paul Bolay. I just
20 want to say that there seems to be a disparity
21 between the damage done and the resolution offered in
22 the Consent Decree. I would like the current Consent
Decree withdrawn. I would like the Complaint to be
evaluated for accuracy and then a new resolution
offered that realistically addresses the problem.

MR. BACON: Thank you. Any other individuals?

With that, I would acknowledge that, Mr. Dansie, if you had further comments to provide, you are welcome to approach the microphone.

Mr. McMullin, if you have further comments, you're more than welcome to follow Mr. Dansie and then Mr. Belchak.

MR. DANSIE: Thank you very much. Again, thanks tonight for the opportunity to come to together and to the court reporter. Thanks to Tom Belchak for helping get notice out for this that I think that's very interesting and of very great concern to all.

I want to talk just a little bit specifically about the Consent Decree. I realize we are on a short time, and I don't know that anything we say here will influence a judge. It's ten years' worth of work to either approve or deny this Decree to go forward.

I want to make a couple of references, and I think the Consent Decree -- and I'm paraphrasing, so don't hold me to the exact words, but I think the Consent Decree said they would get water back to the southwest area that was impacted by the mining

activity. I believe that is not happening, particularly in Herriman or the area west of Herriman. I believe that is a violation of the Consent Decree.

They've also said that they will protect the water tables to some degree through the use of models and things, and they have done the models. We are experiencing heavy drawdowns in various areas, even beyond what the models showed with regard to the pump and treat program. The model is only a model, and it doesn't show everything. It's the best that they can do at the time, but it needs to be reviewed and checked on closely because we have wells in the southwest quadrant that are going dry in the surrounding areas -- large wells, small wells, and the water table is down. I realize we are in a drought year, and we have to evaluate how that impacts it.

We also know that much of the water that Kennecott -- that used to flow out of the west mountains and down to Riverton and into the Jordan River do not go there now. Many of those water rights have been allowed to go north to the tailings pond for mining activity. Some of those have been approved by the state engineer. Some should be

reviewed.

The problem that exists today under the Consent Decree is the water in the southwest quadrant, Riverton, South Jordan, West Jordan, Herriman -- particularly Herriman and the area above Herriman -- is being mined just like the Bingham Mine was being mined, and one day there will be nothing there. It will be just as if we lived in the west desert. It's evident -- all the vegetation now, all the trees and all the things. There was a thousand acres of water -- land that was irrigated in Herriman years ago by irrigation water. None of that water goes hardly in the basin today. It used to be 3,000 gallons a minute. It's 250 gallons a minute today. That water goes out of that basin.

That brings me a little bit back to the Consent Decree. We need to do everything we can under the Consent Decree, which is supposed to do that, to get water back up to the southwest area so water can be coming back in there and mitigate the impact of mining, leaching, and all those activities.

I am very concerned about the definition of the 160 acres. That's almost, from my perspective, a joke of this OU2, where the plume is. I think it affects probably 50,000 acres, and I think

that is way too small of an area, and I think some reevaluation should be done on that.

I think the plume only shows starting there about 118th South and going to West Jordan. I think that plume area needs to be reconsidered and determined if it's impacted the area clear over into, say, 13500 South in Herriman. I think that area has been overlooked a little bit. This has been raised many times before, and I think that's a major concern.

I would ask that they reevaluate -- when I say "they," Jordan Valley DEQ and Kennecott -- reevaluate how the distribution of water takes place to the four cities. I think they've done what they want and that's fine, but the area west of Herriman has been reallocated no water, and the area has been most impacted by drawdown and by mine activity, such as contaminations coming down onto that area.

New information. I think we're getting new information all the time that can help us improve this Consent Decree. I think we've made great progress in the ten years, but I don't believe the settlement has been made. We're paying sales tax on the problems that we'll be dealing with in the future, and I'd ask they go back and take a hard look

and keep some provisions in there that allow us to go back and review and look at what's happening. We know of other things that are happening, and so we need that review opportunity. And I think the Consent Decree allows for it, but I think it's up to the regulators and the judge to see and set time periods for that review to take place.

I won't take too much more time, at least until everyone has, of course, had more.

I think we need a review of all the previous solutions that have been made and whether there are more things that can be done to date and whether these costs are representative of what we've kind of represented to the court that we would settle for.

I think we need a review of this. I think it's appropriate at this time, and I think the DEQ and the EPA and everyone involved has the option to do that.

The other thing that's important is the water from the pump treatment program is cleaned up at West Jordan or Copperton and starts moving down. However, if I were to buy water in the highest zone, I would pay a rate based on pumping water from the Jordan River to Bingham, not where the water is

cleaned up and coming down. I think it's something that needs to be on the record.

