

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	Chapter 11
)	
KAISER ALUMINUM CORPORATION, a)	Case No. 02-10429 (JKF)
Delaware corporation, et al.,)	Jointly Administered
)	
Debtors.)	Re: Docket Nos. 6065, 7312, 7705

ORDER APPROVING STIPULATION AND AGREED ORDER TO PERMIT SETOFF OF INTERNAL REVENUE SERVICE CLAIM

The above-captioned debtors and debtors in possession (collectively, the "Debtors"), including Kaiser Aluminum & Chemical Corporation ("KACC"), and the United States of America (the "United States" and, together with the Debtors, the "Parties"), by this Stipulation and Agreed Order (the "Stipulation"), agree as follows:

RECITALS

A. On February 12, 2002, KACC and fourteen affiliates filed separate, voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"). On March 15, 2002, two additional Debtors commenced their chapter 11 cases in the Bankruptcy Court. On January 14, 2003, the nine remaining Debtors commenced their chapter 11 cases in the Bankruptcy Court;

B. All the Debtors' cases have been consolidated for procedural purposes only, and are being administered jointly, in the above-captioned case;

C. The Debtors have filed amended federal tax returns for the years ending December 31, 1997, December 31, 2000 and December 31, 2001, claiming an aggregate tax refund of \$1,635,077.00 (the "Overpayment").

D. The Overpayment of \$1,635,077.00 is the sum of (i) \$89,273.00, the decreased tax liability reported on the 1997 amended return, (ii) \$1,543,068.00, the decreased tax liability reported on the 2000 amended return and (iii) \$2,736.00, a refundable credit allowed for the 2001 tax year.

E. By order dated October 27, 2003 (Docket No. 3102), the Court approved a consent decree settling the environmental claims of the United States, the States of California, Rhode Island and Washington and the Puyallup Tribe of Indians, which, among other things, granted the (i) United States Department of Interior ("DOI"), the National Oceanic and Atmospheric Administration ("NOAA"), the Washington Department of Ecology and the Washington Department of Fish & Wildlife and the Puyallup Tribe of Indians an allowed unsecured claim in the amount of \$5,500,000 in respect of claims related to the Commencement Bay (Hylebos Waterway) site (the "Commencement Bay Claim") and (ii) the Environmental Protection Agency ("EPA" and together with DOI and NOAA, the "Environmental Agencies") an allowed unsecured, nonpriority claim of \$17,828,839 (the "EPA Claim"), both against KACC.

F. By order dated September 29, 2003 (Docket No. 2972), the Bankruptcy Court granted the United States, on behalf of the Bonneville Power Administration, a power marketing administration within the Department of Energy ("BPA" and, collectively with the Environmental Agencies, the "Settling Federal Agencies"), an allowed unsecured claim in the amount of \$3,544,943 (the "BPA Claim") for its claims arising under (i) BPA's March 1998 Service Agreement for Point-to-Point Transmission

Service with KACC and (ii) BPA's January 1978 lease agreement with KACC for the lease of certain transmission equipment.

G. On October 1, 2004, the Court approved a stipulation (Docket No. 5132), pursuant to which, among other things, the Debtors agreed to the setoff of a portion of a refund owed to them by the Department of Homeland Security, U.S. Customs and Border Protection against the BPA Claim, reducing that claim to \$3,303,938.89.

H. On February 1, 2005, the Court approved the Stipulation for Settlement of Controversy Between the Debtors and the United States of America (Docket No. 6065) (the "February 1 Stipulation"). The February 1 Stipulation (i) described an outstanding prepetition tax assessment by the Internal Revenue Service ("IRS") against the Debtors, (ii) contemplated that the IRS would exercise its setoff rights against the Overpayment, and (iii) provided that the remainder of the Overpayment, plus any interest thereon, after the IRS setoff would be setoff against the Settling Federal Agencies' claims as follows: (a) one-half to be applied against the BPA Claim, and (b) the balance to be applied pro rata against the Commencement Bay Claim and the EPA Claim.

I. The parties now agree that the IRS will exercise its right of offset against the Overpayment in the manner set forth in this paragraph. First, as a result of an examination of the 2000 tax year, it was determined that there was a tax deficiency of \$2,551,790, which is being eliminated by means of a carryback from the 2002 tax year.

