

August 21, 2002

Mr. Al Cox
Homestake Mining Company
P.O. Box 98
Grants, NM 87020

SUBJECT: REQUEST FOR ADDITIONAL INFORMATION CONCERNING THE 2002
SURETY FINANCIAL DOCUMENTS AND DECOMMISSIONING COST
ESTIMATES FOR THE HOMESTAKE URANIUM TAILINGS SITE
(TAC# L52453)

Dear Mr. Cox:

The U.S. Nuclear Regulatory Commission (NRC) staff has reviewed the parent company guaranty and supporting financial documents dated June 20 and June 26, 2002, and the decommissioning cost estimates that you sent July 22, 2002 (incorrectly dated April 7), for the 2002 surety for the Homestake uranium tailings site in Milan, New Mexico. This data was required even though the NRC amended the Homestake Mining Company License, SUA-1471, to increase the surety amount from \$24 million to \$35.2 million, as discussed in the NRC letter dated May 10, 2002. The NRC staff cannot recommend approval of these submittals because additional information is needed, as discussed in the enclosure.

In addition, your letter of July 22, 2002, stated that the revised total cost estimate is \$35.8 million. An adjustment to the surety amount will not be required until the NRC staff has completed its review of the revised detailed cost estimates. You should provide the revised estimates and financial documents within 30 days of receipt of this letter.

If you have questions concerning this letter or the enclosure, contact the NRC Project Manager for your site, Elaine Brummett, at 301-415-6606 or by e-mail at esb@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

A. Cox

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Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm.html> (the Public Electronic Reading Room).

Sincerely,

/RA/

Daniel M. Gillen, Chief
Fuel Cycle Facilities Branch
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Docket 40-8903
License SUA-1471

cc: R. Ingersoll, Barrick
R. Haddock, Barrick
M. Purcell, EPA

Enclosure: Request for Additional Information

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Enclosure: Request for Additional Information

DISTRIBUTION: **(TAC NO L52453)**

Accession No. ML022350473

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REQUEST FOR ADDITIONAL INFORMATION
CONCERNING THE 2002 SURETY FINANCIAL DOCUMENTS
AND DECOMMISSIONING COST ESTIMATES FOR THE
HOMESTAKE URANIUM TAILINGS SITE

FINANCIAL DOCUMENTS

The annual surety up-date is to include four financial documents, one of which is the parent company guaranty, as required by License Condition 28. In addition, the staff evaluated the parent company guaranty and supporting documents for compliance with Criteria 9 and 10 of Appendix A to CFR Part 40, and conformance to regulatory guidance contained in the "Technical Position of Financial Assurances for Reclamation, Decommissioning, and Long-term Surveillance and Control of Uranium Recovery Facilities," and NUREG-1727, "NMSS Decommissioning Standard Review Plan."

(1) Submit a copy of the parent company's audited annual financial statements for the most recent fiscal year, including the auditor's opinion on the financial statements.

NRC regulatory guidance directs parent company guarantors to submit their audited annual financial statements, including the auditor's opinion on the financial statements, along with the financial assurance instruments. The financial statements present a concise report on the financial condition of the company, and include notes concerning financial details important to evaluating the company's ability to continue to meet the requirements of a parent company guarantor.

(2) Revise Recital 14 of the parent company guaranty to include specific agreement by the licensee to be bound jointly and severally liable for reasonable litigation costs.

Recital 14 states: "Guarantor agrees that all bound parties shall be jointly and severally liable for all reasonable litigation costs" However, NRC regulatory guidance provides for specific agreement by the licensee to be liable for litigation costs incurred by the NRC in a successful effort to enforce the agreement against the Guarantor or licensee. This provision assures that corporate reorganization will not preclude the NRC from collecting reasonable costs if litigation becomes necessary to enforce the agreement.

Therefore, the parent company guaranty must be revised to include specific agreement by the licensee to be bound jointly and severally liable for reasonable litigation costs. An acceptable revision could read: "Guarantor and licensee agree that all bound parties shall be jointly and severally liable for all reasonable litigation costs" Typographical errors in the parent company guaranty should be corrected when this revision is made.

DECOMMISSIONING COST ESTIMATES

In order to approve the surety cost basis, as required by Part 40, Appendix A, Criteria 9 and 10, the staff must have information indicating that all anticipated decommissioning activities are

Enclosure

addressed, based on cost as of approximately March 2002, for a third party to accomplish each task. The submittal of July 22, 2002, has 44 cost categories and indicates that most of these costs were based on “previous work” or “prior year’s costs.” Unit cost and unit measurement (cubic yard, acre, ton, or number of survey monuments) for each major task were not provided so staff could not assess if activities described in the Decommissioning Plan were adequately funded. See the NRC letter of May 10, 2002, and NUREG-1620, Appendix C.

(3) Demonstrate that the costs reflect the price to accomplish the work by a third party in 2002 or later.

One method to accomplish this is by noting the applicable date of the estimate and applying the Consumer Price Index to reflect probable costs as of March 2002 (90 days before the surety anniversary date of June 30). Alternatively, provide costs using quantities and standard industry unit costs like those found in RS Means.

(4) Demonstrate that all activities associated with decommissioning (such as soil cleanup, personnel monitoring, radiation measurements and surveys of materials) and with license termination (preparation of completion reports and land transfer) have been included.

The submitted attachment indicates under “Mill Facilities” (page 1 of 8), a zero cost for soil cleanup (although a cost for cleanup verification is indicated on page 6 for the year 2006) and no category for the radon flux measurements required when the radon barrier is completed. Under “Reclamation Plan” (page 6 of 8), there is a cost for “health physics” but the included activities are not presented.

(5) Demonstrate that the current Long-Term Surveillance fee of approximately \$664,000 is included in the total cost.

The submittal (attachment page 6 of 8) indicates the possible increase in the fee due to inflation (\$15,000 to \$20,000 each year) until the year 2013, but the base fee is not evident.