



August 8, 2011

**BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Kelly Sanders
President and CEO
Kennecott Utah Copper, LLC
4700 Daybreak Parkway
South Jordan, UT 84095

Kelly Payne
Manager-Environment
Kennecott Utah Copper, LLC
4700 Daybreak Parkway
South Jordan, UT84095

Re: Notice of Intent to File Suit Under the Clean Air Act, Ongoing Violations at Bingham Canyon Copper Mine

Dear Messrs. Sanders and Payne:

Pursuant to the citizen suit provision of the Clean Air Act, 42 U.S.C. § 7604(b)(1), WildEarth Guardians, Utah Physicians for a Healthy Environment, Utah Moms for Clean Air, and the Sierra Club hereby provide you notice that they intend to file suit against Kennecott Utah Copper, LLC (hereafter “Kennecott”), a subsidiary of Rio Tinto, over ongoing violations of the Clean Air Act at the company’s Bingham Canyon open pit copper mine in Salt Lake County, Utah. Specifically, Kennecott has violated its federal limits on ore and waste rock production regularly for at least the last five years. These production limits are meant to cap emissions of particulate matter, and with good reason. Currently, Salt Lake County is in violation of National Ambient Air Quality Standards (“NAAQS”) for particulate matter less than 10 microns in diameter (“PM₁₀”) and particulate matter less than 2.5 microns in diameter (“PM_{2.5}”). Thus, the ongoing failure of Kennecott to limit its production according to federal law at the Bingham Canyon Mine as specified by federal law has had very real and unfortunate implications for the health and well being of the residents and environment of Salt Lake County.

In sixty days, or shortly thereafter, we intend to file suit against Kennecott and seek appropriate injunctive relief, declaratory relief, and other relief that may be provided as necessary to remedy these ongoing violations under the Clean Air Act. Pursuant to 40 C.F.R. § 54.2(c), this notice is being served via certified mail to the owner or managing agent the

building, plant, installation, or facility in violation, with copies concurrently sent to the registered agent of Kennecott the Administrator of the U.S. Environmental Protection Agency (“EPA”), the Region 8 Administrator of the EPA, the Governor of Utah, and the Director of the Utah Department of Environmental Quality.

I. The Source

The Bingham Canyon copper mine is the world’s largest open pit copper mine. The mine is located southwest of Salt Lake City in the Oquirrh Mountains. According to Kennecott, the mine is more than 2.75 miles across the top and more than three quarters of a mile deep, and contains 500 miles of roads. *See* Kennecott website, <http://www.kennecott.com/our-company/facts-about-our-operation/> (last accessed August 8, 2011). Activities at the mine include drilling and blasting, loading and hauling, and crushing and conveying.

The State of Utah has developed a state implementation plan (“SIP”) pursuant to the Clean Air Act to control emissions of PM₁₀ from the Bingham Canyon Mine. Among other things, the SIP places limits on production, restricts visible emissions (also known as opacity), establishes particulate matter limits for a number of activities, and sets forth monitoring, recordkeeping, and reporting requirements. *See* Utah SIP, Section 9, Part A – Fine Particulate Matter (PM10) Appendix A – Emission Limitations and Operating Practices, Section 2.2.W.

II. The Violations

The violations at the Bingham Canyon Mine are straightforward.

Currently, Utah’s Clean Air Act SIP limits production of ore and waste at the Bingham Canyon Mine to no more than 150,500,000 tons per year, based on a 12-month rolling average. *See* Utah SIP, Section 9, Part A – Fine Particulate Matter (PM10) Appendix A – Emission Limitations and Operating Practices, Section 2.2.W(2), approved by EPA as a final rule in 1994, as modified in 2002, *see* 59 Fed. Reg. 35036 (July 8, 1994) and 67 Fed. Reg. 78181 (Dec. 23, 2002).¹ The SIP specifically states that, with regards to “Kennecott Utah Copper – Bingham Canyon Mine”:

Total material moved (ore and waste) shall not exceed 150,000,000 tons per 12-month period without prior approval in accordance with Section 3.1, UACR. Compliance with the throughput limitation shall be determined on a rolling-annual total reported on a monthly basis. On the first day of each new month, a new 12-month total shall be calculated using the previous 12 months.

Utah SIP, Section 9, Part A – Fine Particulate Matter (PM10) Appendix A – Emission Limitations and Operating Practices, Section 2.2.W(2).

However, between at least 2006 and the end of 2010, Kennecott has violated this SIP

¹ This SIP provision can be downloaded from the EPA’s website here, [https://yosemite.epa.gov/R8/R8Sips.nsf/b2af5baa99cc429287256b5f0054df73/7868fa249dc40d8987256bad00746ebc/\\$FILE/Section%209%20Part%20A%20App%20A2.pdf](https://yosemite.epa.gov/R8/R8Sips.nsf/b2af5baa99cc429287256b5f0054df73/7868fa249dc40d8987256bad00746ebc/$FILE/Section%209%20Part%20A%20App%20A2.pdf) (last accessed August 8, 2011).

limit. According to data on file with the Utah Division of Oil, Gas and Mining, Kennecott has regularly exceeded the 150,000,000 ton limit on ore and waste rock production, reaching levels as high as 192,684,252 in 2009—more than 40 million tons above the allowable production limit. See Table below. This data is from Kennecott’s own annual reports submitted to the Division of Oil, Gas and Mining. We have attached the relevant excerpts of these annual reports to this notice letter as Exhibits 1-5.

**Ore and Waste Rock Throughput at Bingham Canyon Mine,
Salt Lake County, Utah.²**

Year	Production Rate Reported (Tons of Ore and Waste Rock)
2010	191,417,264
2009	192,684,252
2008	169,468,050
2007	158,960,310
2006	163,000,000

This data indicates that, based on a rolling 12-month basis, Kennecott began violating the 150,000,000 limit on ore and waste rock production starting at least by January 1, 2007. Furthermore, the data indicates that Kennecott has continued to violate on the first day of every month, when a new 12-month total must be calculated, since that time.

