



GARY E. JOHNSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT

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PETER MAGGIORE
SECRETARY

PAUL RITZMA
DEPUTY SECRETARY

February 28, 2001

Mr. Myron O. Knudson
Director, Superfund Division Region 6
United States Environmental Protection Agency
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

40-8903

RE: Site Deletion From National Priorities List
Homestake Mining Company Superfund Site

Dear Mr. Knudson:

The New Mexico Environment Department (NMED) is responding to your letter dated January 29, 2001 requesting the concurrence of the State of New Mexico (State) on EPA's intent to delete the Homestake Mining Company Superfund Site (Site) from the National Priorities List (NPL). Over the last year, the State has been working closely with EPA to move towards deletion of the Site from the NPL. However, at this time, the State must respectfully decline concurrence to delete the Site, based on the reasons stated below. These reasons were also discussed with your staff during a telephone conference call conducted on December 20, 2000.

The Nuclear Regulatory Commission (NRC) is currently the lead agency overseeing ground water contaminant clean-up at the site, with EPA concurrence provided through a Memorandum of Understanding between the two federal agencies. The NMED is involved with site clean-up through management assistance under CERCLA, and State-issued discharge permits for reclamation waters. In the event that the Site would be deleted from the NPL, remediation oversight would continue under NRC authority for radiological constituents, and the State would assume abatement oversight for non-radiological contamination in accordance with state ground water regulations. The State was working closely with stakeholders to transition oversight authorities such that deletion could proceed.

The State recently reconsidered its support of site deletion from the NPL in response to a draft proposed rulemaking issued by the NRC that states non-agreement states, such as New Mexico, would no longer have jurisdiction over non-radiological constituents at NRC licensed facilities.

nmss@public

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The NRC draft rulemaking proposes to reverse a 21-year NRC policy of concurrent jurisdiction with non-agreement states over non-radiological hazards associated with byproduct material, as defined in section 11e. (2) of the Atomic Energy Act. NMED requests to postpone deletion of the Site until it can be determined how the NRC proposed rulemaking may impact the State's authority over non-radiological constituents at the Site.

NMED appreciates the continued supportive working relationship with EPA, and the commitment to protect the environment. If you have any questions, please call me at (505) 827-2855, or have your staff contact Birgit Landin of my staff at (505) 827-9669.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Maggione for". The signature is stylized and cursive.

PETER MAGGIORE
Secretary

PM:bk1

cc: Petra Sanchez, EPA Region 6 Remedial Project Manager
George Schuman, NMED Superfund Oversight Section
Ken Hooks, NRC