

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

IN THE MATTER OF: Kennecott Utah Copper LLC 4700 Daybreak Parkway South Jordan, Utah 84095 Permit No. UGW350017	SETTLEMENT AGREEMENT Docket No. UGW19-05
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This Administrative Settlement Agreement (hereinafter "Settlement") is between the Director of the Utah Division of Water Quality ("Director") and Kennecott Utah Copper LLC ("Respondent" or "KUC") 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. KUC operates a copper ore mine and concentrating facility (Copperton Concentrator) north of the town of Copperton in southwest Salt Lake County, Utah. The Concentrator uses a grinding and flotation process to concentrate copper ore. Waste material from this process, known as tailings, is conveyed in slurry form via a pipeline from the Concentrator north to KUC operations near the Great Salt Lake where the tailings are deposited in the north end tailings impoundment.
5. KUC has Utah Ground Water Discharge Permit UGW350017 for the Copperton Concentrator, which was renewed by the DWQ on December 29, 2017.
6. Permit UGW350017 Table 2A provides that releases of tailings or process water of an estimated volume greater than 12,000 gallons are unpermitted releases.
7. The Director issued Notice of Violation and Compliance Order (NOV/CO) UGW19-05 on October 10, 2019 for three unauthorized releases as follows:

- i) November 28, 2018 from piping down-gradient of the North Splitter Box (NSB). From the NSB, the tailings are conveyed to various locations within the tailings impoundment using 3 separate pipelines. KUC blocked flow to one of the pipelines for scheduled maintenance activities. However, the balloon plug that was installed to block flow became dislodged and allowed tailings to flow into the pipeline, where they were released onto the ground through an access port that had been opened in conducting the work. Using a combination of mapping the surface area of the material released to the ground, and fluid levels electronically monitored in the pipeline, KUC estimated 179,000 gallons of tailings were released over a footprint of approximately 2.15 acres.
- ii) February 25, 2019 from vent stack V-169 on the 48-inch tailings pipeline. KUC reported the cause of the release to be oversized material settling out of the tailings slurry mixture and reducing capacity of the pipeline. The oversized material entered the pipeline inadvertently as a result of an upset (non-standard) operating condition at the concentrator. The vent stack has a lid that would normally prevent a release, but the lid had been removed to allow inspections for a planned pigging operation of the pipeline. The release volume was an estimated 34,900 gallons over an area of approximately 0.6 acres. The estimate was based on mapping the surface area of the release as the flow rate of material coming out of the vent stack is not known.
- iii) July 21, 2019 from process water piping within Pump Station 3B. The release had occurred from a failed gasket on piping inside the pump station building. The water flowed through an overhead door, along the tailings line road, and into a drainage. The volume was estimated at 90,000 gallons based on the fluid pressure in the pipeline, amount of time the leak occurred, and the cross-sectional area of the leaking gasket.
8. The NOV/CO ordered KUC to take all action to comply with the Water Quality Act, to provide documentation that a bubble dissipater was installed in response to the February 25 release, to provide an engineering evaluation showing that additional level indicators are not necessary, and to comply with R317-6-6.15 investigation requirements.
9. KUC fully satisfied the NOV/CO with a response dated November 11, 2019 (DWQ-2019-016772). The response presented or made reference to documents with the following information:
- A summary of release response and surface clean-up activities conducted by Kennecott following each release.
 - A hydrogeological assessment, including cross sections and downgradient monitoring wells utilized to monitor potential impacts from the releases.
 - Documentation that a bubble dissipater was installed on October 8, 2019.
 - An engineering evaluation presented in a memorandum dated October 24, 2019 concluding that additional level indicators would not be beneficial to preventing future releases.

10. 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.
11. 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.
12. Respondent agrees to reimburse for the Division of Water Quality for administrative costs, sampling, and investigative costs in the amount of \$2,400.
13. 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.
14. 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.
15. 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.
16. By entering into this Settlement, Respondent neither admits nor denies the findings, violations or deficiencies specified herein.
17. 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.
18. The Parties mutually agree that this Settlement is entered in good faith and is an appropriate means to resolve the matters specified herein.
19. This Settlement will be final after the thirty-day notice and comment period, on the date the Director signs the Settlement,
20. 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

21. 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.

22. 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 UTAH COPPER LLC

Name (print) GABY POIRIER

Title (print) MANAGING DIRECTOR KENNECOTT UTAH COPPER

Signature 

Date JUNE 25 2020

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

DIVISION OF WATER QUALITY



Erica Brown Gaddis, PhD
Director

Date 8/18/2020