Although in 1999, the State of Utah ostensibly raised the allowable production limits at the Bingham Canyon Mine to 197,000,000 tons of ore and waste rock, this permit revision does not supplant the current SIP limit of 150,500,000 tons of ore and waste production, or otherwise absolve Kennecott of its duty to limits production according to the SIP.

Indeed, EPA has made consistently clear that the State of Utah does not have the authority to modify its SIP through permit revisions or modifications. As the Agency stated in its latest approval of the SIP at issue here:

Utah has inserted the following language into the SIP: “Notwithstanding any other provision in the Utah SIP, no change to this SIP revision shall be effective to change the federal enforceability of the emission limits or other requirements of the Utah County PM₁₀ SIP without EPA approval of such change as a SIP revision.” This language makes clear that Utah may not unilaterally change the limits and requirements of the federally enforceable SIP, and that Utah’s changes to elements of the SIP will not be federally effective without EPA’s approval.

EPA, Approval and Promulgation of Air Quality Implementation Plan; State of Utah; Utah County PM₁₀ State Implementation Plan Revisions, 67 Fed. Reg. 78181, 78185 (Dec. 23, 2002). Furthermore, although the EPA has recognized that the State of Utah retains authority to modify or revise air permits under its SIP, the Agency has made abundantly clear that, “should different

² This production data is available in annual reports submitted by Kennecott available online at <http://linux1.ogm.utah.gov/WebStuff/wwwroot/minerals/mineralsfilesbypermit.php?M0350002> (last accessed August 8, 2011).

emission limitations exist, EPA will enforce the more stringent of the two (or more) emission limitations.” EPA, Approval and Promulgation of Air Quality Implementation Plan; Utah; Revision to the State Implementation Plan Addressing PM₁₀ for Salt Lake and Utah County, 59 Fed. Reg. 35036, 35042 (July 8, 1994). This is because “EPA must have assurance that the attainment demonstration of a nonattainment area plan is maintained. The less stringent emission limitation may not provide that assurance without a reanalysis of the attainment demonstration.” *Id.*

The fact that Kennecott is obliged to comply with the 150,500,000 ton/year limit on ore and waste rock production is underscored by the Utah SIP itself, which states that the production limit applies unless approval has been given under UACR 3.1. UACR 3.1, as incorporated into the SIP, addresses the issuance of approval orders, or air permits, and notably states:

Issuing of an approval order does not relieve any owner or operator of the responsibility to comply with the provisions of these regulations or the State Implementation Plan or other local, state and/or Federal requirements.

UACR 3.1.4.³ In other words, while the State of Utah is allowed to issue permits, or approval orders, the permits do not “relieve any owner or operator of the responsibility to comply with the provisions of...the State Implementation Plan or other...Federal requirements[.]” In this case, the only relevant federally approved SIP contains the 150,000,000 ton/year limit on ore and waste rock production.

Similarly, although the State of Utah has approved a revision to the Utah SIP that would permit a production increase to 260,000,000 tons of ore and waste at the Bingham Canyon Mine, this SIP proposal also has yet to be approved by EPA. Thus, any permit issued pursuant to the Utah SIP that would authorize an increase in throughput to 260,000,000 tons of ore and waste at the Bingham Canyon Mine would also squarely contradict the currently approved SIP and would not be authorized under the Clean Air Act. Fundamentally, Kennecott has been and continues to be subject to the 150,500,000 tons/year limit on ore and waste production.

III. The Citizen Suit Provision of the Clean Air Act

Under the Clean Air Act, any person may file suit in federal court against any other person alleged to “have violated (if there is evidence that the alleged violation has been repeated) or to be in violation of...an emission standard or limitation under this Act[.]” 42 U.S.C. § 7604(a)(1)(A). The phrase “emission standard or limitation” is broadly defined under the Clean Air Act and includes, but is not limited to, “any...standard, limitation, or schedule established...under any applicable state implementation plan approved by the Administrator[.]” 42 U.S.C. § 7604(f)(4).

³ Although the relevant portions of the Utah Administrative Code have been renumbered since their original adoption, EPA has made clear that, “R307-1-3.1.1, 3.1.2, 3.1.3, 3.1.4, 3.1.5, 3.1.6, 3.1.7, 3.1.8, 3.1.9, and 3.1.10 remain in the federally-approved SIP.” See Footnote, Utah SIP, UACR 3.1, available at <https://yosemite.epa.gov/R8/R8Sips.nsf/b2af5baa99cc429287256b5f0054df73/3191d79650773ec4872571ef0066d03a?OpenDocument> (last accessed August 8, 2011).

As explained above, for the last five years Kennecott has violated the 150,500,000 ton/year limit on ore and waste production, which is a part of the Utah SIP as approved by the EPA Administrator. Thus, Kennecott has violated and continues to violate the Utah SIP. With this letter, WildEarth Guardians, Utah Physicians for a Healthy Environment, Utah Moms for Clean Air, and the Sierra Club hereby provide notice to Kennecott that they intend to file suit in federal court to enforce these violations of the Clean Air Act if a resolution cannot be achieved within sixty days.

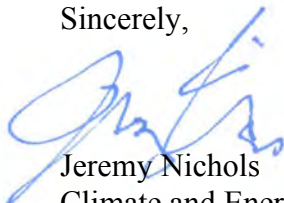
IV. Conclusion

Kennecott has violated and continues to violate the Clean Air Act. WildEarth Guardians, Utah Physicians for a Healthy Environment, Utah Moms for Clean Air, and the Sierra Club intend to file suit in federal court after sixty days to remedy these violations. The suit will seek declaratory relief, injunctive relief, the application of civil penalties, costs and fees, and any other relief that may be appropriate.

Further investigation is likely to reveal additional violations of the 150,500,000 ton/year limit on ore and waste production. WildEarth Guardians, Utah Physicians for a Healthy Environment, Utah Moms for Clean Air, and the Sierra Club hereby retain the right to enforce any and all additional violations uncovered after the date of this notice letter.

