



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

January 17, 2003

EA No. 02-254

Docket No. 04008980

License No. SMB-1541

Edele Hovnanian
Vice President
Hovnanian Industries
One Hovchild Plaza
4000 Route 66
Tinton Falls, NJ 07753

SUBJECT: JANUARY 8, 2003 PRE-DECISIONAL ENFORCEMENT CONFERENCE
SUMMARY FOR HERITAGE MINERALS, INC. (HMI)

Dear Ms. Hovnanian:

This letter confirms our discussions from the pre-decisional enforcement conference held between the NRC staff and you on January 8, 2003 at our King of Prussia, Pennsylvania office. The meeting was held to discuss potential NRC enforcement action due to HMI's failure to complete decommissioning of the Lakehurst, New Jersey site within the required two-year period following NRC approval of the decommissioning plan. The NRC determined that your decommissioning efforts were not completed following independent confirmatory surveys performed by our contractor, the Oak Ridge Institute for Science and Education (ORISE), which showed residual contamination remained above NRC release limits for unrestricted use.

As noted in the attached summary, the enforcement conference focused on your plans and schedule to address necessary remediation of the contaminated areas in soil and mill buildings. Within 60 days of the date of the conference, you agreed to provide us with a response to the following actions:

1. Request an NRC license amendment to remediate additional contaminated soil identified in two documents submitted to NRC by your counsel, A. J. Thompson, to meet commitments in the approved decommissioning plan. These documents are the Heritage Minerals, Inc. Process History, dated November 22, 2002, and the Characterization (Sampling) Survey, dated December 20, 2002. This amendment request should include a schedule to assure that any necessary cleanup is completed by October 31, 2003.
2. Provide a plan and schedule to complete decontamination and decommissioning of the wet and dry mill buildings using NRC-accepted methodology for measurement of surface contamination on structures and equipment.

E. Hovnanian
Hovnanian Industries

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As noted in our December 23, 2002 letter to you, the conference was held to obtain information to assist the NRC in making an enforcement decision. This decision will remain in abeyance pending completion of the above items. Should you have any questions, please contact me at (610) 337-5281.

Thank you for your cooperation.

Sincerely,

Original signed by George Pangburn

George Pangburn, Director
Division of Nuclear Materials Safety

Enclosures: (1) Attendee list
(2) Meeting summary

cc:

Anthony J. Thompson, Esquire
Pat Gardner, NJDEP

E. Hovnanian
Hovnanian Industries

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NRC Pre-Decisional Enforcement Conference

Heritage Minerals, Inc.

January 8, 2003

List of Attendees

Name

Affiliation

Joseph Nick	NRC, Region I
George Pangburn	NRC, Region I
Francis Costello	NRC, Region I
Ronald Bellamy	NRC, Region I
Craig Gordon	NRC, Region I
Dominic Orlando	NRC, NMSS, Division of Waste Management (by phone)
Sally Merchant	NRC, Office of Enforcement (by phone)
Edele Hovnanian	Heritage Minerals, Inc.
Anthony Thompson	Counsel for Heritage Minerals, Inc.
John Lord	Heritage Minerals, Inc.
Tom Bracke	Radiation Sciences, Inc.
Patricia Gardner	New Jersey DEP
Nancy Stanley	New Jersey DEP

Enclosure (1)

Meeting Summary

On January 8, 2003, a pre-decisional enforcement conference was held between NRC staff and representatives from Heritage Minerals, Inc. (HMI) at NRC's Region I Office in King of Prussia, Pennsylvania. The conference was held to discuss the circumstances surrounding HMI's failure to complete decommissioning of the Lakehurst, New Jersey site within the required two-year period following NRC approval of the decommissioning plan. Staff from the New Jersey Department of Environmental Protection and two members of the public were also in attendance. Staff from NRC's Office of Nuclear Materials Safety and Safeguards and Office of Enforcement participated by telephone.

Region I staff summarized the NRC inspection history and identified an apparent violation based upon the delay associated with HMI's decommissioning activities. NRC had previously indicated that confirmatory measurements showed residual contamination remaining in outdoor areas and on surfaces of structures in the mill buildings. In response to the NRC findings, HMI performed an historical site assessment which identified operational issues about handling of monazite sands by previous owners. HMI developed a sampling plan to characterize additional contaminated areas based upon information obtained from the historical site assessment and current site status (after shipment of the monazite pile). Licensee representatives presented results of followup actions, including a discussion of commitments to complete site remediation for outdoor areas and decommissioning of the mills and internal structures.

Outdoor areas

The licensee explained that a mass-balance review of shipped material showed the total amount of material that was considered contaminated and shipped offsite exceeded twice the amount processed and placed in the monazite pile area by HMI. In the document "Heritage Minerals, Inc. Process History," dated November 22, 2002, the licensee determined that contaminated soils in the area east and south of the dry mill resulted from operations of HMI and previous site owners prior to licensing. According to information reported by former workers employed while the site was still active, the majority of material in these areas resulted from ASARCO, Inc. (the previous site owner/operator) mineral recovery operations. At the conference, HMI representatives stated their belief that they needed 30 days to coordinate with ASARCO to review analysis results and resolve which party will be financially responsible for remediation at the site.

Enclosure (2)

The areas east and south of the dry mill were resampled by HMI's contractor, Radiation Sciences, Inc., with results reported in the "Characterization Survey for Heritage Minerals Inc.," dated November 2002. Contractor staff indicated that the results were consistent with the findings of the process history report. Elevated levels of contamination were found throughout the area outside the monazite pile footprint at depths down to six feet below the surface. The amount of additional material to be removed from the site was estimated at 400 tons. HMI agreed to submit a plan and schedule to the NRC to complete removal of residual material identified in outdoor areas within 60 days from the date of the conference.

Mill buildings

The NRC confirmatory survey identified deficiencies with HMI's methodology for measuring surface contamination on equipment and structures in mill buildings. Deficiencies were identified regarding accurate measurements of alpha and beta emissions after attenuation from rough, porous, or dirty surfaces. HMI provided independent analyses to support measurements taken during their final survey, but the conclusions to release indoor equipment and structures based upon surface measurements do not agree with the NRC methodology for acceptable surface contamination levels.

At the enforcement conference, the licensee expressed concern about control of ambient monazite sand and recontamination of equipment after it had been cleaned and surveyed for release. HMI staff indicated it did not agree with NRC's methodology, but would propose decommissioning activities for the mills, including a scanning methodology for surfaces which would be consistent with NRC methodology. HMI agreed to submit a plan and schedule to complete decontamination and decommissioning of the mill buildings within 60 days.

At the conclusion of the conference, Region I staff reviewed the enforcement options available in this case.