IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	:	
	:	**Jointly Administered**
KAISER ALUMINUM CORPORATION, a Delaware corporation, et al.,	:	**Case No. 02-10429 (JKF)**
	:	
	:	**Chapter 11**
Debtors.	:	

CONSENT DECREE
RELATING TO SPOKANE RIVER, WASHINGTON
UPRIVER DAM SITE

WHEREAS, on February 12, 2002, fifteen of the above-captioned debtors and debtors in possession (collectively with the other above-captioned debtors and debtors in possession, the "Debtors") commenced their respective reorganization cases by filing with the United States Bankruptcy Court for the District of Delaware (the "Court") voluntary petitions for relief under chapter 11 of the Bankruptcy Code, 11 U.S.C. §§ 101-1330 (the "Bankruptcy Code"). On March 15, 2002, two additional Debtors commenced their voluntary chapter 11 cases. The remaining nine Debtors commenced their voluntary chapter 11 cases on January 14, 2003. The Debtors' chapter 11 cases have been consolidated for procedural purposes and are being administered jointly, styled *In re Kaiser Aluminum Corporation, et al.*, Case No. 02-10429 (JKF) (the "Bankruptcy Cases");

WHEREAS, on or about October 27, 2003, the Court entered an Order (D.I. 2791) approving a consent decree under which the Debtors settled, without admission of liability, a

number of environmental claims and causes of action of the United States, the States of California, Rhode Island and Washington and the Puyallup Tribe of Indians (the "Multi-Site CD"). The Multi-Site CD expressly does not address or apply to "Reserved Sites" as defined in the Multi-Site CD, which include the site identified therein as the "Spokane River (including Upriver Dam) in Spokane, WA" (herein, the "Site");

WHEREAS one of the Debtors and debtors in possession, Kaiser Aluminum & Chemical Corporation ("KACC"), is owner and operator of the Kaiser Trentwood Works ("Trentwood") in Spokane, Washington. Trentwood is permitted under the provisions of State of Washington Water Pollution Control Law and the Federal Water Pollution Control Act to discharge industrial wastewater to the Spokane River;

WHEREAS Avista Development, Inc. ("Avista") is a successor to Pentzer Development Corporation ("Pentzer"). Pentzer is the past owner and operator of the Spokane Industrial Park, which is located on the Spokane River. Pentzer discharged industrial wastewater to the Spokane River prior to 1994, under the provisions of the State of Washington Water Pollution Control Law and the Federal Water Pollution Control Act, or predecessor laws;

WHEREAS polychlorinated byphenyls ("PCBs") have been found in fish, sediment, and water of the Spokane River;

WHEREAS on June 1, 2001, the Washington State Department of Ecology ("Ecology") notified KACC and Avista of Ecology's preliminary finding that KACC and Avista, among other parties, are potentially liable for PCBs in sediments at the Site;

WHEREAS Debtors and Avista do not admit liability or responsibility for any releases of PCBs to the Site, or for any associated remedial action costs;

WHEREAS on November 26, 2002, the Court entered an Order (the "2002 Order")authorizing KACC to enter into a consent decree with Ecology and Avista, which consent decree was entered by the Spokane County Superior Court on February 6, 2003 (the "Upriver Dam RI/FS Consent Decree"). The Upriver Dam RI/FS Consent Decree was filed in a civil action commenced on January 17, 2003, by Ecology against KACC and Avista, Cause No. 03-2-00422-1 (the "Spokane Action"). Under the Upriver Dam RI/FS Consent Decree, KACC and Avista agreed to perform a focused remedial investigation ("RI") to evaluate the extent of PCBs in sediments deposited in the Site and a focused feasibility study ("FS") to evaluate potential cleanup actions as may be needed to address PCBs in the Site. The 2002 Order also authorized KACC to enter into a related "PLP agreement" with Avista under which KACC and Avista agreed to share equally the cost of implementing the Upriver Dam RI/FS Consent Decree;

WHEREAS, the State of Washington, at the request of Ecology, filed a protective proof of claim, Claim No. 7181, against the Debtors ("Claim No. 7181") with respect to the Debtors' obligations under the Upriver Dam RI/FS Consent Decree and the Debtors' alleged injunctive obligation to perform future remedial action associated with the Site;