Contact information for WildEarth Guardians, Utah Physicians for a Healthy Environment, Utah Moms for Clean Air, and the Sierra Club is listed below. If you have questions regarding these allegations, believe that any of the above information is in error, or would like to discuss a settlement of this matter prior to the initiation of litigation, please contact Jeremy Nichols, Climate and Energy Program Director for WildEarth Guardians.

Sincerely,



Jeremy Nichols
Climate and Energy Program Director
WildEarth Guardians
1536 Wynkoop, Suite 301
Denver, CO 80202
(303) 573-4898 x 1303
jnichols@wildearthguardians.org

Dr. Brian Moench
Utah Physicians for a Healthy Environment
4091 Splendor Way
Salt Lake City, UT 84124

Cherise Udell
Utah Moms for Clean Air
PO Box 58446
Salt Lake City, UT 84158

Marion Klaus
Chair
Utah Chapter of the Sierra Club
2159 S. 700 E., Suite 210
Salt Lake City, UT 84106

Cc by certified mail, return receipt requested:

Registered Agent
Kennecott Utah Copper
2180 South 1300 East Suite 650
Salt Lake City, UT 84106

Gary Herbert
Governor of Utah
350 State Capitol Bldg., Suite E20
Salt Lake City, UT 84114

Amanda Smith
Executive Director
Utah Department of Environmental Quality
195 North 1950 West, 4th Floor
Salt Lake City, UT 84114

Lisa Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

James Martin
Regional Administrator
U.S. Environmental Protection Agency
EPA Region 8
1595 Wynkoop St
Denver, CO 80202

Exhibit 1

2006 Production Data for Bingham Canyon Mine

Kennecott Utah Copper Corporation
P.O. Box 6001
Magna, Utah 84044-6001
(801) 569-6000

(801) 569-6356 (Phone)
(801) 569-7192 (Fax)

Rohan McGowan-Jackson
Manager, Health, Safety & Environment
and Sustainable Development



January 31, 2007

Ms. Susan White, Mining Program Coordinator
Minerals Reclamation Program
Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, Utah 84114-5801

Subject: Annual Reports for 2006, Kennecott Utah Copper Corporation

Dear Ms. White,

Enclosed are the completed annual reclamation report forms (1/1/2006 through 12/31/2006) for the following Kennecott Utah Copper Corporation (KUCC) DOGM permits:

M/035/002	Bingham Pit and UCD Modernization (Active)
M/035/011	4 th Line / Copperton Concentrator (Active)
M/035/015	North Impoundment / Saltair / Tailings (Active)
M/035/004	Pine Canyon Reclamation Project (Inactive)

As in previous year's reports, all disturbed and reclaimed acreage on the Magna Tailings Impoundment are reported under permit number M/035/002. There were some minor areas of newly disturbed land at the mine due to placement of a temporary growth media stockpile as well as some additional disturbed land related to Kennecott Land Company (KLC) soil removal activities.

In 2006, KUCC spent approximately \$5.53 million dollars on reclamation activities within the boundaries of permit M/035/002. After correcting for inflation, this equates to approximately \$ 2.28 million dollars spent in 1978 dollars using the GDP deflator inflation calculator. This far exceeds the requirements of permit M/035/002 "to expend a minimum average, excluding salaries, but not operating wages, of \$50,000 – 1978 dollars per year for each three (3) year period, in maintaining a program of experimentation and in the application of the best available technology toward rehabilitation of land associated with or affected by mining or processing operations."

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JAN 31 2007

DIVISION OF OIL GAS & MINING

The total cost includes purchase and application of seed, seedlings, fertilizer, and limestone, equipment rental, equipment maintenance, contractor costs associated with growth media salvage, and demolition of historical facilities as well as costs associated with KUCC's experimental program. This number does not account for costs associated with KLC soil removal activities or operating wages associated with KUCC re-grading activities.

Updated maps from the 2006 survey will be submitted to the Division no later than February 28, 2007. The updated maps will show locations of new mine buildings and 2006 E1 waste rock pushbacks to assist with regular updates of the Bingham Canyon Mine 2003 Reclamation and Water Management Plan.

If you have any questions about these annual reports, please contact me at 569-6000.

Sincerely,

A handwritten signature in black ink, reading "R. McGowan-Jackson". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Rohan McGowan-Jackson,
Manager, Health, Safety & Environment
and Sustainable Development

Bc: Ted Himebaugh
Paula Doughty
Chevy Veloo
Rohan McGowan-Jackson
Geoff Bedell
Vicky Peacey
Denise Powers
Chris Kaiser

FILE: OPS/RR/MF/Annual Reclamation Report

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING
1594 West North Temple - Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801
Telephone: (801) 538-5291
Fax: (801) 359-3940

ANNUAL REPORT OF MINING OPERATIONS

The informational requirements of this form are based on provisions of the Mined Land Reclamation Act, Title 40-8, Utah Code Annotated 1953, as amended, and the General Rules as promulgated under the Utah Minerals Regulatory Program. An operator conducting mining operations under a Notice of Intention must file an annual operations and progress report (FORM MR-AR) with the Division.

