

January 7, 2003

Docket No. 04008980
EA No. 02-254
MN No. 02-45

License No. SMB-1541

MEMORANDUM TO: George Pangburn, Director */RA/*
Division of Nuclear Materials Safety

FROM: Ronald R. Bellamy, Chief
Decommission and Laboratory Branch

SUBJECT: PREDECISIONAL ENFORCEMENT CONFERENCE WITH
HERITAGE MINERALS, INC.

Attached is the background information for the Predecisional Enforcement Conference to be held in the Public Meeting Room at 10:00 a.m., on January 8, 2003. The conference will include a discussion of the apparent violation based on the licensee's failure to complete decommissioning of the Lakehurst, New Jersey facility to meet NRC timeliness requirements, as described in the NRC Inspection Report No. 2001-001.

A briefing is scheduled for Wednesday, January 8, 2003, at 9:00 a.m. in the DNMS Conference Room.

Attachments:

1. Notice of Licensee Meeting
2. Inspection Report No. 04008980/2001001
3. Draft Notice of Violation
4. Inspection History
5. Letter to Heritage Minerals dated 2/14/02
6. Letter to R. Bellamy dated 3/26/02
7. Letter to Hovnanian Industries dated 4/22/02
8. Letter to C. Gordon dated 6/02
9. Letter to Heritage Minerals dated 11/22/02

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Inspection History

The following table presents the inspection history between NRC and HMI staff and representatives after DP approval.

<u>DATE</u>	<u>ACTION</u>	<u>SUMMARY</u>
10/19/99	NRC letter to HMI	Decommissioning Plan approved
8/8/00	NRC inspection	Determined status of site security, rad controls; discuss progress for contractor selection
8/16/00	NRC IR 2000-01 issued	Requested HMI to keep NRC informed about contractor negotiations
9/20/00	NRC letter to HMI	NRC concerned about slow progress for contractor selection. HMI schedule to complete all activities by 10/19/01 requested w/in 30 days
10/24/00	HMI response letter to NRC	Contractor selection expected before end CY00. Schedule TBD after contractor assigned.
12/29/00	NRC letter to IUC	License amendment authorizing HMI material to be accepted as alternate feed
3/20/01	Management meeting	Discussions related to delays to implement the DP held with HMI property owner and staff, NJDEP representatives, and Mayor, Manchester Twp., NJ.
6/7/01	HMI letter to NRC	Contracts approved for: decommissioning work, IUC receipt of material, and rail transport to IUC.
6/28/01	Site inspection	Observed preparation work for decommissioning activities.
7/11, 16-17, and 8/1/01	Site inspections	Observed monazite pile removal and intermodal container loading and survey. Interviewed contract workers.
9/24/01	HMI letter to NRC	Notification that site cleanup to be completed and final status surveys expected to be submitted to NRC to meet 10/19/01 deadline.
9/26/01	Site inspection	Inspected site to observe remediated areas and determine readiness for NRC confirmatory survey.
11/28/01	RSI (HMI contractor) Final Status Survey Report	Survey data showed mills and outdoor areas remediated to meet DP commitments and NRC release guidelines.
12/10-13/01	Site inspection	ORISE confirmatory survey
1/22/02	Management meeting	Presentation of ORISE confirmatory survey results showed contaminated soil did not meet NRC unrestricted release guidelines. Discussed ORISE survey methodology for taking soil samples and measuring surface contamination.
2/14/02	NRC letter to HMI	Transmittal of preliminary ORISE survey data

<u>DATE</u>	<u>ACTION</u>	<u>SUMMARY</u>
2/26/02	Site inspection	Examined contaminated areas identified in ORISE report; discussed remediation schedule.
3/26/02	HMI letter to NRC	HMI recognized that additional sampling in the monazite pile area was needed. However, the licensee noted that all identified contamination in mills and pile area not due to HMI operations.
4/10/02	NRC letter to HMI	Transmittal of ORISE report. Request to address report issues. RAI if HMI to pursue exemption to decommissioning timeliness requirements. Confirmation of management meeting to be held on 4/23/02.
4/15/01	HMI letter to NRC	Transmittal of final status survey report
4/22/02	RSI letter to HMI (cc to NRC)	ORISE survey results overstated amount of contaminated residual material on surfaces.
4/23/02	Management meeting	Licensee discussed details of near-term actions identified in March 26, 2002 letter.
5/9/02	Site inspection	Toured licensed areas with NMSS staff to evaluate contamination to be considered in staff's site dose assessment.
6/20/02	HMI letter to NRC	Provided contractor and third party evaluations which disagreed with ORISE survey techniques.
8/5/02	HMI letter to NRC	Provided proposed sampling protocol to identify potential licensable material in outdoor areas (draft submitted 7/15/02).
7/16/02-10/23/02	Technical Assistance Request (TAR) panel and NMSS review	Provided HMI information to NMSS staff under TAR to resolve overcounting issues. Results supported ORISE survey techniques.
11/22/02	NRC letter to HMI	Transmitted TAR evaluation for measurement of residual material on surfaces.
11/22/02	HMI letter to NRC	Submitted detailed report of site process history prior to and including HMI ownership.

DRAFT NOTICE OF VIOLATION

Heritage Minerals, Inc.
Lakehurst, New Jersey

Docket No. 04008980
License No. SMB-1541

During an NRC inspection conducted during the period June 28, 2001- December 18, 2002, one violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy), NUREG-1600, the violation is listed below:

- A. 10 CFR 40.42 (h)(1) requires that "licensees shall complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than 24 months following the initiation of decommissioning."

Contrary to the above Heritage Minerals, Inc. failed to complete the decommissioning of its Lakehurst, New Jersey facility by October 19, 2001, or request an alternative schedule in accordance with 10 CFR 40.42 (i).

This is a Severity Level III violation (Supplement VI)

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance will be achieved is already adequately addressed on the docket. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator, Region I, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, any response which contests an enforcement action shall be submitted under oath or affirmation.

Your response will be placed in the NRC Public Document Room (PDR) and on the NRC Web site at <http://www.nrc.gov/reading-rm.html> . To the extent possible, it should, therefore, not include any personal privacy, proprietary, or safeguards information so that it can be made publically available without redaction. However, if you find it necessary to include such information, you should clearly indicate the specific information that you desire not to be placed in the PDR, and provide the legal basis to support your request for withholding the information from the public.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Notice of Violation
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Dated This ____ day of January 2003.

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