

**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
UTAH DIVISION OF WATER QUALITY**

<p>IN THE MATTER OF:</p> <p>Kennecott Barneys Canyon 4700 Daybreak Parkway South Jordan, Utah 84095 Permit No. UGW350001</p>	<p>SETTLEMENT AGREEMENT</p> <p>Docket No. UGW19-06</p>
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This Administrative Settlement Agreement (hereinafter "Settlement") is between the Director of the Utah Division of Water Quality ("Director") and Kennecott Barneys Canyon Mine ("Respondent" or "Barneys") pursuant to the Director's authority to administer the Utah Water Quality Act. The Director and Respondent are sometimes referred to hereinafter as "the Parties."

1. The Director has authority to administer the Utah Water Quality Act ("the Act") pursuant to Utah Code Section 19-1-105(1)(e), and has authority to enforce rules through the issuance of orders, as specified in Utah Code Sections 19-5-106(2)(d) and 19-5-111. The Director also has authority to settle any civil action initiated to compel compliance with the Act and implementing regulations pursuant to Utah Code Section 19-5-106(2)(k).
2. Respondent is a "person" as that term is defined in Utah Code Section 19-1-103(4).
3. This Settlement is entered into for the purposes of avoiding further administrative enforcement based upon the following findings and violation[s]:
4. The Barneys Canyon Mine facility operated as a gold recovery facility west of Salt Lake City approximately two miles north of Copperton, Utah, on the east flank of the Oquirrh Mountains. Mining operations ceased in 2001. The site contains 5 heap leach pads that were leached with a high pH solution containing NaCN until 2007. After leaching activities ceased, rinsing of the pads continued until 2013. The site is no longer active and has been under a state of reclamation since 2016, including demolition of all ancillary facilities and re-grading and capping each of the leach pads.
5. Kennecott Barneys Canyon Mining Company has Utah Ground Water Discharge Permit UGW350001 (herein after "the Permit") for the facility, which was renewed by the DWQ on October 9, 2018 for a 5 year period.
6. Part I.D.3.a of the Permit identifies the best available technology (BAT) performance monitoring standard as "no discharge of drainage water from the leach pads to ground water is allowed. Maintenance of this performance standard will be demonstrated by monitoring pad flows and inspection of the pad sumps and conveyance system."
7. Part I.F.2. of the Permit requires Barneys to maintain BAT in accordance with the

approved design and practice of this permit. According to Part I.F.2, failure to maintain BAT or maintain the approved design and practice shall be a violation of the Permit.

8. Part II.I.1 of the Permit requires Barneys to verbally report any noncompliance, or spills subject to the provisions of Utah Code Section 19- 5-114, which may endanger public health or the environment as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstances. In addition, Part II.I.2 of the Permit requires Barneys to provide a written notification to the Director within five days of the time that the permittee becomes aware of the circumstances.
9. The Director issued NOV UGW19-06 on October 10, 2019 for three unauthorized releases as follows:
 - i. June 14, 2019 from several concrete distribution boxes installed on the conveyance pipeline that transports contact water draining through the Barneys leach pads to the tailings lines that discharge to the tailings impoundment. The release was discovered by a sampling crew working in the area when they encountered sediments that had been deposited in the drainage as a result of flow from the boxes. It was unknown when the release occurred.
 - ii. June 17, 2019 from the same concrete distribution boxes following a moderate rain event. Barneys summarized both events in the same five day letter. Barneys estimated the volume of sediment deposited as a result of the releases was less than 2 cubic yards. Barneys used an XRF instrument to measure arsenic concentrations in the sediment deposit ranging from 700 ppm to 2,000 ppm. Volume of liquid released could not be determined.
 - iii. August 9, 2019 from the same conveyance pipeline as a result of a rainstorm the night before. The release volume was an estimated 23,000 gallons based on the wetted area of the flow path. One liquid sample was collected for laboratory analysis and showed the ground water quality standard for arsenic of 0.05 mg/L was exceeded with a concentration of 0.692 mg/L. The thallium standard of 0.002 mg/L was also exceeded at 0.032 mg/L.
10. The NOV/CO ordered Barneys to take all action to comply with the Water Quality Act, to provide documentation that sediments deposited as a result of the releases had been removed and properly disposed, to provide an engineering evaluation showing that the design capacity of the conveyance piping is adequate to contain all contact water flowing from the leach pads after reclamation activities have been completed, and to comply with R317-6-6.15 investigation proceedings.
11. Barneys fully satisfied the NOV/CO with a response dated November 11, 2019 (DWQ-2019-016771) supplemented with another response dated December 6, 2019 (DWQ-2019-018881). The responses presented or made reference to documents with the following information:

