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UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

December 19, 1994

Molycorp Inc.
ATTN: Ms. Barbara Dankmeyer
Resident Manager
300 Caldwell Avenue
Washington, Pennsylvania 15301

SUBJECT: REVIEW OF "GUARANTEE TO DEMONSTRATE FINANCIAL RESPONSIBILITY FOR
DECOMMISSIONING ACTIVITIES U.S. NRC LICENSE NO. SMB-1393"
DATED AUGUST 31, 1994

Dear Ms. Dankmeyer:

The Nuclear Regulatory Commission staff has reviewed your Decommissioning Funding Plan for the Molycorp, Inc. Washington, Pennsylvania, site and finds that additional information is necessary to complete the review and ensure compliance with NRC requirements. Specifically, you should provide the following items:

- (1) Submit Additional Detail on the Cost Estimate (Regulatory Guide 3.66, Appendix F)

Your cost estimate consists of fewer than three pages of discussion summarizing cost estimates of at least \$5.75 million of decommissioning activities. The discussion includes a paragraph describing remediation costs of \$3 million, and a paragraph on each of the four waste disposal options that range in cost from \$2.75 million to \$5 million. This estimate is not sufficiently detailed to allow NRC to confirm the accuracy and adequacy of the cost estimates as the basis for financial assurance.

Appendix F of NRC's Regulatory Guide 3.66, "Standard Format and Content of Financial Assurance Mechanisms Required for Decommissioning Under 10 CFR Parts 30, 40, 70, and 72," June 1990, provides information on how you should estimate break out costs for any of six major decommissioning activities, as needed (planning and preparation, decontamination and dismantling; packaging, shipping and disposal; restoration of contaminated areas; final radiation surveys; and site stabilization and long-term surveillance). You should also assure that the cost estimates that you provide systematically present the estimated labor required (and associated labor rates), as well as the cost of required materials. Moreover, Appendix C of NUREG/CR-1754, Addendum 1, identifies the various steps comprising two decommissioning alternatives: 1) site stabilization (which includes planning and preparation; mobilization/demobilization; site stabilization; and revegetation), and 2) removal (which includes planning and preparation; mobilization and demobilization; removal of overburden; excavation and packaging of contaminated material; transportation and disposal of contaminated material at a licensed disposal facility; backfill and restoration of the site; and a termination site survey).

Even if you have not yet selected which of the four waste disposal options you will use, you should be able to describe in detail the \$3 million remediation effort (which does not seem to depend on the waste disposal option selected), as well as the high-cost waste disposal option that you used in assessing the adequacy of financial assurance coverage.

Consequently, you should submit a detailed decommissioning cost estimate using the "Cost Estimating Tables" in Appendix F of Regulatory Guide 3.66, as well as the information in Appendix C of NUREG/CR-1754, Addendum 1. Any revised cost estimate should be comprehensive, organized, and sufficiently detailed to allow NRC to confirm that you have provided reasonable cost estimates for all major decommissioning activities. You should also submit a description of the facility, including a detailed site map showing the locations of the contaminated slag pile on the southern area of the property and the estimated extent of soil contaminated throughout the site that serves as the basis for the cost estimate. The estimate should also identify the anticipated disposal site(s) to be used and note the site's distance from the facility to ensure that you have properly estimated waste shipping costs.

- (2) Clarify that No Credit was Taken for Salvage Value (Regulatory Guide 3.66, page 1-10)

The cost estimate should state whether credit has been taken for any salvage value that may be realized with the sale of potential assets after decommissioning. This issue is of particular concern given that one of the waste disposal options that you are considering involves export of the waste as a raw material to a facility in Brazil for extracting thorium and columbium from the contaminated slag. If estimated salvage value credits are not fully realized, the cost estimate may be significantly low. You should clarify that you have not included in your cost estimate credit for any salvage value that may be realized with the sale of potential assets at the time of decommissioning.

- (3) Incorporate a Contingency Factor into the Decommissioning Cost Estimates (NUREG/CR-1754, Addendum 1)

You have not made any explicit allowance for cost estimate contingencies. A contingency factor should be included in the decommissioning cost estimate. Incorporating a contingency in cost estimates helps ensure coverage for unexpected circumstances that could raise decommissioning costs. NUREG/CR-1754 uses a contingency factor of 25 percent in its cost estimates for each of six reference laboratories. You should incorporate a contingency factor of at least 25 percent in your decommissioning cost estimates or justify an alternate assumption.

- (4) Describe the Means to be Used for Adjusting Cost Estimates and Associated Funding Levels over the Life of the Facility (10 CFR 30.35(e))

You should describe the means you will use to adjust decommissioning cost estimates and associated funding levels over the life of the Washington facility. With the exception of a one-time revision of your cost estimate on or before April 1, 1995, you do not provide such a description in your decommissioning funding plan. You should use the method described in Regulatory Guide 3.66 for adjusting cost estimates or justify an alternate approach. You should commit to updating the cost estimate with current prices for goods and services at the time of license renewal, when you submit your decommissioning plan, or when the amounts/types of material at the facility change. Adjustments should be made to account for inflation, for other changes in prices of goods and services, for changes in facility conditions, and for changes in expected decommissioning procedures.