Now, where the zones start -- Zone 5 is Copperton and comes down to Zone 1 in, say -- down by the Jordan River. However, the water is not being pumped from the Jordan River up. It's being brought out of the ground up there and coming down, and that's where it would have come out had there not been mining activity out of the springs and wells and so forth to impact it, and it would feed down. So I think that's something that should be reviewed a bit.

I think the damage claim should be put on hold until some more evaluation can be made to update this information. I think the Consent Decree allows for that.

I would like to mention just a couple of other things. There is another agreement that was made by Kennecott in 1975, '76. It was called "The Mining Reclamation Act." And this is -- for example, this is just a sentence of what it says: "The operators promise to reclaim the lands affected in accordance with the mining reclamation approved by --" they have promised to do that. And it's a long thing, so I'm not going to go on.

I think I would like to incorporate that

mining agreement by number, Application 0350027, August 9, 1976, signed by the president of Kennecott. And it says very specifically what they will do to clean up anything that's -- any areas that are affected by mining, leaching, wastewater, and underground water. That's an agreement that was made in '76, 20 years before this Consent Agreement, and I'm not sure that it's being followed.

And this is one of the objectives of the Mine Act. It says, "The objectives of the Mine Land Reclamation Act," which is the code that ties with this one. It's 48-12 Utah Code. It says, "To return the lands concurrently with mining operations or within a reasonable amount of time to their stable, ecological conditions compatible with past, present, and probable future local land uses."

That is only one sentence of it. That is not being done today. We'd ask that the regulators take a look and incorporate the agreements that have been made previously and bring them in with the Consent Decree so that we can get the full benefit.

And we commend Kennecott on what they are doing, but they are in a situation in their mining times that the profits are there that they can help correct this problem. And not only that, their

websites on Rio Tinto and their annual reports say they are willing to stand up and walk the walk to clean up the environment and make this a good place to live. And I think they are doing it, but there is much more that can be done. And we have to rely on the regulators.

I realize the Consent Decree says this doesn't permit third-party claims. But it's pretty tough if a regulator like EPA, which is the national government, the state government, if they have a hard time enforcing it -- and I don't know that they do, but they work hard to do it -- then these little well owners would kind of like be the elephant stepping on the ant.

And we'd ask that you continue to do what you are doing and that you take a hard look at this Consent Decree and that you review it and examine it before it goes on to the judge and all of the things that we've commented about it before and sent in writing regarding the water and the way it's distributed and that be reviewed and made available to the judge. And you say, "Well, that's a big task. That's ten years of information."

There are some summaries of it, and I think I would like to incorporate all the documents

that I have submitted over the last ten years concerning this -- that they be incorporated as part of the record, even though I'm not resubmitting them tonight.

Thank you. And if I have more time later, I'll say some more. If not, I'll stop so that other people have an opportunity to talk too.

MR. BACON: Thank you. Mr. McMullin?

MR. McMULLIN: I'm fine.

MR. BACON: Mr. Belchak?

MR. BELCHAK: Tom Belchak again for the second time.

I'm going to submit this tonight into the record. I'd like to get it back. It's a report about Bingham Canyon Stonewater Mountain Management. It has some color aerial photography of the area between 118th South and 10200 South above the Welby Canal, and I would like this to be part of the record tonight.

I would also like to consider the offering, the suggestion that there are several state agencies that have --

MR. BACON: May I make a recommendation?

MR. BELCHAK: Yes.

MR. BACK: In terms of your request to

submit the document, we would ask that you make a copy of that. We will provide you an opportunity to do so, and then you can transmit that to the EPA.

MR. BELCHAK: Okay. So my request, then, is that I submit a color copy of the Bingham Mountain Stonewater Management report from 1985.

I would also like to submit a report dated May 1, 1981. Interesting data.

And then back to a state agency that we deal with a lot -- it's the state engineer's office. On page three of the June 25, 2002 Salt Lake Valley Groundwater Management Plan, it states, "The contaminated area is defined as extending 3,000 feet from the known 250 mg/l sulfate isoconcentration contour."

So I'm bringing up the point that 250 milligrams is a good threshold, and there is a -- in addition to this, there is a state agency in Arizona that just did a Groundwater Protection Plan using 250 milligrams rather than -- this Consent Decree talks about 1,500 milligrams per liter of sulfate, which is six times greater. So I would like to incorporate this definition per the state engineer for the contaminated area and a black and white photograph of the aerial extent of that definition.

MR. BACON: We will receive any copies that you have tonight that you would like to give, but in terms of ones you want back, we'd ask for copies.

