

August 14, 2001

MEMORANDUM TO: Thomas McLaughlin, Project Manager
Facilities Decommissioning Section
Decommissioning Branch, NMSS/DWM

FROM: Robert A. Nelson, Chief **/RA/**
Facilities Decommissioning Section
Decommissioning Branch, NMSS/DWM

SUBJECT: REVIEW OF MOLYCORP, INC. PARENT COMPANY GUARANTEE

By letter dated May 30, 2001, Molycorp, Inc. submitted financial assurance documents to assure funds will be available for decommissioning its facilities in York and Washington, PA.

Our review determined that the licensee must revise the auditor's special report submitted to support the financial test demonstration. Molycorp was informed earlier, by letter dated December 15, 2000, that its auditor's special report must be revised, but it has not done so. The licensee will not be in compliance with the financial assurance requirements of Appendix A to 10 CFR Part 30 until an adequate revision of the special report is received. Details are supplied in the attached request for additional information.

Docket No.: 04008778, 04008794
License No.: SMB-1393, SMB-1408

Attachment: Request for Additional Information

Contact: Thomas L. Fredrichs, NMSS/DWM/DCB
(301) 415-5971

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| NAME | T.Fredrichs | | R.Nelson | | | | | |
| DATE | 8 /14 /01 | | 8 /14/01 | | / /01 | | / /01 | |

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REQUEST FOR ADDITIONAL INFORMATION MOLYCORP, INC.

PARENT COMPANY GUARANTEE

INTRODUCTION

By letter dated July 14, 2000, Molycorp submitted Revision 2 of its Decommissioning Plan. As part of that plan, Molycorp submitted a parent company guarantee as financial assurance for decommissioning costs. That submittal was reviewed by the staff and a request for additional information sent to the licensee by letter dated December 15, 2000.

By letter dated May 30, 2001, Molycorp, Inc. submitted a revised parent company guarantee prepared by its parent, Unocal, as financial assurance for decommissioning its facilities in York and Washington, PA. The submittal contained revised decommissioning cost estimates. The parent company guarantee stated that Unocal guarantees that funds will be available to cover the costs of decommissioning up to the amount of the cost estimate.

The May 30, 2001 submission addresses financial assurance for decommissioning costs for license nos. SMB-1393 and SMB-1408, issued under 10 CFR Part 40. The U.S. Nuclear Regulatory Commission staff reviewed the financial assurance instruments in accordance with the guidance provided in NUREG-1727, "NMSS Decommissioning Standard Review Plan," and the NRC's regulations. The staff did not review the cost estimates in detail, however, it noted that the estimates for both sites increased from the July 14, 2000 figures.

The staff's review determined that the licensee must revise the auditor's special report submitted to support the financial test demonstration required by Appendix A to 10 CFR Part 30. Molycorp was informed earlier, by letter dated December 15, 2000, that its auditor's special report must be revised, but it has not done so. The licensee will not be in compliance with the financial assurance requirements of Appendix A to 10 CFR Part 30 until an adequate revision of the special report is received. Details are discussed below.

SPECIFIC COMMENTS

- (1) Submit A Revised Independent Certified Public Accountant's Special Report (10 CFR Part 30, Appendix A.II.B, and NUREG-1727, Appendix F, Section 3.8, page F116)**

10 CFR 30, Appendix A.II.B, states:

"The parent company's independent certified public accountant must have compared the data used by the parent company in the financial test, which is derived from the independently audited, year end financial statements for the latest fiscal year, with the amounts in such financial statement."

The licensee's submission includes a special report from the guarantor's independent certified public accountant. The report states that the accountant has audited the guarantor's financial statements, dated December 31, 2000. The accountant notes that the guarantor "has prepared documents to demonstrate its financial responsibility under the Nuclear Regulatory Commission's (NRC) financial assurance regulation, 10 C.F.R. Part 30 Appendix A." The accountant's special report then continues as follows:

“In connection with our audit, no matters came to our attention that caused us to believe that the Company failed to comply with the accounting provisions of 10 C.F.R. Part 30 Appendix A. However, our audit was not directed primarily toward obtaining knowledge of such noncompliance.”

In context, the “audit” mentioned in the special report can only refer to the accountant’s audit of the guarantor’s year end financial statements, dated December 31, 2000. This language does not state that the guarantor’s accountant has compared the data used in the financial test demonstration, dated May 25, 2001, with the amounts in the guarantor’s year end financial statements. The auditor’s disclaimer, that “our audit was not directed primarily toward obtaining knowledge of such non-compliance,” strongly implies that the auditor did not perform the comparison required by the regulations. This implication may be fairly drawn because: 1) the auditor’s opinion of the year end financial statements was issued on February 14, 2001, and could not have included the financial test dated May 25, 2001; 2) the auditor does not state that it performed the comparison required by the regulations after it issued its opinion of February 14; and 3) there is no supporting documentation indicating that the amounts in the financial test were compared with the amounts in the year end financial statements.

The comparison required by 10 CFR Part 30, Appendix A.II.B is necessary to ensure that the numbers used to demonstrate the guarantor’s ability to pass the financial test represent the actual, reported financial results of the guarantor. In order to demonstrate compliance with the regulation, the licensee must submit a revised independent public accountant’s special report. The revised report must contain a statement that the independent certified accountant has performed the comparison and that the comparison found agreement between the amounts.

An acceptable format for the special report can be found on page F116 of *NUREG-1727, “NMSS Decommissioning Standard Review Plan.”*

The staff concludes that Molycorp’s May 30, 2001 submittal of financial assurance for decommissioning does not comply with regulatory requirements due to the inadequate auditor’s special report. Furthermore, the staff notes that Molycorp was informed earlier, by letter dated December 15, 2000, that the change identified above is necessary. In order to comply with the regulations, the licensee must submit a revised auditor’s special report as described above.

OTHER ISSUES

The decommissioning cost estimates submitted for both the York and Washington facilities identify them as “Part 30 Source Materials Licenses.” In fact, the licenses were issued under 10 CFR Part 40. This error should be corrected the next time the cost estimates are submitted for review.