

## SETTLEMENT AGREEMENT

ASSESSMENT N83-6-2-3, 3 of 3, ACT 007/007 #8

WHEREAS, Kaiser Steel Corporation has contested both the fact of the violation and the amount of the assessment concerning Violation N83-6-2-3, 3 of 3, ACT 007/007, issued April 25, 1983 by the Utah Division of Oil, Gas & Mining; and

WHEREAS, Kaiser Steel Corporation, the Utah Division of Oil, Gas & Mining and the Utah Attorney General's Office met in a settlement conference on August 17, 1983, to resolve this dispute;

NOW, THEREFORE, Kaiser Steel Corporation, the Utah Board and Division of Oil, Gas & Mining and the Utah Attorney General's Office enter into the following Settlement Agreement:

1. The Board and Division have reviewed the final assessment concerning violation N83-6-2-3, 3 of 3, and have determined use of the civil penalty formula to be demonstrably unjust pursuant to UMC 845.16.

The violation in this matter concerns a seep showing high concentrations of iron at the point of discharge from a coarse refuse pile located within Kaiser Steel Corporation's Sunnyside Mine permit boundary. The coarse refuse pile was constructed prior to enactment of the Federal Surface Mining Control & Reclamation Act of 1977 and State legislation modeled thereafter. The seep also appears to have existed prior to enactment of state and federal coal mining and reclamation standards.

Neither the Division staff nor the representatives from Kaiser Steel Corporation have been able to determine the origin of the seep or whether the seep is a natural phenomenon. Kaiser Steel Corporation is actively working with State officials to address the source of the seep and contain the effluent. The Company has submitted and the State has approved a temporary coarse refuse seep treatment plan which has been implemented by Kaiser Steel Corporation.

The unknown origin of the seep, the fact that the seep existed prior to coal mining and reclamation standards, and the fact that the effluent is being treated by the mining company, constitute exceptional factors which justify a finding that use of the penalty formula is demonstrably unjust.

2. As a result of finding use of the formula in assessment N83-6-2-3 demonstrably unjust, the Division and Board hereby reduce the penalty in said assessment by one-half of the original sum to \$460.00.

3. Within fifteen (15) days of execution of this Agreement, the Division agrees to release to Kaiser Steel Corporation the sum of \$460.00 plus interest from the penalty paid by Kaiser Steel Corporation and currently held in an escrow account.

4. Kaiser Steel Corporation agrees to waive the proceeding set for August 24, 1983 and any further right to contest the fact of violation and the amount of the assessment before the Board of Oil, Gas & Mining as required under UMC 845.18(d)(1), except as such

violation may relate to any possible pattern of violation proceedings under UMC §49.13.

SO AGREED this 26<sup>th</sup> day of August, 1983.

KAISER STEEL CORPORATION

By J. B. Gouney

DIVISION OF OIL, GAS & MINING

By \_\_\_\_\_

BOARD OF OIL, GAS & MINING

By \_\_\_\_\_

ATTORNEY GENERAL, STATE OF UTAH

By Robert W Roberts