

**BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

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In re: )  
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Kennecott Holdings ) CERCLA §106(b) Petition No. 94-23  
Corporation )  
(McLaren Tailings Site) )  
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**ORDER DISMISSING PETITION FOR REIMBURSEMENT WITH PREJUDICE**

By motion filed on June 18, 1997, the parties in the above-captioned matter, U.S. EPA Region VIII and Kennecott Holdings Corporation, state as follows:

1. Since filing its Petition for Reimbursement with the EPA Environmental Appeals Board (EAB) on December 9, 1994, \* \* \* EPA Region VIII and the Department of Justice on behalf of the United States of America, and Kennecott have engaged in lengthy negotiations to resolve the subject matter of Kennecott's Petition for Reimbursement as well as a separate demand by EPA for payment of response costs.
2. The parties reached a settlement of each other's claims, including the claims contained in the underlying Petition for Reimbursement, which is embodied in a Consent Decree initially lodged with the United States District Court for the District of Montana, Civil Action No. CV 97-39-BLG-JDS, on April 8, 1997.
3. Following a thirty (30) day public comment period, the court entered the Consent Decree on June 9, 1997.
4. Section VI, Paragraph 11 of the Consent Decree requires Kennecott, within twenty (20) days after entry of the Consent Decree, to withdraw with prejudice, its petition for reimbursement filed with the EAB on December 9, 1994 \* \* \*.

Stipulated Motion to Withdraw Petition for Reimbursement at 1.  
The parties have also stated that the settlement between the parties embodied in the Consent Decree does not involve any disbursement of any funds pursuant to the authority of CERCLA § 106(b). See Joint Status Report (May 9, 1997).

Under the circumstances, the parties' stipulated motion is granted. Kennecott's Petition for Reimbursement filed with the Board on December 9, 1994, is hereby dismissed with prejudice.

So ordered.

Dated: 6/19/97

ENVIRONMENTAL APPEALS BOARD

By: \_\_\_\_\_/s/  
Ronald L. McCallum  
Environmental Appeals Judge

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the forgoing Order Dismissing Petition for Reimbursement with Prejudice in the matter of Kennecott Holdings Corporation, CERCLA § 106(b) Petition No. 94-23, were sent to the following persons in the manner indicated:

First Class Mail  
Postage Prepaid  
and facsimile:

Marcelle Shoop  
Associate General Counsel  
Kennecott Services Company  
8315 West 3595 South  
P.O. Box 6001  
Magna, UT 84044-6001  
Fax # (801) 252-3559

Richard H. Baird  
Enforcement Attorney  
U.S. EPA, Region VIII  
999 18th Street, Suite 500  
Denver, CO 80202-2466  
Fax # (303) 312-6859

Dated: 6/19/97

\_\_\_\_\_/s/  
Mildred T. Johnson  
Secretary