I. General Information

1. Report Time Period: From (mo./yr.) 1/2006 To (mo./yr.) 12/2006
2. DOGM File Number (Mine No): M/035/002
3. Mine Name: Bingham Canyon Mine
4. Mineral(s) Mined (or permitted to mine): Copper and associated metals
5. Type of mine: Surface Mine or Underground Mine
6. Legal Description (Location of Lands Affected):
____ 1/4, ____ 1/4, ____ 1/4, Section ____, Township ____, Range ____
____ 1/4, ____ 1/4, ____ 1/4, Section ____, Township ____, Range ____
____ 1/4, ____ 1/4, ____ 1/4, Section ____, Township ____, Range ____

Sections 7,8,9,10,11,17,18,19,20,21,30 & 32, Township 1S, Range 2W;
Sections 9,11,12,13,14,15,16,22,23,24,25,26 & 36, Township 1S, Range 3W;
Sections 4,5,9,10,11,14,15,22,23,27 & 33, Township 2S, Range 2W;
Sections 7,17,18 & 19, Township 3S, Range 1W;
Sections 4,8,9,13,14,15,16,17,19,20,21,24,25,28,29,30,31 & 32 Township 3S, Range 2W;
Sections 11,12,13,14,15,21,22,23,24,25,26,27,33,34,35 & 36, Township 3S, Range 3W;
Sections 6 & 7, Township 4S, Range 3W;
Sections 1,2,3,11 & 12, Township 4S, Range 3W;
7. Name of Operator or Company: Kennecott Utah Copper Corp.
8. Permanent Street Address: 8362 W 10200 S
City, State, Zip: Bingham Canyon, Utah, 84006
Phone (801) 569-6356 Fax: (801) 569-7192E-mail: jacksor1@kennecott.com
9. Company Representative (or designated operator):
Name: Rohan McGowan-Jackson
Title: Manager, HSE & SD

Business Address: P.O. Box 6001

City, State, Zip: Magna, Utah, 84044-6001

Phone: (801) 569-6356 Fax: (801) 569-7192 E-mail: jacksonr1@kennecott.com



Please check if any of the above information has changed since previous year.

II. Mining and Reclamation

1. Was there any mine related activity during the past year? Yes No
2. If no - what was the last year of activity? _____
3. Report the gross amount of ore mined and waste moved, as well as the arrangement, positioning, or distribution of the material. A total of 60.6 million short tons of ore was mined in 2006.
4. Briefly describe the type of work performed, during the past year. In addition to the volume of ore mined, a total of 102.4 million short tons of waste rock was produced at the Bingham Canyon Mine in 2006. Approximately 17.1 million short tons of waste rock was considered low to non-acid generating and placed within the Non-Acid Rock Drainage (NARD) stockpile on top of existing acid generating East Side waste rock. All waste rock was placed into existing disturbed areas or in lifts on top of existing waste rock within Bingham Canyon/Dry Fork and the East Side waste rock disposal area. Tailings disposal onto the Magna Tailings Impoundment ceased in late 2002, while active tailings disposal continued on the North Impoundment (M/035/015). Also within the permit boundaries, Kennecott Land Company continued to remove soils to the Copper Notch Repository. Approximately 1.25 million cubic yards of soil was removed from the former South Jordan Evaporation Ponds consolidated area and Bastian Sink during 2006. A total of 4.25 million cubic yards of soil has been deposited at Copper Notch. By early January 2007 all soil removal activities to Copper Notch ceased.
5. How much **new or additional acreage** was disturbed during the past year? There was some minor new disturbance related to growth media salvage activities at the Bingham Canyon Mine and soil removal activities by Kennecott Land Company (KLC) in 2006. Approximately 3 acres of native land at the mine was disturbed through placement of a growth media stockpile. This stockpile is temporary and will be removed once regrading activities on the Lower Bingham dump face have been completed (~ end of 2008). Total land disturbed by KLC in 2006 was 15 acres for placement of soils at Copper notch. The total footprint of the Copper Notch soil pile at the end of 2006 is 45 acres. Figure 1 shows the locations of the temporary soil pile and Copper notch.
6. How much acreage was **reclaimed** during the past year? First time seeding was performed on a total of 273 acres in 2006. This comprised 259 acres of new land reclaimed at the Magna Tailings Impoundment (first time seed) and 10 acres of new land reclaimed and seeded at the mine 6190 and visitor center due to construction of an access road. In addition, approximately 4 acres of land was seeded at the P-Plant in late 2006 after demolition was completed.
7. Briefly describe the reclamation work performed during the past year. This description should include methods employed, and an evaluation of the results. (Submit form MR-SITE for an application for full or partial bond/site release). See Attachment A.
8. What is the **total disturbed acreage of entire project** at years end? There are a total of 10,005 disturbed acres. This is a net decrease of 255 acres compared with 2005. The total disturbed acreage is based on 10,260 acres of disturbed land at the end of 2005, minus 259 acres of first time reclamation at the Magna Tailings Impoundment, minus 14 acres of first time reclamation at the mine, plus 18 acres of land redisturbed due to KLC soil disposal at Copper Notch and a temporary soil pile in Lower Bingham Canyon. All disturbances have occurred within the permitted disturbed acreage and permit boundary.

9. Briefly summarize any mining and/or reclamation plans for the upcoming year. During 2007, waste rock disposal will continue in Bingham Canyon and the Eastside waste rock disposal area, while a number of reclamation and demolition activities are planned. The 2007 reclamation activities plan will be submitted to the Division of Oil, Gas and Mining by February 28, 2007.

Maps of the Magna Tailings Impoundment are included which show 2006 year end seed for both first time and over-seeded areas (Attachment A). The 2006 reclamation activities completed at the mine are also contained within Attachment A.

10. The operator shall keep and maintain timely records relating to his performance under the Act, and shall make these records available to the Division upon request.

NOTE: Section III., "Additional Information" applies only to large mining operations.

III. Additional Information - R647-4-121.2

1. **Include an updated map depicting surface disturbance and reclamation performed during the year, prepared in accordance with Rule R647-4-105.**

IV. Signature Requirement

I hereby certify that the foregoing is true and correct.

