

NUCLEAR REGULATORY COMMISSION

[Docket No. 040-08903; EA-16-114; NRC-2017-0087]

In the Matter of Homestake Mining Company of California; Grants Reclamation Project

AGENCY: Nuclear Regulatory Commission.

ACTION: Confirmatory order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a confirmatory order (Order) to Homestake Mining Company of California (HMC), to memorialize the agreements reached during alternative dispute resolution mediation sessions held on December 12, 2016, and February 15, 2017. This Order will resolve the apparent violations that were identified during an NRC records review to determine if HMC was in compliance with regulatory and license requirements for HMC's activities at the Grants, New Mexico site. This Order is effective upon its issuance.

DATES: Effective Date: This order was issued and was effective on March 28, 2017.

ADDRESSES: Please refer to Docket ID **NRC-2017-0087** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2017-0087**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For questions about this order, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this

document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Susanne Woods, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-001; telephone: 301-287-9446, e-mail: S.Woods@nrc.gov.

SUPPLEMENTARY INFORMATION:

The text of the Order is attached.

Dated at Rockville, Maryland, this 28th day of March 2017.

For the Nuclear Regulatory Commission.

/RA/

Patricia K. Holahan, Director,
Office of Enforcement.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

EA-16-114

In the Matter of Homestake Mining Company of California Grants Reclamation Project
Confirmatory Order Modifying License

I.

Homestake Mining Company of California, (HMC or Licensee) is the holder of Materials License No. SUA-1471 issued on November 10, 1986, by the U.S. Nuclear Regulatory Commission (NRC) pursuant to Part 40 of title 10 of the *Code of Federal Regulations* (10 CFR). The license authorizes HMC the possession, incidental to decommissioning, of residual uranium and byproduct material in the form of uranium waste tailings and other byproduct waste generated by the licensee's past milling operations in accordance with their license. The facility is located on the Licensee's site in Grants, New Mexico.

This Confirmatory Order is the result of an agreement reached during Alternative Dispute Resolution (ADR) mediation sessions conducted on December 12, 2016, and February 15, 2017.

II.

The NRC staff conducted a records review from approximately October 2014 to May 2016. The NRC staff reviewed records dated from 1998 to 2015, including a letter, dated May 14, 2015, sent by HMC to the NRC in response to the NRC's request for information. The purpose of the records review was to determine whether HMC was in compliance with

regulatory and license requirements for HMC's activities at the Grants, New Mexico site. Based on the evidence developed during its records review, the NRC identified five apparent violations.

On October 4, 2016, the NRC issued a letter (Agencywide Documents Access and Management System [ADAMS] Accession No. ML16251A526) to HMC that detailed the results of the records inspection and outlined five apparent violations. The apparent violations involved: (1) implementation of the Reinjection Program in a manner inconsistent with HMC's groundwater Corrective Action Program (CAP); (2) discharge of liquid effluents from the Reverse Osmosis (RO) Plant in excess of the site ground water protection standards established in the license; (3) failure to report to the NRC the results of all effluent monitoring required by the license; (4) failure to obtain monthly composite samples as required by the license; and (5) the discharge of liquid effluents containing byproduct material to land application areas without first obtaining NRC approval.

In the October 4, 2016 letter, the NRC offered HMC the choice to: (1) request a Pre-decisional Enforcement Conference (PEC) or (2) request ADR.

In response to the NRC's offer, HMC requested the use of the NRC's ADR process. The ADR mediation sessions conducted on December 12, 2016 and February 15, 2017 between HMC and the NRC were mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. The ADR process is one in which a neutral mediator, with no decision-making authority, assists the parties in reaching an agreement on resolving any differences regarding the dispute. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

III.

During the ADR mediation session on February 15, 2017, HMC and the NRC reached a preliminary settlement agreement. Prior to the ADR mediation session on February 15, 2017, HMC completed the following corrective actions:

1. As of November 2012, HMC ceased discharging irrigation water with effluents containing byproduct material, to land application areas, which consisted of the following lands in Township 12 North, Range 10 West:
 - a. Section 28 (approximately 100 acres).
 - b. Section 33 (approximately 150 acres and approximately 24 acres);
 - c. Section 34 (approximately 120 acres); and
2. As of August 2016, HMC ceased operation of the re-injection system described as apparent violation 1 in the NRC's October 4, 2016 letter.

The elements of the preliminary settlement agreement developed during the ADR mediation sessions included the following:

1. The Parties' agreement is a voluntary settlement of a dispute between the Parties and does not constitute any admission by HMC with respect to non-compliance with License No. SUA-1471. The NRC and HMC agree to disagree that the activities resulted in violations of NRC requirements.
2. The NRC will issue the agreement as a Confirmatory Order pursuant to 10 CFR 2.202.
3. In consideration of the commitments delineated herein, the NRC agrees to forgo seeking an NOV or civil penalty in this matter. The NRC will consider the Confirmatory

Order as an escalated enforcement. However, NRC agrees that it will not use this Confirmatory Order as an element in any future action assessing civil penalties per the Enforcement Policy unless the action involves a violation of this Confirmatory Order.