WHEREAS Avista filed Claim No. 3140 ("Claim No. 3140") against the Debtors with respect to the Debtors' obligation under the Upriver Dam RI/FS Consent Decree, Avista's past costs associated with the Site, and a protective claim as to Debtors' alleged liability for future remedial actions associated with the Site;

WHEREAS the Debtors would dispute the State of Washington's and Avista's contentions and would object, in whole or in part, to their proofs of claim;

WHEREAS the RI and FS for the Site have been completed and Ecology has proposed a Cleanup Action Plan containing a remedy for the Site. Avista and the State of Washington have negotiated a proposed Consent Decree to be filed in the Spokane County Superior Court (the "Upriver Dam CAP Consent Decree") under which Avista will implement the remedy contained in the Cleanup Action Plan proposed by Ecology. The Upriver Dam CAP Consent Decree, which is attached hereto as **Exhibit A**, will not become effective until this Decree has been entered and the deposit referenced in Paragraph 4.A herein has been made. The Cleanup Action Plan and the Upriver Dam CAP Consent Decree have been proposed subject to public comment and the approval of the Spokane County Superior Court;

WHEREAS the Debtors seek, to the maximum extent permitted by law, to obtain protection, through the resolution of environmental liabilities for the Site, as set forth herein, from and against all Claims that have been or may in the future be asserted regarding the Site;

WHEREAS the Parties agree that settlement of these matters without litigation is reasonable and in the public interest and that entry of this Decree is the most appropriate means of resolving these matters. The Parties, without admission of liability by any party, desire to resolve their differences with respect to the Site. Ecology and the Debtors desire to resolve the status of the Site as a Reserved Site under the Multi-Site CD, and to resolve their differences with respect to Claim No. 7181 as the same pertains to the Site. Avista and Debtors desire to resolve their differences with respect to Claim No. 3140;

WHEREAS in consideration of, and in exchange for, the promises and covenants herein, and intending to be legally bound hereby, the Debtors, Avista, and the State of Washington hereby agree to the terms and provisions of this Consent Decree;

WHEREAS settlement of the matters governed by this Consent Decree is in the public interest and an appropriate means of resolving these matters and will lead to a more expeditious cleanup of hazardous substances in compliance with federal and state laws and regulations, including the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9607, et seq., and Washington's Model Toxics Control Act ("MTCA"), Wash. Rev. Code ch. 70.105D, including cleanup standards under Wash. Rev. Code § 70.105D.030(2)(e).

NOW, THEREFORE, without the admission of liability or any adjudication on any issue of fact or law, and upon the consent and agreement of the Parties by their attorneys and authorized officials, it is hereby agreed as follows:

DEFINITIONS

1. In this Consent Decree, in addition to the capitalized terms defined in the preamble above, the following terms shall have the following meanings:

A. "CERCLA" refers to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 *et seq.*, as now in effect or hereafter amended, and any similar federal law.

B. "Claims" has the meaning provided in Section 101(5) of the Bankruptcy Code.

C. "Court" means the United States Bankruptcy Court for the District of Delaware.

D. "Ecology" means the Washington Department of Ecology and any successor departments or agencies of the State of Washington.

E. "Effective Date" means ten days after the later of (i) the date on which this Consent Decree is approved by the Court, unless stayed by the Court, or (ii) the date the Upriver Dam CAP Consent Decree is approved by the Spokane County Superior Court, unless stayed by that court.

F. "EPA" means the United States Environmental Protection Agency and any successor departments or agencies of the United States.

G. "Interest" shall mean interest at the rate specified for interest on investments of the Hazardous Substance Superfund established under Subchapter A of Chapter 98 of Title 26 of the U.S. Code, compounded on October 1 of each year, in accordance with 42 U.S.C. § 9607(a).

H. "Hazardous Substance" shall have the meaning provided in RCW 70.105D.020(7).

I. "MTCA" means the Washington State Model Toxics Control Act, RCW 70.105D, as now in effect or hereafter amended, and any similar state law.