The Overpayment will be reduced by \$352,237.20 for payment of deficiency interest due on the \$2,551,790 from the original due date of the 2000 return, March 15, 2001,

until the due date of the return for the year in which the carryback arose, March 15, 2003. The Overpayment will also be reduced by \$66,317.42 for payment of deficiency interest due from March 15, 2001 to September 15, 2001 on the tax shown on the original return for the 2000 tax year. Second, as a result of an examination of the 2001 tax year, it was determined that there was a tax deficiency of \$1,957,513, which is being eliminated by means of a carryback from the 2002 tax year. In addition, the tax shown on the original return for the 2001 tax year was not paid and is also being eliminated by means of a carryback from the 2002 tax year. The Overpayment will be reduced by \$231,191.60 for payment of deficiency interest in the same amount, which is the aggregate amount due on the original tax return for the 2001 tax year and the audit assessment for that year. The deficiency interest relating to the 2001 tax year is computed by calculating the interest due from the original due date of the 2001 return until the due date of the return for the year in which the carryback arose and is determined after application of credits from the 1997 and 2000 tax years. Third, the Overpayment is increased by \$301.98 because of credit interest in the same amount allowed on the offset of credits from the 1997 to the 2001 tax year. As a result of the above, there remains available for setoff by the Settling Federal agencies \$985,632.76, plus interest under 26 U.S.C. § 6621 from March 15, 2003 to the date of payment (the "Tax Refund").

J. The Debtors, the IRS and the Settling Federal Agencies wish to resolve their differences with respect to the claims described herein.

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 to this Stipulation and Agreed Order by their attorneys and authorized officials, it is hereby agreed as follows:

1. The IRS is granted relief from the automatic stay of section 362 of the Bankruptcy Code to setoff the Overpayment against the IRS's prepetition tax assessments for restricted interest due on the years ending December 31, 2000 and December 31, 2001, described in Recital I.
2. Once the IRS has setoff the Overpayment against the IRS's prepetition tax assessment, it shall forward the Tax Refund to the Debtors.
3. Once the Debtors receive the Tax Refund, all parties are to assume the duties and responsibilities provided in the February 1 Stipulation.
4. Any plan of reorganization filed by one or more of the Debtors shall not impair in any way the setoff of the Overpayment against the IRS's prepetition tax assessments for restricted interest described in Recital I or the setoff of the Tax Refund in accordance with the February 1 Stipulation.
5. This Stipulation resolves the Objection to Confirmation (D.I. 7705) (the "Objection") filed by the United States of America, on behalf of the Internal Revenue Service, to the Second Amended Joint Plan of Reorganization of Kaiser Aluminum Corporation, Kaiser Aluminum & Chemical Corporation and Certain of Their Debtor Affiliates (D.I. 7312), and accordingly, the Objection is deemed withdrawn.

6. Each party hereto agrees that it has fully participated in the drafting of this Stipulation. The rule of law which provides that ambiguities will be construed against the drafting party in interpreting written instruments shall not be applicable to or used in resolving any dispute over the meaning or intent of this Stipulation or any of its provisions.

7. This is the full and complete agreement of the Parties relating to the Tax Refund and offset, except to the extent that the agreement incorporates the February 1 Stipulation, and each party has entered into this Stipulation voluntarily and without duress.

8. Any disputes regarding the rights arising hereunder shall be governed by federal law.

9. This Stipulation is binding on the Parties' successors and assigns.

10. Nothing in this Stipulation shall limit the United States' right to setoff any additional amounts it may determine are owed to the Debtors against the claims of the Settling Federal Agencies, and any such right is expressly reserved. The Debtors reserve any and all defenses to the assertion of any such rights by the Settling Federal Agencies.

11. This Stipulation does not affect the rights and claims of any federal agency other than the Internal Revenue Service and the Settling Federal Agencies.

Date: December 23, 2005

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SO ORDERED THIS 10th DAY OF January, 2006 ~~2005~~.

Judith K. Fitzgerald
UNITED STATES BANKRUPTCY JUDGE