Name (Typed or Print): Rohan McGowan-Jackson

Title of Operator: Manager, HSE and SD

Signature of Operator: 

Date: 1/27/2007

Exhibit 2

2007 Production Data for Bingham Canyon Mine

Kennecott Utah Copper Corporation
P.O. Box 6001
Magna, Utah 84044-6001
(801) 569-6000

(801) 569-6356 (Phone)
(801) 569-7192 (Fax)

Rohan McGowan-Jackson
General Manager, HSEQ



January 31, 2008

Ms. Susan White, Mining Program Coordinator
Minerals Reclamation Program
Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, Utah 84114-5801

RECEIVED
JAN 31 2008
DIV. OF OIL, GAS & MINING

Subject: Annual Reports for 2007, Kennecott Utah Copper Corporation

Dear Ms. White,

Enclosed are the completed annual reclamation report forms (1/1/2007 through 12/31/2007) for the following Kennecott Utah Copper Corporation (KUCC) DOGM permits:

M/035/002	Bingham Canyon Mine (Active)
M/035/011	4 th Line / Copperton Concentrator (Active)
M/035/015	North Impoundment (Active)
M/035/004	Pine Canyon (Inactive)

As in previous year's reports, all disturbed and reclaimed acreage on the Magna (South) Tailings Impoundment are reported under permit number M/035/002. There were some minor areas of newly disturbed land at the mine due to construction of new buildings, and waste rock disposal and soil salvage activities associated with the Code 22 waste rock dump.

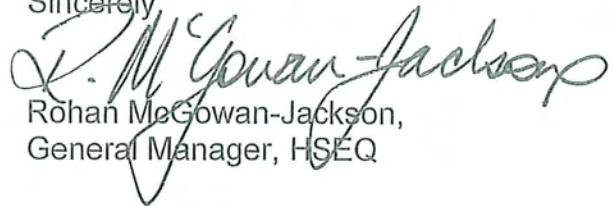
In 2007, KUCC spent approximately \$7.13 million dollars on reclamation activities within the boundaries of permit M/035/002. After correcting for inflation, this equates to approximately \$2.94 million dollars spent in 1978 dollars using the GDP deflator inflation calculator. This far exceeds the requirements of permit M/035/002 "to expend a minimum average, excluding salaries, but not operating wages, of \$50,000 – 1978 dollars per year for each three (3) year period, in maintaining a program of experimentation and in the application of the best available technology toward rehabilitation of land associated with or affected by mining or processing operations."

The total cost includes purchase and application of seed, seedlings, fertilizer, and limestone, equipment rental, equipment maintenance, and demolition of historical facilities as well as costs associated with KUCC's experimental program. This number does not account for salaries or costs associated with KLC soil removal activities.

As agreed in a February 26, 2007 meeting, updated maps and tables are included with this annual report to assist with regular updates of the Bingham Canyon Mine 2003 Reclamation and Water Management Plan. A completed form MR-REV is also attached.

If you have any questions about these annual reports, please contact me at 569-6000.

Sincerely,

A handwritten signature in cursive script, reading "Rohan McGowan-Jackson". The signature is written in black ink and is positioned above the printed name and title.

Rohan McGowan-Jackson,
General Manager, HSEQ

Bc: Ted Himebaugh
Paula Doughty
Brian Pett
Rohan McGowan-Jackson
Geoff Bedell
Vicky Peacey
Denise Powers
Chris Kaiser
Zeb Kenyon

FILE: OPS/RR/MF/Annual Reclamation Report

STATE OF Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING
1594 West North Temple – Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801
Telephone: (801) 538-5291
Fax: (801) 359-3940

LARGE MINING OPERATIONS 2007 PROGRESS REPORT
January 1, 2007 to December 31, 2007

The information required in this form are based on provisions of the Mined Land Reclamation Act, Title 40-8, and the rules as under the Utah Mineral Regulatory Program.

1. Mine Permit Number: M/035/002
2. Mine Name: Bingham Canyon Mine
3. Name of Operator/Permittee: Kennecott Utah Copper Corporation (KUCC)

Note: If Operator's address, company representative or phone number have changed, please provide a replacement page to the Notice of Intention.

4. Mine Location:

Sections 7,8,9,10,11,17,18,19,20,21,30 & 32, Township 1S, Range 2W;

Sections 9,11,12,13,14,15,16,22,23,24,25,26 & 36, Township 1S, Range 3W;

Sections 4,5,9,10,11,14,15,22,23,27 & 33, Township 2S, Range 2W;

Sections 7,17,18 & 19, Township 3S, Range 1W;

Sections 4,8,9,13,14,15,16,17,19,20,21,24,25,28,29,30,31 & 32 Township 3S, Range 2W;

Sections 11,12,13,14,15,21,22,23,24,25,26,27,33,34,35 & 36, Township 3S, Range 3W;

Sections 6 & 7, Township 4S, Range 3W;

Sections 1,2,3,11 & 12, Township 4S, Range 3W;

5. Report the gross amount of ore mined and waste moved, as well as the arrangement, positioning, of distribution of the material:

Gross Ore Mined	60,010,208 Tons
Waste Material Moved	98,950,102 Tons
New Disturbance	55.362 Acres during 2007
Area Reclaimed	190 Acres during 2007
Total Disturbed Area	9870.362 Acres*

Was the ore shipped off site? If not, where is the ore located?No ore was shipped off site. Ore from the mine was crushed and conveyed to the Copperton Concentrator. In 2007, total ore comprised 54,491,956 tons in addition to 5,518,252 tons of low grade ore that was stockpiled. Of the total ore mined, 52,387,361 tons was milled.

Where is the waste located? Waste rock was placed on top of existing waste rock disposal areas, around the perimeter of the open pit.

*Total life of mine disturbance to the end of 2007.

6. Briefly describe the reclamation work performed during the past year. A map showing reclaimed areas and date is suggested. (Submit form MR-SITE for an application for full or partial bond/site release).

Bingham Canyon Mine

At the Bingham Canyon Mine, 40 acres within the 5990 level of the Lower Bingham Canyon dump face was capped with growth media and seeded with a native seed mix. In addition 4000, 2 year old Gamble Oak and Mountain Mahogany seedlings were planted. Within the Highland Boy waste rock area 3160, 2-year old seedlings were planted. Approximately 900 of those seedlings were part of an experimental installation to test the effectiveness of VAM-Gro, which combines a type of mycorrhizae (vesicular-arbuscular) with fertilizer mixes and amendments into a growth media to encourage colonization of plants. Also, the 45 acre Copper Notch soil pile located at the base of the Keystone waste rock dump was seeded with a native seed mix (see attached map "2007 Reclamation Activities on the Bingham Canyon Mine Waste Disposal Areas").