J. "Natural Resource Damages" means any liability or claim of liability for injury to, destruction of, or loss of natural resources pursuant to 33 U.S.C. § 1321, 42 U.S.C. § 9607, RCW 70.105D.040, or any similar state or federal law.

K. "Parties" mean the Debtors, Avista, and the State of Washington.

L. "Plan of Reorganization" or "Plan" means any plan of reorganization that includes KACC and is confirmed and becomes effective in the Bankruptcy Cases.

M. "RCRA" refers to the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.* as now in effect or hereafter amended.

N. "Remedial Actions" means remedial actions taken pursuant to MTCA and response actions taken pursuant to CERCLA.

JURISDICTION

2. The Court has jurisdiction over the subject matter hereof pursuant to 28 U.S.C. §§157, 1331, and 1334, and 42 U.S.C. §§9607 and 9613(b) and RCW 70.105D.040(4)(b). For purposes of entering this Consent Decree, the Court also has personal jurisdiction over the Debtors, Avista, and Ecology.

PARTIES BOUND; SUCCESSION AND ASSIGNMENT

3. This Consent Decree applies to, is binding upon, and shall inure to the benefit of the State of Washington, the Debtors, the Debtors' legal successors and assigns, Avista, Avista's legal successors and assigns, and any trustee, examiner or receiver appointed in the Bankruptcy Cases.

OBLIGATIONS OF THE PARTIES

4. Within ten (10) business days of the Effective Date, Avista shall provide the Debtors with wire transfer instructions for a bank account into which the Debtors are to deposit the payment required by this Consent Decree.Avista shall be entitled to use the Debtors' payment made under this Consent Decree, which Avista and Debtors currently estimate will cover one-half of the costs of the Remedial Actions required by the Upriver Dam Consent Decree, to pay for the actual costs of performing such Remedial Actions,, until such funds are exhausted. The Debtors' payment shall be used for no other purpose, except that upon certification in writing by Ecology that all of Avista's obligations for implementation of the Remedial Actions specified in the Upriver Dam CAP Consent Decree have been completed and approved, Avista may use for any purpose any of Debtor's payment that has not been expended.

5. A. Within five (5) business days of the Debtors' receipt of wire instructions from Avista, as provided in Paragraph 4, the Debtors shall deposit One Million and no/100 Dollars ($1,000,000.00) into the account specified by Avista, which shall be the Debtors' contribution to the funding of Remedial Actions at the Site. Holders of Claims against the Debtors, other than Ecology and Avista to the extent provided in this Consent Decree, shall have no rights to or against the funds deposited by the Debtors.

B. In the event that the payment by the Debtors required by Paragraph 5.A is not made within the time specified in Paragraph 5.A, the Debtors shall pay Interest on the unpaid balance. The Interest to be paid on the amount due shall begin to accrue on the day after the last date for making such payment under Paragraph 5.A. The Interest shall accrue through the date

of the Debtors' payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to Ecology by virtue of the Debtors' failure to make timely payments under this Section.

C. Debtors shall send copies of all correspondence and other evidence of any transmittal of funds under Paragraph 5.A to Ecology and Avista as specified in Paragraph 19 (Notices and Submissions).

6. Upon the Effective Date and following the transfer of funds described in Paragraph 5.A, neither the Debtors nor any successors thereto shall have any further obligation under this Decree, subject to the reopener found in Par. 10 through 16, to fund or perform any Remedial Actions at the Site, nor to provide any further funding to the Escrow Account.

TREATMENT OF THE SITE; DISMISSAL OF KACC

7. The Debtors' payment to be made under this Consent Decree shall be deemed allocated toward all Claims with respect to Remedial Actions for the Site, for which a Claim has been or could be asserted against the Debtors pursuant to MTCA, Sections 106, 107, or 113 of CERCLA, or Section 7003 of RCRA.

8. The Debtors' payment to be made under this Consent Decree does not constitute, nor shall it be construed as, forfeitures, fines, or penalties (or payments in lieu thereof), and nothing herein is intended , or shall be construed, as an admission by Debtors of any facts or any violation of law. Notwithstanding the foregoing, Debtors do agree to comply with all terms of this Consent Decree upon the Effective Date.