- (5) Demonstrate that a Parent-Subsidiary Relationship Exists between the Guarantor and the Licensee, or Submit a Different Method of Financial Assurance (Regulatory Guide 3.66, page 3-23)

A parent-subsidiary relationship must exist between a guarantor and a licensee in order for the parent guarantee to be a valid method of financial assurance under NRC regulations. Licensees using parent company guarantees must submit evidence that the corporate parent has majority control of the licensee's voting stock.

The information in your submission does not include evidence that the corporate parent has majority control of the licensee's voting stock. You must provide appropriate evidence, such as incorporation agreements (i.e., copies of submissions to the appropriate State Corporation Commission), Schedule 22 from the guarantor's SEC form 10K, or a certified corporate resolution that you and your parent guarantor are separate and distinct corporate entities and that the parent controls a majority of the voting stock of the subsidiary. If a parent-subsidiary relationship cannot be demonstrated, then a parent guarantee is not permitted by the regulations and you must submit another type of financial assurance mechanism.

- (6) Revise the Submitted Guarantee/Financial Test (Regulatory Guide 3.66, pages 3-21 through 3-24 and pages 4-35 through 4-34)

Regulatory Guide 3.66 provides specific guidance on how licensees may meet the more general criteria in 10 CFR Part 30, Appendix A. The NRC staff has determined that adherence to this guidance provides reasonable assurance of the availability of funds for decommissioning based on the licensee obtaining a parent company guarantee that funds will be available for decommissioning costs and on a demonstration that the parent company passes a financial test.

The model format for a parent company guarantee should be similar to that presented in Regulatory Guide 3.66, pages 4-35 through 4-44. The documents prepared by you for the financial test demonstration and for the parent

company guarantee agreement should be separate as specified in Regulatory Guide 3.66. The guarantee agreement in Regulatory Guide 3.66 includes 17 specific recitals that define various provisions of the guarantee; all 17 of these should be included in your revised parent company guarantee agreement.

- (7) Submit Evidence that the Party Signing the Guarantee is Authorized to Represent the Guarantor (Regulatory Guide 3.66, page 3-23)

The licensee did not submit any evidence to demonstrate that the chief financial officer is authorized to represent the guarantor in the parent company guarantee. Evidence of authority to represent the guarantor is necessary, as recommended by Regulatory Guide 3.66, page 3-23, to ensure the validity and enforceability of the mechanism. You should provide a copy of the corporate by-laws or another form of evidence that the signatory is authorized to sign the guarantee on behalf of the parent company.

- (8) Provide Additional Information Regarding the Guarantor's Bond Rating (Regulatory Guide 3.66, page 4-38)

The submitted financial test demonstration states that the guarantor has a current rating, from Standard and Poor's, of at least "BBB" on its most recent bond issues. The submission does not indicate the dates of issuance and of maturity for the rated bonds, as called for in Regulatory Guide 3.66, page 4-38, nor does it provide any documentation confirming the "BBB" rating. This information is needed by NRC both to confirm the accuracy of the bond rating and to ensure that the type of debt being rated is acceptable to NRC (i.e., it must be currently outstanding long-term debt that is unaffected by credit enhancements such as collateral or insurance). You should provide the dates of issuance and maturity for the guarantor's most recent bond issuance, information on the type of debt the bonds represent, as well as documentation confirming the guarantor's current bond rating.

- (9) Submit Required Letter from the Licensee's Chief Executive Officer (Regulatory Guide 3.66, page 3-13)

You should provide a letter from your Chief Executive Officer (CEO) certifying that Molycorp is a going concern and a statement about its positive tangible net worth. In the letter, you must certify that Molycorp is a going concern, identify the amount of its tangible net worth, specify whether the firm is required to file a form 10K with the U.S. Securities and Exchange Commission, and list the date on which the firm's fiscal year ends.

- (10) Other Important General Issues and Comments

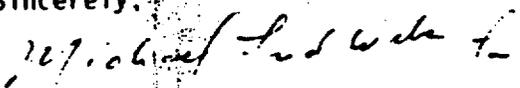
Your submissions (both the cover letter to NRC and the guarantee/financial test demonstration) incorrectly reference license SMB-1393 rather than the correct License No. SMB-1393. Please correctly reference your license number as SMB-1393 in any future correspondence.

Finally, NRC needs originally signed duplicates of all documents submitted to NRC as part of this financial assurance review process in order to be certain that the financial assurance mechanism is enforceable. Please provide an additional properly signed document where only a single properly signed document was initially provided, or two such documents where none has been received but are necessary as indicated in Regulatory Guide 3.66.

We will continue our review of your letter upon receipt of this information. Please reply in duplicate, within 30 days. In the interest of achieving timely approval of your submittals, do not hesitate to contact NRC informally with any questions you may have.

If you have any questions or require clarification on any of the information stated above, please contact me at 301-415-6701.

Sincerely,



LeRoy S. Person, Project Manager
Low-Level Waste and Decommissioning
Projects Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

cc: JKinneman, NRC Region I
JMatviya, PADER-SW
Jrusko, PADER-SW

Docket No. 40-879
License No. SMR-1393