



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

DEC 10 1991

Heritage Document
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MEMORANDUM FOR: Ronald R. Bellamy, Chief
Nuclear Materials Safety Branch, RI

FROM: John E. Glenn, Chief
Medical, Academic, and Commercial
Use Safety Branch
Division of Industrial and
Medical Nuclear Safety, NMSS

SUBJECT: HERITAGE MINERALS, INC.

04008980
SMB-1541

This responds to your November 7, 1991, letter requesting a review of decisions concerning NRC's jurisdiction over source material areas at Heritage Minerals, Inc., and the issuance of a Notice of Violation for possession of the source material. We conclude the actions were appropriate and recommend the enclosed changes to your draft letter responding on the same issue to the State of New Jersey.

If you or your staff have any questions, please contact Patricia Santiago at FTS: 492-0632.

A handwritten signature in cursive script that reads "John E. Glenn".

John E. Glenn, Chief
Medical, Academic, and Commercial
Use Safety Branch
Division of Industrial and
Medical Nuclear Safety, NMSS

Enclosure:
Draft Ltr to State of
New Jersey

DRAFT

License No. SMB-1541

Docket No. 040-08980

State of New Jersey
ATTN: Robert Stern, Ph.D., Chief
Bureau of Environmental Radiation
CN 415
Trenton, New Jersey 08625-6390

Dear Dr. Stern:

SUBJECT: Heritage Minerals, Inc.

This refers to your letter dated September 20, 1991, regarding the Heritage Minerals, Inc. facility in Lakehurst, New Jersey. As you requested, we have reviewed our decisions concerning NRC jurisdiction over the various areas at the Heritage Minerals, Inc. site known as the "original new feed area", the "recycled tailings area", and the "salvage storage area".

After careful review, we have concluded that our decisions in this area were based on both policy and legal considerations. ~~My letter of June 6, 1991 may be misleading, because it characterizes the decision as purely legal. We agree that there is a weak legal argument that NRC could extend its jurisdiction to the entire site. However, we conclude that this is not the best use of NRC resources and that the legal basis is weak, which might produce useless litigation.~~ In accordance with your September 20 request, we have re-reviewed the matter, and ~~believe~~ *conclude that* our previous decision is still the proper course. NRC jurisdiction does not include any site areas beyond the operational plant and the monazite pile.

We appreciate your interest in this matter.

Sincerely,

John D. Kinneman, Chief
Research, Development and
Decommissioning Section
Division of Radiation Safety
and Safeguards

RI:DRSS
Ullrich

11/ /91

RI:DRSS
Kinneman

11/ /91

RI
RI:RC
Smith

11/ 6 /91

*concur
with
for review*
RI:DRSS
Bellamy

11/ /91

HQ:NMSS
Glenn

11/ /91

HQ:OGC
Fonner

11/ /91

DEC 03 1991

Dr. Robert Stern, Chief
Bureau of Environmental Radiation
New Jersey Department of Environmental
Protection and Energy, CN 402
Trenton, New Jersey 08625-0402

Dear Dr. Stern:

This is a response to your letter of November 25, 1991, regarding the ferrovanadium slag at Shieldalloy Metallurgical Company's (SMC) Newfield, New Jersey site, and in confirmation of our telephone discussion of November 25, 1991, concerning SMC's proposal to sell the slag as an additive to steel production slag.

The ferrovanadium slag is expected to normally contain small concentrations of uranium and thorium, even though it might be "non-radioactive" in the language of the man in the street.

This would be the case even without any cross contamination from the baghouse dust or the ferrocolumbium slag. Our concern with the proposed use of the ferrovanadium slag as an additive in the steel industry is that the slag shipped out by SMC should not be appreciably contaminated with the other materials having higher concentrations of radioactivity. This is illustrated by our letter to SMC (copy enclosed). We do not regard the productive use of the slag in this manner to be a "disposal" in the sense of a waste disposal.

Your understanding of NRC jurisdiction, as expressed in the last paragraph of your letter, is quite accurate. The NRC regulates the source material and also any other material contaminated by it in the course of licensed operations.

I trust this correspondence satisfactorily treats the jurisdictional matters discussed in our telephone conversation.

Sincerely,

~~Original Signed by~~

J. Thomas Clark for

Jerry J. Swift, Section Leader
Advanced Fuel and Special
Facilities Section
Fuel Cycle Safety Branch
Division of Industrial and
Medical Nuclear Safety
Office of Nuclear Material Safety
and Safeguards

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