9. Upon the Debtors' payment of the amount due under Paragraph 5, Ecology shall dismiss KACC as a defendant in the Spokane Action.

COVENANT NOT TO SUE AND RESERVATION OF RIGHTS

10. In consideration of all of the foregoing, and except as provided in Paragraphs 11 through 16, the State of Washington covenants not to bring a civil action or take administrative action against the Debtors pursuant to RCW 70.105D.030, RCW 70.105D.040, RCW 70.105D.050, other state law, Sections 106 and 107 of CERCLA, Section 7003 of RCRA, or under state common law, with respect to the Site, and any areas affected by a release or threatened release of hazardous substances from the Site. This covenant not to sue shall take effect on the Effective Date. This covenant not to sue shall also apply to the Debtors' successors and assigns, officers, directors, employees, and trustees, but only to the extent that the alleged liability of such successor or assign, officer, director, employee, or trustee is based on its status as and in its capacity as a successor or assign, officer, director, employee, or trustee of any Debtor. The court shall amend this covenant not to sue if Ecology demonstrates that factors not known at the time of entry of this Decree have been discovered, that such factors present a previously unknown threat to human health or the environment, and that Debtors' responsibility for such factors warrants amending this covenant.

11. The covenant not to sue set forth in Paragraph 10 does not pertain to any matters other than those expressly specified in Paragraph 10. The State of Washington reserves, and this Consent Decree is without prejudice to, all rights with respect to all other matters, and specifically with respect to (i) claims based on a failure to meet a requirement of this Consent

Decree, (ii) liability for any site other than the Site (subject to any separate settlement regarding such other site), or (iii) criminal liability.

12. The covenant not to sue contained in Paragraphs 10 and 14 of this Consent Decree extend only to the Debtors, the State of Washington, and the persons described in Paragraphs 10 and 14, and do not extend to any other person. Nothing in this Consent Decree is intended as a covenant not to sue or a release from liability for any person or entity other than the Debtors, the State of Washington, and the persons described in Paragraphs 10 and 14. The State of Washington and the Debtors expressly reserve all claims, demands and causes of action either judicial or administrative, past, present or future, in law or equity, which they may have against all other persons, firms, corporations, entities or predecessors of the Debtors for any matter arising at, or relating in any manner to, the Site.

13. Nothing in this Consent Decree shall be deemed to limit the authority of the State of Washington to take Remedial Actions under RCW 70.105D.030, other state law, Section 104 of CERCLA, 42 U.S.C. §9604, or any other applicable law or regulation, or to alter the applicable legal principles governing judicial review of any action taken by the State of Washington pursuant to that authority. Nothing in this Consent Decree shall be deemed to limit the information gathering authority of the State of Washington under RCW 70.1.5D.030, other state law, Sections 104 and 122 of CERCLA, 42 U.S.C. §§9604 and 9622, or any other applicable law or regulation, or to excuse any disclosure or notification requirements imposed by MTCA, CERCLA, RCRA, or any other applicable federal or state law or regulation.

14. The Debtors covenant not to sue and agree not to assert any claims or causes of action against the State of Washington with respect to the Site, including but not limited to: any

direct or indirect claim for reimbursement from the Washington Toxics Control Account, any claims for contribution against the State of Washington, its departments, agencies or instrumentalities and any claims arising out of Remedial Actions at the Site.

15. This Consent Decree does not address the Debtors' liability under MTCA or CERCLA arising from conduct after the Effective Date; except that this Consent Decree releases Debtors from liability under MTCA and CERCLA for the Remedial Actions required by the Upriver DAM CAP Consent Decree, including any minor changes thereto, even if such liability arises out of Debtors' post-Effective Date conduct. In the event Ecology asserts any liability for a non-minor change in the Remedial Actions based on Debtors' conduct occurring after the Effective Date, Ecology and the Debtors reserve all rights and defenses they may have with respect to such post-Effective Date conduct.

16. This Consent Decree does not address or apply to Natural Resource Damages. Ecology and the Debtors reserve all rights and defenses they may have regarding any claim for Natural Resource Damages with respect to the Site.