- A summary of release response conducted by Barneys following each release.
 - A hydrogeological assessment, including cross sections and downgradient monitoring wells utilized to monitor potential impacts from the releases.
 - A work plan presenting the sediment removal process and final disposal onto the leach pads being reclaimed at the site.
 - An engineering evaluation prepared by third party consultant Tierra Group International (TGI) concluding that the conveyance piping design is adequate and recommending the leach pad cover be placed as soon as possible to prevent recurrence of storm water run-off related releases.
12. The Parties voluntarily enter into this Settlement to resolve the NOV/CO issued to the Respondent without the necessity of further administrative or judicial proceedings.
13. Respondent understands and agrees that a penalty in the amount of \$10,500 is appropriate based on the application of the penalty policy contained in Utah Administrative Code R317-1-8 as applied to the violation(s) under the circumstances specified herein.
14. Respondent agrees to reimburse for the Division of Water Quality for administrative costs, sampling, and investigative costs in the amount of \$1,600.
15. Nothing in this agreement shall be construed to preclude the Director's institution of any legal action or relieve Respondent from any responsibilities, liabilities, penalties established pursuant to the Director's authority under the Act that are not within the scope of this Settlement.
16. Notwithstanding any other provision of this Settlement, the Director reserves the right to institute proceedings against Respondent arising from Respondent's future actions or omissions not in compliance with permits or federal, State, or local laws, or for any other claims not within the scope of this Settlement.
17. This proposed Settlement and penalty will be published for a thirty (30) day notice and comment period. The Parties each reserve the right to withdraw from this Settlement if comments received during the notice period result in a modification to the terms and conditions.
18. By entering into this Settlement, Respondent neither admits nor denies the findings, violations or deficiencies specified herein.
19. Respondent agrees to the terms, conditions and requirements of this Settlement. By signing this Settlement, Respondent understands, acknowledges and agrees that it waives: (1) the opportunity for an administrative hearing pursuant to Utah Code § 19-1-301; (2) the right to contest the finding(s) in Notice of Violation and Compliance Order, Docket No. I19-05; and (3) the opportunity for judicial review.
20. The Parties mutually agree that this Settlement is entered in good faith and is an appropriate means to resolve the matters specified herein.

21. This Settlement will be final after the thirty-day notice and comment period, on the date the Director signs the Settlement,

22. Respondent agrees that within fifteen (15) calendar days of receiving the signed and final Settlement from the Director, Respondent shall submit a certified or cashier's check written to the Division of Water Quality in the amount specified in paragraph 10, above and hand deliver or send by certified mail to:

Division of Water Quality
PO Box 144870
Salt Lake City, Utah 84114-4870

23. The violations described herein will constitute part of Respondent's compliance history where such history is relevant, including any subsequent violations. Respondent understands and agrees that this Settlement is not and cannot be raised as a defense to any other action to enforce any federal, state or local law.

24. This Settlement, when final, is binding upon Respondent and any corporate subsidiaries or parents, their officers, directors, employees, successors in interest, and assigns. The undersigned warrants that it is authorized to legally bind their respective principals to this Settlement.

ACCEPTED BY KENNECOTT BARNEYS CANYON MINE

Name (print) GABY FORIER

Title (print) MANAGING DIRECTOR KENNECOTT UTAH COPPER

Signature 

Date JUNE 25 2020

Approved as to form
Rio Tinto Legal *ncs*
Nicole Carlisle Squires
Corporate Counsel

DIVISION OF WATER QUALITY



Erica Brown Gaddis, PhD

Director

Date 8/18/2020