South Tailings Impoundment

First time seed was performed on a total of 90 acres at the South Tailings Impoundment. The areas included a dried section of reclamation area 5E as well as the embankment areas adjacent to reclamation areas 3D, 5D and 5E (see attached map "2007 Seed Application").

Demolition

Demolition of crushing and conveying structures at Bonneville as well as the Magna Concentrator were completed in 2007 (see attached Figure 2-2). The Bonneville area comprises approximately 65 acres while the Magna Concentrator site was approximately 18 acres. In 2007 15 acres at Bonneville were seeded with a native seed mix. The remaining 68 acres will be seeded in 2008.

7. **Include an updated map depicting surface disturbance and reclamation performed during the year, prepared in accordance with Rule R647-4-105.**

In 2007 total first time reclamation comprised 40 acres (Lower BC) + 45 acres (Copper notch) + 90 acres (South Tailings) + 15 acres (Bonneville) = 190 acres.

In 2007 total disturbance comprised 0.084 acres (core logging bldg) + 0.458 acres (core storage bldg) + 1.3 acres (low boy access road) + 33.52 acres (Rio Tinto warehouse) + 20 acres (Code 22 waste rock) = 55.362 acres.

The following attached maps show 2007 reclamation activities:

- 2007 Seed Application – Showing seeded and overseeded areas on the South Tailings Impoundment.
- 2007 Reclamation Activities on the Bingham Canyon Mine Waste Disposal Areas (DWG 454-T-0329) – This map shows the location of 2007 reclamation activities at the Bingham Canyon Mine.

The following attached maps and table show 2007 disturbance and reclamation. These maps should replace existing maps within the 2003 Bingham Canyon Mine Reclamation and Water Management Plan. A completed form MR-REV is included. Information associated with each of these updates has been previously submitted to the Division.

- Figure 4-6 (DWG 454-T-0327) – This map has been updated to include disturbance from Code 22 (placed dump and regraded profile), Copper Notch and the low boy

Exhibit 3

2008 Production Data for Bingham Canyon Mine

RioTinto

Kennecott Utah Copper Corporation
Smelter Environmental Control Center
11500 West 2100 South
Magna, UT 84044
801.569.7427

M0350002
Leslie

0003

Mr. Paul Baker, Minerals Program Manager
Division of Oil, Gas & Mining
Utah Department of Natural Resources
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 84114-5801

January 30, 2009

Dear Mr. Baker:

Subject: Large Mining Operations 2008 Progress Report
January 1, 2008 to December 31, 2008
M/035/002
Bingham Canyon Mine

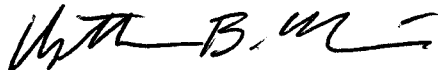
Please find attached Form MR-AR for permit number M/035/002, Bingham Canyon Mine.

Updated maps and tables are included with this annual report. A completed form MR-REV is also attached for updated drawings and tables included in the Bingham Canyon Mine 2003 Reclamation and Water Management Plan.

Also, please find the initial KUCC document *UDOGM Annual Reporting Register* which was presented and discussed at our meeting in December 2008. While this document is still being refined, we believe it will be a helpful tool for both KUCC and the Division to provide, at a glance, the status of all current permits. KUCC looks forward to working with the Division to further develop this tool.

If you have any questions about these annual reports, please contact me at 801.569.7427 or Glenn Eurick at 801.204.2113.

Sincerely,



Chris Kaiser
Principal Advisor, Environmental Operations Support

C: Dana Dean (UDOGM)

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DIV. OF OIL, GAS & MINING

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING
1594 West North Temple - Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801
Telephone: (801) 538-5291
Fax: (801) 359-3940

LARGE MINING OPERATIONS 2008 PROGRESS REPORT
January 1, 2008 to December 31, 2008

The information required in this form are based on provisions of the Mined Land Reclamation Act, Title 40-8, and the rules as under the Utah Minerals Regulatory Program.

1. Mine Permit Number: **M/035/002**
2. Mine Name: **Bingham Canyon Mine**
3. Name of Operator/Permittee: **Kennecott Utah Copper Corporation (KUCC)**
Note: If Operator's address, company representative or phone numbers have changed, please provide a replacement page for the Notice of Intention.

4. Mine Location:
Sections 7,8,9,10,11,17,18,19,20,21,30 & 32, Township 1S, Range 2W
Sections 9,11,12,13,14,15,16,22,23,24,25,26 & 36, Township 1S, Range 3W
Sections 4,5,9,10,11,14,15,22,23,27 & 33, Township 2S, Range 2W
Sections 7,17,18 & 19, Township 3S, Range 1W
Sections 4,8,9,13,14,15,16,17,19,20,21,24,25,28,29,30,31 & 32 Township 3S, Range 2W
Sections 11,12,13,14,15,21,22,23,24,25,26,27,33,34,35 & 36, Township 3S, Range 3W
Sections 6 & 7, Township 4S, Range 3W
Sections 1, 2, 3, 11 & 12, Township 4S, Range 3W

5. Report the gross amount of ore mined and waste moved, and the disposition of the materials (onsite stockpiles, sold, waste pile, regraded, etc.):

Gross Ore Mined	62,058,824	Tons**
Waste Material Moved	107,439,226	Tons**
New Disturbance	23	Acres
Area Reclaimed	292	Acres
Total Disturbed Area	9601.362	Acres*

*Total mine disturbance from the beginning of mining operations through the end of 2008 / Bingham Canyon & South Tailing

**Short tons

Was the ore shipped off site? If not, where is the ore located?

- *No ore was shipped off site*
- *Total ore mined equaled 62,058,824 tons comprised of:*
 - *54,166,922 tons of higher grade ore that was mined, crushed and conveyed to the Copperton Concentrator*
 - *7,891,902 tons of low grade ore that was stockpiled*

Where is the waste located?

