

November 2, 2000

Mr. George Schuman, Acting Program Manager  
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New Mexico Environment Department  
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SUBJECT: DELETION OF HOMESTAKE MILL SITE FROM NATIONAL PRIORITIES LIST

The U.S. Nuclear Regulatory Commission (NRC) staff has reviewed the New Mexico Environment Department (NMED) letter dated July 13, 2000, concerning the possibility of deleting Homestake Mining Company's (HMC's) Grants Mill site from the U.S. Environmental Protection Agency's (EPA's) National Priorities List (NPL). Although any decision on deletion of the site from the NPL will be made jointly by EPA and the State of New Mexico, the NMED letter identified several items related to this decision based on the NRC's status as the lead Federal Agency responsible for reclamation of HMC's site. The responsibilities of the NRC and the EPA in regulating activities at the Grants Mill site are delineated in a Memorandum of Understanding effective on December 14, 1993 (59 FR 3740).

Specifically, NMED raised questions concerning 1) NRC responsibility for regulating the cleanup of off-site groundwater contamination; 2) NRC's decisions regarding radiological constituents; and 3) the need for the NRC to consult with NMED concerning decisions it makes with regard to corrective actions at the site.

The NRC is required to ensure that 11e.(2) byproduct material at NRC-licensed mill tailings impoundments, is managed in a manner that will provide for the protection of groundwater from the radiological and nonradiological hazards associated with this material, whether the constituents are within the licensed site boundary or outside the licensed site boundary. The groundwater protection standards are those established by the EPA as noted in Criterion 5 of Appendix A to Title 10 Code of Federal Regulations Part 40 (10 CFR 40). Chapter 4.0 "Protecting Water Resources" in NUREG-1620, "Standard Review Plan for the Review of a Reclamation Plan for Mill Tailings Sites under Title II of the Uranium Mill Tailings Radiation Control Act - Final Report," June 2000, discusses how the NRC staff carries out its regulatory responsibilities.

Whether or not HMC is removed from the NPL, HMC must address the issue of offsite groundwater contamination in order for the NRC to terminate its license. HMC has discussed this issue with the NRC and intends to modify its current groundwater Corrective Action Plan to address it. HMC must also modify its surety to specifically include the estimated costs of the offsite cleanup.

G. Schuman

November 2, 2000

Based on the Commission's decision in the August 11, 2000, Staff Requirements Memorandum associated with SECY-99-0277 "Concurrent Jurisdiction of Non-Radiological Hazards of Uranium Mill Tailings," the NRC has exclusive jurisdiction over both the radiological and non-radiological hazards of 11e.(2) byproduct material, which is a change to the NRC staff previous practice of acknowledging concurrent jurisdiction of non-Agreement States over the non-radiological hazards. While it is not clear that this change in position will have any impact on NMED activities whether or not HMC is removed from the NPL, any such impacts should be discussed and clarified in a meeting between the NRC staff and NMED staff.

The NRC intends to consult with NMED on decisions concerning the Grants Mill site (such as the corrective action plan for off-site groundwater contamination or an HMC petition for groundwater alternate concentration limits), and is committed to resolving the State's concerns prior to termination of HMC's license and transfer of the site to the U.S. Department of Energy for long-term care. This commitment is specified in the "License Termination/Site Transfer Protocol between the U.S. Department of Energy and the U.S. Nuclear Regulatory Commission" signed by J. Holonich (NRC) on January 7, 1998, and Jack Tillman (DOE) on February 2, 1998.

If you have any questions regarding this letter, please contact the NRC Project Manager for the HMC site, Ken Hooks, at (301) 415-7777 or by e-mail to [krh1@nrc.gov](mailto:krh1@nrc.gov).

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room).

Sincerely,

**/RA/**

Philip Ting, Chief  
Fuel Cycle Licensing Branch  
Division of Fuel Cycle Safety & Safeguards  
Office of Nuclear Material Safety and Safeguards

Docket No.: 40-8903  
License No.: SUA-1471

cc: Donna Bergman-Tabbert, DOE Grand Junction  
Maura Hanning, NMED, Santa Fe  
Petra Sanchez, EPA Region 6, Dallas  
Roy Cellan, HMC Grants, NM  
Birgit Landin, NMED, Santa Fe  
Mary Heather Noble, NMED, Santa Fe

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