MR. BELCHAK: I think I'll copy everything -- so there's four documents there, plus when I get done, I want to point out this analytical result.

But I want to spend a minute or two on the OU2 site defined. And on page 17 of the Consent Decree, it specifically says, "OU2 site shall mean that portion of OU2 incorporating the aerial extent --" and it doesn't talk about acreage. It does mention a map, but attached as Appendix A, which is a notice that says "2005 Data" on it. And perhaps there is more current data that might make a difference in our thinking.

And then several pages here, it just refers to "OU2 site."

And the last thing I want to do is, at our last stakeholder meeting, it was volunteered that the Belchak well -- it's not a compliance well. It's on the Belchak property. It was mentioned that the sulfate had become lower than 15 milligrams per liter, which seems to be a threshold in this Consent

Decree. So this is the analytical results that indicates it's almost 1,800 milligrams per liter.

Thank you.

MR. BACON: Thank you.

Mr. Dansie, do you have further remarks?

MR. DANSIE: Yes. Thank you very much for allowing me to come back up.

I kind of contained my comments tonight to the Consent Decree. I think that was kind of the main crux of the meeting and the purpose to get this information into the record so that it might be considered as the Consent Decree is lodged or if there is enough information to determine if the Consent Decree should sit there for a while and some of these issues could be looked at again. And I realize it's tough to say keep studying something. Sometimes you have to get to an end solution.

So I guess I'll just say I would probably like to talk with both and you Rebecca with regard to soils and other things that are not directly involved in the Consent Decree.

I really believe that the Consent Decree is a good document, but I don't believe we are getting the full mileage out of it in the way of the redistribution of the water, in the way it impacts on

the wells. And I think it does serve one of the purposes that probably the EPA and the DEQ have in mind, and that is to try to contain the plume and start to clean it up. I don't know whether it's doing that. The technical information would say that it is. But in doing that, there is a major cost to the well owners and to the people that don't get that water back to the area where we used to have it. And that is a major concern to me, and it has been from day one. It's in the record all the way along, and I hope that the judge will pick up on a few of those words, or at least on the -- the Attorney General has some comments in there that might get him to take a look at whether it makes sense.

I would like to ask a question if we've got enough time -- just ask a brief question.

Do you -- both you and Rebecca feel reasonably comfortable with -- I'm sure you feel reasonably comfortable with the Consent Decree, but do you believe that we have enough teeth in there to be able to implement the concerns that have been expressed here tonight, partly with regard to drawdown of the water, partly getting it back up to the area, partly determining whether it covers the full area that was impacted? For example, we've not

said much about what I would refer to as the dumping of sulfuric acid in the Butterfield drainage area that I think has impacted the quality of the water in that area -- since mine activities, like the sulfuric acids being dumped there, do you believe, has impacted that?

Do you believe that there is enough teeth in the Consent Decree as it stands today to go back and deal with those things and cover some of the issues that, if they weren't covering, that we've talked about in this meeting? That's a question for you, Doug.

MR. BACON: Well, I think it's a question that we can address with you after this public meeting, just again noting that we are here to receive comments. We're welcome to meet with you and talk with you.

MR. DANSIE: I shouldn't have brought that up.

The other thing that I wanted to bring up is what's happening -- this is a little bit in the overall. This chapter is out of the Herriman City planning and zoning book called "The Environmental Contamination and Overlay Zone."

And so, what we've done, we've shifted the

responsibility for the contamination to the new home buyers, to the people, to the others. And so -- and that just happens, I guess. In other words, we've let the perpetrators off a little bit. But what's happened is as the land that was agriculture years ago is being rezoned to residential today, and consequently, that puts a burden not on the person that contaminated the lands or on the -- over the years, but it puts it on the person that buys the house and the people that live there and the landowners. I think that same thing happens with the water.

And I've kind of covered all the issues, but I would ask that this information be specifically analyzed and forwarded to the judge so that he can take a look as to whether there is a reason to leave this Consent Decree open for a longer period of time -- maybe not change anything right now, but to take a look back and say, "Have we treated this right?" Or from the standpoint of cost impact on water users and wells and on what the future is and then the allocation of the water.

You know, we used to pump it out of the ground and have the gravity feed down. Now, if we get it out of the Jordan Valley system, pump and

treat, we pay a high price at Zone 5, which is where the water comes out of the ground.

And understand, this water goes back to the Jordan Valley Water District at some cost. I don't know exactly what it is. I haven't been familiar with it at times.

But the cost of doing this is all passed on to the water buyer or customer today or the homeowner and none of this is passed -- I shouldn't say none -- not a large portion is passed back to the organization, which is the mining company that contaminated the water. So we are basically picking up the cost as well owners, taxpayers, homeowners, the cost of doing this clean-up. And that bothers me a lot when we have laws that are as strong as they are today that that would allow that cost to be passed back on to the person that did the perpetrating.

