UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

APR 30 1993

Robert Stern, Ph.D., Chief
Bureau of Environmental Radiation
State of New Jersey
Department of Environmental Protection
and Energy
CN 415
Trenton, New Jersey 08625-0415

Dear Dr. Stern

I am responding to your letter dated March 5, 1993, in which you requested a statement of, and the rational for, the Nuclear Regulatory Commission's position on the regulatory authority for the "combined tailings pile" at the Heritage Minerals facility in Newfield, New Jersey. In addition, you requested, as part of NRC's efforts to revise 10 CFR Part 40, that NRC consider deleting or substantially revising the current exemption for unimportant quantities of source material at 10 CFR Part 40.13(a).

Regarding the latter request, I have forwarded your comments to NRC's Office of Nuclear Regulatory Research for consideration in response to the Advanced Notice of Proposed Rulemaking which appeared in the Federal Register on October 28, 1992 (57 FR 48749).

Regarding your request for NRC's position on the appropriate regulatory authority for the combined tailings pile at the Heritage minerals facility, NRC's position remains that the combined tailings pile does not fall within NRC's regulatory authority under the Atomic Energy Act (AEA).

As outlined in your March 5, 1993 letter, prior operations at the Heritage Minerals facility produced a monazite waste stream containing uranium and/or thorium above the source material concentrations outlined at 10 CFR Part 40. The comingling of the waste from this process with waste from other processes occurred prior to NRC licensing of the site. During the licensing process this issue was discussed with the NRC Office of the General Counsel and it was determined that the combined tailings constituted a preexisting unimportant quantity under 10 CFR Part 40.13(a). Although the tailings pile may have been contaminated with material from a process that was subsequently licensed by NRC, the material in the combined tailings pile is exempt from NRC regulation under 10 CFR Part 40.13(a) because it contains source material in concentrations that are less than 0.05 weight percent.

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I hope that this responds to your request. If you have any questions, please contact me at 301 504-2560.

Sincerely,

Original Signed By

John H. Austin, Chief
Decommissioning and Regulatory
Issues Branch
Division of Low-Level Waste Management
and Decommissioning, NMSS
U.S. Nuclear Regulatory Commission

Ticket D-9320001

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October 27, 1994

License No.: SMB-1541
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Anthony J. Thompson, Esquire
Shaw, Pittman, Potts & Trowbridge
2300 N Street, NW
Washington, DC 20037-1128

SUBJECT: HERITAGE MINERALS, INC.

Dear Mr. Thompson:

This letter documents a meeting concerning the Heritage Minerals, Inc., site, Lakehurst, New Jersey at our office in King of Prussia, Pennsylvania at 10:00 am on August 2, 1994. The purpose of the meeting is described in the enclosed meeting summary and subsequent correspondence. A list of the individuals who attended the meeting is also enclosed.

During the meeting you agreed to provide a cost estimate and financial assurance for the Heritage site in compliance with 10 CFR 40.36. Your letter dated August 30, 1994 included a cost estimate and a commitment to provide a Letter of Credit. We will provide our evaluation of that submission in separate correspondence.

During the meeting you also agreed to provide a written discussion of Heritage's actions to develop a final decontamination and decommissioning plan for the site. From the discussions during the meeting and your letter dated October 7, 1994 we understand that Heritage is pursuing and investigating a number of options and that you will inform us of the results of their activities by February 1995. One area discussed during the meeting that your letter did not address is whether Heritage plans or believes it is necessary to stabilize the monazite sand pile to prevent spread of the monazite sand. As discussed during the meeting, we are concerned because of the extended period of time the pile has been exposed to the weather and the fact that there is not now a definite schedule for removing the material. We would appreciate a written description of your plans and/or an assessment of our concern regarding the stability of the material in the pile within thirty days. We will review this matter during the next inspection of the Heritage facility.

