

August 18, 2006

Ms. Lisa P. Jackson
Commissioner
Department of Environmental Protection
State of New Jersey
P.O. Box 402
Trenton, New Jersey 08625

Dear Commissioner Jackson:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated June 15, 2006, regarding the NRC staff's recommendation to terminate the Heritage Minerals, Inc. (HMI) license as detailed in the Commission paper (SECY-06-0117), "Termination of Nuclear Regulatory Commission License for the Heritage Minerals, Inc. Site in Manchester Township, New Jersey." The Commission, as part of its deliberation to terminate the HMI license, considered the concerns that you raised in your letter, including your view that the description of the operating history in the paper is not accurate, that NRC's jurisdiction over the decommissioning of the HMI site should extend to the combined tailings piles located around HMI's NRC-licensed site, and that the Commission should not release the licensed portions of the site for unrestricted use because the remaining residual material exceeds State criteria. However, the Commission decided to terminate the HMI license for the reasons described below.

During the development of SECY-06-0117, the NRC and the New Jersey Department of Environmental Protection (NJDEP) staffs met on July 12, 2005, and May 17, 2006, to discuss their different perspectives regarding the State and Federal jurisdictional issues at this site, to share the results of the final radiological surveys and staff's dose assessment for the remaining residual material within the NRC-licensed HMI site, and to outline proposed actions. The NRC staff believed that it had adequately documented the technical and legal issues regarding the proposed recommendation to terminate the NRC license for the HMI site. In light of the concerns you expressed to the Commission in your June 15 letter, the staff reexamined those issues and concluded that they had been adequately addressed in SECY-06-0117.

With respect to your concern that the description of the operating history at the HMI site in SECY-06-0117 may not be completely accurate, the NRC staff has reviewed SECY-06-0117 and confirmed that the pre- and post-NRC licensed operations are accurately described. As the NRC staff communicated to your staff in a letter dated June 7, 2006, the final Environmental Assessment (EA) will also provide a more detailed operating history.

Your letter indicated that the NRC's claim of jurisdiction over the HMI site is inconsistent with its claim of jurisdiction over the Shieldalloy Metallurgical Corporation (SMC) site. The NRC's regulatory authority applies to a licensee's site as defined in its NRC license. Licensee property that may exist outside the boundaries of the license-defined site does not fall under the NRC's jurisdiction. At Shieldalloy and HMI, the NRC-licensed site is defined as the area of the licensee's property at which licensed material has been used or possessed. Though the source

material concentration at the SMC site may have been less than that regulated at the HMI site, the material was nevertheless within the NRC's jurisdiction because of its location in the license-defined site. The NRC has therefore concluded that it has been consistent regarding the licensing of radioactive material, equipment, and land areas at both the SMC and HMI sites.

Finally, regarding your concern that HMI may not remediate the area released by the NRC for unrestricted use to meet State standards, HMI has stated to the NRC staff in a letter dated June 30, 2004, that it intends to remediate the entire impacted property to the State remediation standards. Furthermore, HMI has provided a proposed plan for remediating the entire impacted site (NRC-licensed and State-regulated areas) to both the NRC and the NJDEP. It is the Commission's understanding that NJDEP has the plan under review. Regardless of HMI's commitment to remediate the impacted site to the State's standards, the NRC-licensed site meets the NRC-approved decommissioning criteria.

After review of your June 15 letter, the NRC staff advised the Commission that it does not contain new information or reference issues that are not already adequately resolved in SECY-06-01117. On August 2, 2006, the Commission issued its decision to terminate the HMI license. In response to the Commission's decision, the NRC staff intends to announce and conduct an informational public meeting in the near future to communicate the basis for this decision. The Commission believes that our actions will move forward the planned remediation of those portions of the site that are regulated by the State of New Jersey.

The Commission appreciates your continued interest in the remediation of this complex site.

Sincerely,

/RA/

Dale E. Klein