- *Waste rock was placed on top of existing waste rock disposal areas, around the perimeter of the open pit*

6. Briefly describe the reclamation work performed during the past year. A map showing reclaimed areas and dates is suggested. (Submit form MR-SITE for an application for full or partial bond/site release).

Bingham Canyon Mine (Drawing 454-T-0329)

- Lower Bingham Canyon waste rock disposal area- Lower 5990 section
 - 16 acres completed re-grading and cross ripping on the bottom half
 - Completed the placement of growth media that was salvaged in the fall of 2007
 - Seeded 54 acres
 - On 16 acres planted 2000 Gamble Oak & Curl Leaf Mountain Mahogany
- Lower Bingham Canyon waste rock disposal area- Upper 6190 section
 - Completed salvage of growth media
 - Completed 75% of store and release cover design modeling
- Arthur Concentrator
 - Material demolition and removal, clean borrow placement, and re-grading and revegetating completed
- Bonneville Crusher
 - Completed seeding of 45 acres of grasses and 5 acres shrubs
- Precipitation Plant
 - Completed seeding of 17 acres of grasses and 3 acres shrubs
- Completed a third-party review of soil characteristics of growth media
- Completed third-party test plot monitoring for seedling success & technical review

South Tailings Impoundment

- Initial drill seeding was performed on a total of 124 acres
- Supplemental drill seeding was performed on 203 acres
- Biosolids were applied to 96 acres
- Lime to enhance vegetative growth was applied to 0 acres

7. **Include an updated map depicting surface disturbance and reclamation performed during the year**, prepared in accordance with Rule R647-4-105.

- The following attachments are provided to detail 2008 reclamation activities:
 - Form MR-REV for 2003 Reclamation and Water Management Plan
 - Figure 2-2 (DWG454-T-0389)
 - Figure 4-6 (DWG 454-T-0390)
 - Figure 2-1 (DWG454-T-0328)
 - Table 2-1 (December 2008)
- 2008 UDOGM Annual Reclamation Reporting Register
- Drawing 2008SoilAmendmentsNorthSouthTailings4thQtrDrawing

I hereby certify, under penalties of law, the information provided in this report is true and correct to the best of my knowledge and belief.

Name (Typed or Print): Chris Kaiser

Title of Operator: Principal Advisor – Environmental Operation Support

Signature of Operator: 

Date: January 29, 2009

pb

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Exhibit 4

2009 Production Data for Bingham Canyon Mine

Incoming
M/035/0002
cc: Leslie

0001

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING
1594 West North Temple - Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801
Telephone: (801) 538-5291
Fax: (801) 359-3940

LARGE MINING OPERATIONS 2009 PROGRESS REPORT
January 1, 2009 to December 31, 2009

The information required in this form is based on provisions of the Mined Land Reclamation Act, Title 40-8, and the rules as under the Utah Minerals Regulatory Program.

1. Mine Permit Number: **M/035/002**
2. Mine Name: **Bingham Canyon Mine**
3. Name of Operator/Permittee: **Kennecott Utah Copper, LLC (KUC)**
Note: If Operator's address, company representative or phone numbers have changed, please provide a replacement page for the Notice of Intention.

4. Mine Location:
Sections 7,8,9,10,11,17,18,19,20,21,30 & 32, Township 1S, Range 2W
Sections 9,11,12,13,14,15,16,22,23,24,25,26 & 36, Township 1S, Range 3W
Sections 4,5,9,10,11,14,15,22,23,27 & 33, Township 2S, Range 2W
Sections 7,17,18 & 19, Township 3S, Range 1W
Sections 4,8,9,13,14,15,16,17,19,20,21,24,25,28,29,30,31 & 32 Township 3S, Range 2W
Sections 11,12,13,14,15,21,22,23,24,25,26,27,33,34,35 & 36, Township 3S, Range 3W
Sections 6 & 7, Township 4S, Range 3W
Sections 1, 2, 3, 11 & 12, Township 4S, Range 3W

5. Report the gross amount of ore mined and waste moved, and the disposition of the materials (onsite stockpiles, sold, waste pile, regraded, etc.):

Gross Ore Mined	68,666,164	Tons**
Waste Material Moved	124,018,088	Tons**
New Disturbance	3	Acres
Area Reclaimed	61	Acres
Total Disturbed Area	9540.362	Acres*

*Total mine disturbance from the beginning of mining operations through the end of 2009
**Short tons

Was the ore shipped off site? If not, where is the ore located?

- *No ore was shipped off site*
- *Total ore mined equaled 68,666,164 tons comprised of:*
 - *58,263,924 tons of higher grade ore that was mined, crushed and conveyed to the Copperton Concentrator*
 - *10,402,240 tons of low grade ore that was stockpiled*

Where is the waste located?

- *Waste rock was placed on top of existing waste rock disposal areas, around the perimeter of the open pit*

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6. Briefly describe the reclamation work performed during the past year. A map showing reclaimed areas and dates is suggested. (Submit form MR-SITE for an application for full or partial bond/site release).

Bingham Canyon Mine (Drawing 454-T-0390_REV 2)

- *Bingham Canyon waste rock disposal area- between 5590 and 6190*
 - *Final reclamation completed on 61 acres which includes slope re-grade (2.75:1 slope), application of growth media and seed*
 - *On 35 acres planted 2800 Gamble Oak & Curl Leaf Mountain Mahogany*
 - *Built steep slope reclamation test plot (2 acres @ 2:1 slope)*
 - *Installed sediment erosion pond at base of Bingham Canyon designed to accommodate a 100yr/24hr storm event*
 - *Salvaged ~21,000 yd³ growth media from 6190 elevation*
 - *Staged 88,000 yd³ growth media for final reclamation work in 2009-2011*
- *Completed third-party test plot monitoring for seedling success & technical review*
- *Completed installation of store and release cover field trial test plots*

Bingham Canyon Waste Rock Disposal Area (Drawing 454-T-0390_REV 2)

- *Completed installation of store and release cover field trial test plots*

South Tailings Impoundment (see Drawing 2009 Seed Application)

- *Initial drill seeding was performed on a total of 0 acres*
- *Supplemental drill seeding was performed on 11 acres*
- *Biosolids were applied to 8 acres*
- *Lime to enhance vegetative growth was applied to 2 acres*


7. **Include an updated map depicting surface disturbance and reclamation performed during the year**, prepared in accordance with Rule R647-4-105.