During the meeting we also discussed the new and proposed NRC rules which apply to the site. The Timeliness in Decommissioning of Materials Facilities Rule (59 FR 36026) requires specific time periods for decommissioning entire nuclear material sites following termination of operations. Licensees that had ceased operations prior to August 1, 1994 need to submit the notifications required by the rule and a decommissioning plan within two years of August 1,

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1994. The proposed rule for Radiological Criteria for Decommissioning (59 FR 43200) currently states that the final rule will not apply to sites covered by a decommissioning plan approved by the NRC before that rule becomes effective. The rule is now expected to be final and effective by June 1995. We encourage you to review the impact these rules may have with respect to your plans for submittal of a decontamination and decommissioning plan for the Heritage facility.

We appreciate your cooperation and believe the meeting was beneficial. If you have any questions concerning this meeting, please call me at (610) 337-5252 or Duncan White at (610) 337-5042. Due to personnel reassignments, Mr. White will no longer be project manager for this matter. The new manager is Ms. Marie Miller at (610) 337-5205.

Sincerely,

Original Signed By:

John D. Kinneman, Chief
Site Decommissioning Section

Docket No.: 040-08980

Enclosures:
1. Meeting Summary
2. Attendance List

cc w/encls:
State of New Jersey

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MEETING SUMMARY

On August 2, 1994 representatives of Heritage Minerals, Inc. and the NRC staff met at the Region I Office in King of Prussia, Pennsylvania. During the meeting the Heritage representatives stated their commitment to resolving the issues necessary to decommission the site in Lakehurst, New Jersey so that it can be released for unrestricted use in accordance with NRC requirements.

The Heritage representatives discussed the various alternatives they have considered and explored for the disposition of the monazite sand currently in storage at the site. These options include the sale of the material to various customers. The low world demand and customer concerns regarding liability for the waste generated when processing the material have made it difficult to identify a suitable customer.

Heritage representatives also discussed the various possibilities for disposition of the material within New Jersey. They stated they have had and expect to continue discussions with representatives of the New Jersey Department of Environmental Protection and Energy regarding disposition of the materials containing uranium and thorium on the site which are not regulated by NRC as well as the monazite sand.

They also discussed the use of commercial disposal of the material in a licensed disposal site. Due to the concentration of thorium in the material, disposal at the only available site would require significant dilution and it is not certain that disposal would be permitted at that site under any circumstance.

The licensee representatives agreed to provide a written summary of their efforts to find a solution for removing the monazite sand from the site and a schedule for developing a decommissioning plan in early October 1994.

The NRC representatives discussed their concern that the extended time since the cessation of activities at the site and eventual disposition of the monazite sand might provide an opportunity for spreading of the material over the surrounding area. The Heritage representatives agreed to consider this in during their review of options for final action on the site and to discuss this concern with their description of their efforts to remove the material.

The fact that valid financial assurance was not in place for the license was discussed. The requirements of 10 CFR 40.36 were reviewed and the Heritage representatives stated they would provide a cost estimate for packaging the material and shipping it to a vendor outside the United States for possible resale. The NRC representatives agreed to review such a submission and consider this approach if the licensee representatives could provide evidence that the vendor would actually accept the material. They agreed to confirm the willingness of the vendor to accept the material and to provide a formal submission within 30 days of the date of the meeting.

Recent rulemaking (Timeliness Rule (59 FR 36026, dated July 15, 1994), and Radiological Criteria for Decommissioning Proposed Rule (59 FR 43200, dated August 22, 1994) which might effect the license and/or the site were discussed.

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Attendance at Heritage Minerals - NRC Meeting on August 2, 1994

Heritage Minerals, Inc.

Edele Hovnanian, Vice President
Anthony J. Thompson, Esquire
Max El Tawil, Consultant

USNRC, Region I

Susan F. Shankman, Deputy Director, Division of Radiation Safety and Safeguards
James H. Joyner, Chief, Facilities Radiological Safety and Safeguards Branch
John D. Kinneman, Chief, Site Decommissioning Section
Elizabeth Ullrich, Senior Health Physicist

USNRC, Headquarters

Heather Astwood, Division of Waste Management participated by telephone

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