

September 16, 2008

The Honorable Jeff Bingaman
United States Senate
Washington, D.C. 20510

Dear Senator Bingaman:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of August 8, 2008, regarding the license amendment for the Homestake Mining Company (HMC), which would authorize the construction of a new evaporation pond at its Grants Reclamation Project. Your letter forwards concerns expressed by the Multicultural Alliance for a Safe Environment (MASE) in its letter dated July 30, 2008.

Although MASE had clearly articulated its objections to the NRC in advance of a final NRC decision, the NRC issued the license amendment to HMC on August 7, 2008, which approved the construction of a new evaporation pond. The NRC concluded that adding the third pond now means more evaporative capacity, thus allowing HMC to exercise better control over the spread of contamination and reduce the time to complete remedial actions at the site. For these reasons, the NRC concluded that approving the proposed amendment was the prudent action to take for the licensed activities.

In addition, MASE objects to the alternative concentration limits approved for the site decommissioning activities. Alternative concentration limits are allowed by NRC regulations, and they are approved in consultation with stakeholders. In the case of the HMC license amendment approving the alternative concentration limits, the NRC not only solicited public comments, but also obtained the specific approval of both the State of New Mexico and the U.S. Environmental Protection Agency (EPA).

In the view of the NRC, the major concern of MASE is the fact that the regional groundwater has too much contamination, which is a direct result of past uranium mining and, perhaps, milling that began in the 1940's. The conventional mining activities were, and still are, regulated by the State of New Mexico. Even though HMC has an adequate monitoring system for its NRC-licensed activities, MASE wants the NRC to order HMC to establish a regional groundwater monitoring system to address contamination issues that occurred years ago and were caused by other companies. This request goes well beyond the limits of the HMC license and the NRC's statutory authority. The additional evaporation pond approved by the NRC will facilitate the clean-up of groundwater contamination under the NRC license, but is not designed to address clean-up of the regional contamination.

The NRC agrees that the regional groundwater contamination issue should be addressed in a region-wide approach. However, the NRC's statutory authority does not extend beyond HMC's licensed activities. The EPA has authority under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) to implement appropriate corrective actions, region-wide, if appropriate. As indicated by the NRC at the July 15, 2008 public meeting in Grants, New Mexico, NRC will consider the results of the EPA's optimization study in future HMC license actions as appropriate, such as the HMC Groundwater Corrective Actions Program (CAP), which is currently under review. Groundwater restoration under the HMC license will still take years to complete, even with the new evaporation pond. Throughout the entire process, the NRC will continue to consult with the New Mexico Environment Department, the EPA, and the public on each licensing activity. The NRC will continue to work with stakeholders to ensure that all viewpoints are considered in future licensing actions, including revisions to the CAP.

Your constituents can also find further information regarding the complete basis for the NRC's recent licensing action in the Agencywide Documents Access and Management System (ADAMS). ADAMS documents can also be accessed through the electronic reading room at NRC's public website at www.nrc.gov. To assist your constituents, I have enclosed ADAMS Accession numbers for specific documents related to the license amendment that will make finding the listed documents easier.

I certainly hope that this letter is responsive to your inquiry. Please contact me if you need any additional information on this matter.

Sincerely,

/RA/

Dale E. Klein

Enclosure:
As stated

**ADAMS Accession Numbers for Specific Documents Related to the
Homestake Mining Company License Amendment Issued on August 7, 2008**

- ML080920548 Letter to Mr. Alan Cox dated August 7, 2008, approving the amendment request for construction of an evaporation pond.
- ML080920562 Enclosure 1 to the letter to Mr. Alan Cox, which is the Technical Evaluation Report supporting the licensing decision.
- ML080920584 Enclosure 2 to the letter to Mr. Alan Cox, which is the revised license.
- ML080920594, which is the Environmental Assessment supporting the license decision.
- ML082130548 Letter to Ms. Laura Watchempino dated July 31, 2008, discussing her concerns about the draft Environmental Assessment.
- ML081650109 Letter to Ms. Ann Berkley Rodgers dated July 8, 2008, discussing her comments on the draft Environmental Assessment.
- ML073371173 Letter to Mr. Milton Head, President, Bluewater Valley Downstream Alliance, dated December 19, 2007, responding to concerns about the HMC site.

Enclosure