- *The following attachments are provided to detail 2009 reclamation activities:*
 - *2009 UDOGM Annual Reclamation Reporting Register*
 - *2009 Seed Application (North & South tailing impoundment)*
 - *Form MR-REV for 2003 Reclamation and Water Management Plan*
 - *Figure 2-2 (DWG454-T-0389)*
 - *Figure 4-6 (DWG 454-T-0390)*
 - *Table 2-1 (December 2009)*

I hereby certify, under penalties of law, the information provided in this report is true and correct to the best of my knowledge and belief.

Name (Typed or Print): Chris Kaiser

Title of Operator: Principal Advisor – Environmental Operation Support

Signature of Operator:  _____

Date: **January 28, 2010**

pb
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Exhibit 5

2010 Production Data for Bingham Canyon Mine

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING
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LARGE MINING OPERATIONS 2010 PROGRESS REPORT
January 1, 2010 to December 31, 2010

The information required in this form are based on provisions of the Mined Land Reclamation Act, Title 40-8, and the rules as under the Utah Minerals Regulatory Program.

1. Mine Permit Number: **M/035/002**
2. Mine Name: **Bingham Canyon Mine**
3. Name of Operator/Permittee: **Kennecott Utah Copper LLC (KUC)**
Note: If Operator's address, company representative or phone numbers have changed, please provide a replacement page for the Notice of Intention.

4. Mine Location:
Sections 7,8,9,10,11,17,18,19,20,21,30 & 32, Township 1S, Range 2W
Sections 9,11,12,13,14,15,16,22,23,24,25,26 & 36, Township 1S, Range 3W
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Sections 11,12,13,14,15,21,22,23,24,25,26,27,33,34,35 & 36, Township 3S, Range 3W
Sections 6 & 7, Township 4S, Range 3W
Sections 1, 2, 3, 11 & 12, Township 4S, Range 3W

5. Report the gross amount of ore mined and waste moved, and the disposition of the materials (onsite stockpiles, sold, waste pile, regraded, etc.):

Gross Ore Mined	68,332,332	Tons**
Waste Material Moved	123,084,932	Tons**
New Disturbance	20	Acres
Area Reclaimed	35	Acres
Total Disturbed Area	9515.362	Acres*

*Total mine disturbance from the beginning of mining operations through the end of 2010

**Short tons

Was the ore shipped off site? If not, where is the ore located?

- *No ore was shipped off site*
- *Total ore mined equaled 68,332,332 tons comprised of:*
 - *59,029,774 tons of higher grade ore that was mined, crushed and conveyed to the Copperton Concentrator*
 - *9,302,558 tons of low grade ore that was stockpiled*

Where is the waste located?

- *Waste rock was placed on top of existing waste rock disposal areas, around the perimeter of the open pit*

6. Briefly describe the reclamation work performed during the past year. A map showing reclaimed areas and dates is suggested. (Submit form MR-SITE for an application for full or partial bond/site release).

Bingham Canyon Mine (Drawing 454-T-0390_REV 2)

- Bingham Canyon waste rock disposal area- between 5590 and 6190
 - On 28 acres planted 2240 Gamble Oak & Curl Leaf Mountain Mahogany seedlings
- Bingham Canyon waste rock disposal area- between 6190 and 6390
 - Final reclamation completed on 35 acres which includes slope re-grade (2.75:1 slope), application of growth media and seed
 - Salvaged ~225,000 yd³ growth media from north side of Bingham Canyon ≥6290 elevation and staged on the 6390 bench and above Bluewater Repository for 2010-2011 reclamation
- Third-party reclamation support work included:
 - Test plot monitoring for seedling success
 - Evaluation of seed mix success and neighboring native vegetation
 - Installation of seed fertilization test plots

Bingham Canyon Waste Rock Disposal Area (Drawing 454-T-0390_REV 2)

- Store & Release Cover Field Trials
 - Completed two site visits and instrumentation installation and calibration of store and release cover field trial test plots

South Tailings Impoundment (see Drawing 2010 Soil Amendments)

- Supplemental drill seeding was performed on 16 acres

Arthur Area: North Central Garage (Drawing DWG454-T-0328)

- Demolished buildings, re-contoured and seeded
 - Demolished boiler shop, carpenter shop, lumber storage, machine shop, heater shop and north central garage

7. **Include an updated map depicting surface disturbance and reclamation performed during the year**, prepared in accordance with Rule R647-4-105.

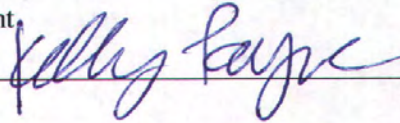
- The following attachments are provided to detail 2010 reclamation activities:
 - 2010 UDOGM Annual Reclamation Reporting Register
 - 2010 Soil Amendments (south tailing impoundment)
 - Drawing 454-T-0390: 2010 Reclamation Activities on the Bingham Canyon Mine Waste Disposal Areas
 - Form MR-REV for 2003 Reclamation and Water Management Plan
 - Figure 2-2 (DWG454-T-0389)
 - Figure 4-6 (DWG 454-T-0390)
 - Figure 2-1 (DWG454-T-0328)
 - Table 2-1 (December 2010)

I hereby certify, under penalties of law, the information provided in this report is true and correct to the best of my knowledge and belief.

Name (Typed or Print): Kelly Payne

Title of Operator: Manager – Environment

Signature of Operator: _____

A handwritten signature in blue ink that reads "Kelly Payne". The signature is written in a cursive style and is positioned above a horizontal line that serves as a signature line.

Date: **January 27, 2011**

pb

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