In fact, the red manual that I brought up is an agreement that covers the latest environmental clean-up going on Kennecott today, and it is a much stronger contract than this Consent Decree. And it places responsibility and costs right where they belong. Thank you very much.

MR. BACON: Thank you.

Are there any other individuals interested in making a comment? Please approach the microphone and state your name.

MR. PINACATE: My name is Reynaldo Pinacate. I currently live in Midvale, but I just purchased a property in Riverton with a well. And I don't know much about the science of all this either. Just like Charlynn was talking about, I think I represent the small property owners and especially in Riverton because I have a lot of friends in Riverton that they just drink Riverton water, and it just tastes bad, and they don't know that a lot of their water is provided by wells that are owned by Riverton and wells that I believe have been affected by it -- by Kennecott.

And so the only reason I know this is because I now own a well, and a lot of people in Riverton don't. So I just wanted to be on record to state that there is concern in Riverton also. A lot -- there should be a lot of concern.

And there may be a possibility that I would start a family in Riverton, and I don't want my children and my family affected by the water. And I know a lot of people that can't even afford to clean up the water in Riverton through distillation or

whatever, or can't even go out and buy distilled water for themselves, just because they can't afford it.

And if there is a possibility of water prices increasing in the future -- I mean, just because of what's happening here, then -- I mean, I don't think it's fair, you know? So I think that's all I have to say.

Oh, yeah, I just also had my well tested recently and it showed that there is an increase in sulfate from three years ago, I believe. And that's evidence that shows that my well has been contaminated. So I think that's it.

MR. BOWLES: My name is Arvid Bowles, and I live at 12948 South 6100 West in Herriman.

I'd like to echo what Brother Dansie said here. I've lived there all my life, and I own and operate a little farm out there. And I have a deep well, and over the years since those wells have been driven -- the record shows in 1954 -- that's when the first well was drilled -- the water table at that time was at 160 feet. We drove another well -- my brothers and I drove another well to the north about 2,000 feet north of the existing one. That well is 300 feet deep. The water table today is -- I just

had the well repaired. The water table today is at 211 feet. The water table has dropped considerably.

The State has granted a body of politics out there the right to develop, discover, whatever you want -- to take over the existing water out there to make a profit for their town. And it's -- I'm really concerned about what they are doing to the farmer that's been there all of his life. It's a livelihood for the farmer.

The water table is diminishing. I know that there are people in the area that their wells are dry because of the fact that the politics has come in and they granted politics along with the mining company.

I have a little bit of proof of what Brother Dansie said, the amount of water that's coming out of the Butterfield Canyon. I'm only 83 years old and I have never moved out of that area, and I've been there all my life. I have eight rows of potatoes. That stream of water coming out of Butterfield Canyon will not water those eight rows of potatoes.

So I think between the politics and the mining company and the other people involved with the clean-up with this water system in the valley in the

aquifer area there, it's having a great impact on the general farmer, the one that has made his livelihood, laid out the money to buy the water rights. And now the mining company and the politics has come in, and they are taking my livelihood away from me along with Brother Dansie too. So I'm really concerned about it.

I have a gentleman that takes care of and measures that well, tells me where the water table is. And he is a competent person. Thanks for your time.

MR. BACON: Thank you. Any other individuals interested in providing a comment this evening?

Well, with that, we thank you for attending tonight. As noted earlier, our contact information is on the notices that have been provided in the past. I believe that there are some copies of that notice available on the table outside of this room.

If you have any further questions or concerns that you wish to take up with either myself or Ms. Thomas with the EPA or with Mr. Jerry Ellington with the DOJ or Fred Nelson with the Utah Attorney General's Office or legal concerns, feel

free to contact those individuals.

Thank you for attending. Have a good night and drive safe.

(The meeting ended at 7:15 p.m.)

REPORTER'S MEETING CERTIFICATE

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

I, Jennifer E. Garner, Registered Professional Reporter and Notary Public in and for the State of Utah, do hereby certify:

That said proceeding was taken down by me in stenotype on August 29, 2007, at the South Jordan City Hall in South Jordan, Utah, and was thereafter transcribed, and that a true and correct transcription of said proceedings is set forth in the preceding pages;

I further certify that I am not kin or otherwise associated with any of the parties to said cause of action and that I am not interested in the outcome thereof.

WITNESS MY HAND AND OFFICIAL SEAL this 3rd day of September, 2007.

Jennifer E. Garner, RPR
Notary Public
Residing in Summit County