MUTUAL RELEASES BY DEBTORS AND AVISTA

17. A. Upon Debtors' payment of the amount due under Paragraph 5, Avista shall completely and irrevocably release and forever discharge the Debtors

(a) from any and all past, present, and future claims or liabilities of any and every kind and nature, that are based on information that was known or should have been known to Avista as of the Effective Date sounding in tort, negligence, contract, environmental or statutory

liability or otherwise, arising out of or relating to Hazardous Substances at the Site as of the Effective Date;

(b) from any and all past, present, and future claims arising out of or relating to Remedial Actions required by the Upriver Dam CAP Consent Decree, except claims relating to a non-minor change in the Remedial Actions arising from Debtors' conduct occurring after the Effective Date.

B. Upon Debtors' payment of the amount due under Paragraph 5, the Debtors shall completely and irrevocably release and forever discharge Avista

(a) from any and all past, present, and future claims or liabilities of any and every kind and nature, that are based on information that was known or should have been known to the Debtors as of the Effective Date sounding in tort, negligence, contract, environmental or statutory liability or otherwise, arising out of or relating to Hazardous Substances at the Site as of the Effective Date; and

(b) from any and all past, present, and future claims arising out of or relating to Remedial Actions required by the Upriver Dam CAP Consent Decree, except any claims relating to a non-minor change in the Remedial Actions arising from Avista' conduct occurring after the Effective Date, or any claims that Avista, its contractors, agents, or employees are negligent or grossly negligent in implementing such Remedial Actions.

C. Avista and the Debtors reserve all other rights, claims, and defenses they may have with respect to post-effective date conduct. Moreover, Kaiser reserves all of its rights under any discharge contained in or that as a matter of law accompanies the confirmation of a

plan or reorganization, and in particular reserves the right to assert that other claims that Avista may have arising from Kaiser's conduct prior to such confirmation were in fact discharged. Avista reserves such rights as it may have to dispute such assertions by Kaiser.

CONTRIBUTION PROTECTION

18. With regard to all existing or future third-party claims against the Debtors with respect to the Site, including claims for contribution, and subject to the Debtors' timely payment of the amount due under Paragraph 5.A in full, without any reduction in amount, the Parties hereto agree that, as of the Effective Date, the Debtors shall be entitled to protection from actions or claims to the maximum extent provided by applicable sections of MTCA with respect to the Site.

NOTICES AND SUBMISSIONS

19. Whenever, under the terms of this Consent Decree, written notice is required to be given, or a report or other document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change of address to the other Parties in writing. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Except as otherwise provided in this Consent Decree, written notice as specified herein shall constitute complete satisfaction of any written notice requirement in this Consent Decree with respect to the State of Washington, the Debtors, and Avista, respectively.

As to the State of Washington:

Steven J. Thiele
Assistant Attorney General
Office of the Attorney General, Ecology Division
P.O. Box 40117
Olympia, WA 98504-0117

Program Manager
Toxics Cleanup Program
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-76001

As to the Debtors:

Kaiser Aluminum & Chemical Corporation
27422 Portola Parkway #350
Foothill Ranch, CA 92610-2831
ATTN: General Counsel

Heller, Ehrman, White & McAuliffe, LLP
701 Fifth Avenue, Suite 6100
Seattle, WA 98104-7098
ATTN: R. Paul Beveridge

As to Avista:

Doug Pottratz
Avista Development Inc.
1411 E. Mission – MS18
P.O. Box 3727
Spokane, WA 99220-3727

Tanya Barnett
Cascadia Law Group PLLC
606 Columbia Street, N.W., Suite 212
Olympia, WA 98501

Joel M. Gross
Arnold & Porter LLP
555 12th Street, NW
Washington, D.C. 20004

TREATMENT OF PROOFS OF CLAIM

20. Ecology and Avista shall be deemed to have filed proofs of claim for all matters addressed in this Consent Decree, which proofs of claim are and shall be deemed satisfied in full in accordance with the terms of this Consent Decree. Accordingly, by executing this Consent Decree, (i) Ecology agrees that the portions of Claim No. 7181 that assert liabilities with respect to the Site shall be deemed satisfied in full in accordance with the terms of this Consent Decree as of the Effective Date, and (ii) Avista agrees that Claim No. 3140 shall be deemed satisfied in full in accordance with the terms of this Consent Decree as of the Effective Date. The Debtors' claims and noticing agent, Logan & Company, is authorized and empowered as of the Effective Date to withdraw as satisfied Claim No. 3140 and the portions of Claim No. 7181 that assert liabilities with respect to the Site.

LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

21. This Consent Decree shall be subject to approval of the Court. The Debtors shall promptly seek approval of this Consent Decree under Bankruptcy Rule 9019 or other applicable provisions of the Bankruptcy Code.

22. This Consent Decree also shall be lodged with the Court for public notice and comment for a period of not less than thirty (30) days. To the extent, if any, that such lodging

does not satisfy all public notice and comment requirements of the State of Washington laws and regulations, the State of Washington shall take all action necessary during such thirty-day period to satisfy all such requirements. After the conclusion of the public comment period, the State of Washington will file with the Court any comments received, as well as the State of Washington's responses to the comments, and at that time, if appropriate, the Court will be requested by motion of the State of Washington to approve this Consent Decree. The State of Washington reserves the right to withdraw or withhold their consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that this Consent Decree is not in the public interest.

23. If for any reason (i) this Consent Decree is withdrawn by the State of Washington as provided in Paragraph 22, (ii) the Court issues a final order not approving this Consent Decree, or (iii) the Spokane County Superior Court enters a final order not approving the Upriver Dam CAP Consent Decree, or that decree is withdrawn by the State of Washington: (a) this Consent Decree shall be null and void and the Parties shall not be bound hereunder or under any documents executed in connection herewith; (b) the Parties shall have no liability to one another arising out of or in connection with this Consent Decree or under any documents executed in connection herewith; (c) this Consent Decree and any documents prepared in connection herewith shall have no residual or probative effect or value and it shall be as if they had never been executed; and (d) this Consent Decree, any statements made in connection with settlement discussions, and any documents prepared in connection herewith may not be used as evidence in any litigation between or among the Parties.

MISCELLANEOUS

24. This Consent Decree in no way impairs the scope and effect of the Debtors' discharge under Section 1141 of the Bankruptcy Code as to any third parties or as to any claims that are not addressed by this Consent Decree.

25. This Consent Decree represents the complete agreement of the Parties on the matters referred to herein and supersedes all prior agreements, understandings, promises and representations made by the Parties hereto concerning the Site, including the Multi-Site CD and the Upriver Dam RI/FS Consent Decree, except to the extent that the terms of the Multi-Site CD are expressly incorporated herein by reference. The preceding sentence does not apply to the agreements, understandings, and promises made by Avista and Ecology in the Upriver Dam CAP Consent Decree. This Consent Decree may not be amended, modified or supplemented, in whole or in part, without the prior written consent of the Parties hereto and the approval of the Court.

26. This Consent Decree may be executed in counterparts each of which shall constitute an original and all of which shall constitute one and the same agreement.

[Signatures on the Next Page]

THE UNDERSIGNED PARTIES ENTER INTO THIS CONSENT DECREE

FOR THE STATE OF WASHINGTON:

DEPARTMENT OF ECOLOGY

Date: _____

By: _____
James Pendowski, Program Manager
Washington Department of Ecology
Toxics Cleanup Program

ROB McKENNA
Attorney General

Date: _____

By: _____
Steven J. Thiele, WSBA #20275
Assistant Attorney General
Attorney for State of Washington
Department of Ecology

FOR THE DEBTORS:
Kaiser Aluminum & Chemical Corporation

Date: _____

By: _____
John Barneson
Senior Vice President and
Chief Administrative Officer

Date: _____

By: _____
John Donnan
Vice President, General Counsel and
Secretary

FOR AVISTA:

Date: _____ _____

_____

_____

EXHIBIT A

CONSENT DECREE BETWEEN
THE STATE OF WASHINGTON AND AVISTA
("UPRIVER DAM CAP CONSENT DECREE")