4. This agreement is binding upon the successors and assigns of License No. SUA-1471.
5. Unless otherwise specified, all documents required to be submitted to the NRC pursuant to this agreement prior to NRC approval of the revised groundwater Corrective Action Program (CAP) described in Condition 11 of this section will be sent to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Deputy Director, Division of Decommissioning, Uranium Recovery and Waste Programs, Two White Flint North, 11545 Rockville Pike, Rockville, MD 20852-2738.
6. HMC will submit its root cause protocol to an independent third party consultant with expertise in root cause analysis and provide a copy of the independent third party reviewed protocol to the NRC within 120 days of issuance of this Confirmatory Order. The root cause protocol will also be available for review during future inspections. The root cause protocol submitted to the NRC will identify any changes made by the independent third party reviewer and include a qualification statement for the independent third party reviewer. This protocol will be used to complete Conditions 7, 8 and 9 of this section.
7. Within 30 days of submitting to NRC the root cause protocol in Condition 6 of this section, HMC will use the root cause protocol to analyze the reasons for the apparent violations documented in the NRC's October 4, 2016 letter (ADAMS Accession No. ML16251A526). HMC will submit any proposed corrective actions to the NRC for review and approval within 60 days of completing the root cause analyses.

8. HMC will complete an assessment of all HMC activities to determine whether all activities are authorized and are being conducted in compliance with NRC requirements. The assessment will identify areas where clarity could be added to the license. The assessment will include a written report that identifies all areas assessed, the scope of the assessment, the method used to perform the assessment, the results of each assessment and any corrective actions deemed appropriate. This report will identify any proposed changes to the license and procedures. This assessment will include a review of the licensee's Safety Culture, to identify any actions that may be necessary to improve upon or enhance the Safety Culture.

9. HMC will engage an independent third party consultant to review and evaluate HMC's assessments described in Condition 8 of this section. That review will include a written report that identifies all areas assessed, the scope of the assessment, the method used to perform the assessment, the results of each assessment, and any proposed corrective actions. The evaluation will include the effectiveness of any actions proposed by HMC.
 - a. HMC will submit the name and qualifications of the consultant for NRC approval within 30 days of issuance of this Confirmatory Order.

 - b. HMC will submit a copy of the assessment described in Condition 8 of this section to the independent third party consultant within 120 days of NRC approval of the independent third party consultant.

 - c. HMC will provide a copy of the HMC assessment, the consultant's review report, and any modifications by HMC as a result of the third party consultant's report to the NRC within 120 days of submission of the HMC assessment to the independent third party consultant.

- d. NRC will perform an audit of the assessment and the independent third party report and provide NRC audit results in writing, including any recommended changes. HMC will incorporate NRC audit results in the actions described in Condition 10 of this section.
 - e. HMC will maintain copies of all reports at the site for NRC inspection.
10. Unless otherwise specified, for any changes or additions to the license or procedures resulting from this Confirmatory Order, HMC will either (1) submit to the NRC a license amendment request(s), for NRC approval, or (2) update the appropriate HMC procedure(s) after notification of the NRC. All license amendment requests resulting from this Confirmatory Order will be submitted to the NRC within 60 days of receiving the results of NRC's audit(s). All notifications of updates to procedures resulting from this Confirmatory Order will be made to the NRC by the end of calendar year 2018.
11. HMC will submit a revised groundwater CAP to the NRC by the end of calendar year 2018, including amendments to the license approved by that date. The NRC and HMC will work, aggressively and in good faith, toward a goal of final approval of the groundwater CAP within a year from the date of submittal.
12. HMC will conduct initial and annual refresher training for all individuals (employees and vendors, commensurate with their duties) engaged in licensed activities.
- a. The initial and annual training will address awareness and understanding of regulatory and license No. SUA-1471 requirements, including but not necessarily limited to informing HMC employees of the jurisdiction of the NRC, the Environmental Protection Agency, and the New Mexico Environment Department over the Grants site. The training may be an electronic read and sign format.

- b. HMC will maintain documentation for each training session conducted. The training documentation will include a summary of the contents of the training and the individuals in attendance. The training documentation will be maintained available for NRC inspection for 5 years after each training session.
13. HMC will use the mass balance methodology described in its revised 2012 groundwater CAP submittal, incorporating the issues raised in the Requests for Additional Information provided by NRC (ADAMS Package No. ML13360A224), and adapting the methodology for the purpose of completing an analysis of the re-injection system's impact to the time estimate for completion of the groundwater CAP. The analysis will be completed within 120 days of issuance of this Confirmatory Order. No less than 30 days prior to its finalization of the re-injection analysis, HMC will discuss with NRC the methodology, data, and analysis. HMC will provide to NRC all discussion material at least 10 days prior to the discussion. NRC will perform an audit of the analysis, and provide in writing NRC audit results, including any recommended changes. HMC will incorporate NRC audit results in the actions described in Condition 10 of this section.
14. As soon as practicable, but not to exceed 30 days from issuance of this Confirmatory Order, HMC will adjust operations to better ensure compliance with the Ground Water Protection Standards (GWPS) in License Condition 35B as required by License Condition 35C and described in HMC's submittal dated January 15, 1998 (ADAMS Accession No. ML12291A910) and the NRC's approval dated March 5, 1998 (ADAMS Accession No. ML14203A023). HMC will evaluate the procedure required by License Condition 23 to ensure that the process is adequate to reduce constituent concentrations to values below the GWPS listed in License Condition 35B before discharge.

15. HMC will use the methodology described in NUREG-1620 (ADAMS Accession No. ML032250190) to analyze the impact of exceedances documented in the NRC's October 4, 2016 letter to HMC. The analysis will be completed within 120 days of issuance of this Confirmatory Order. No less than 30 days prior to its finalization of the impact of exceedances analysis, HMC will discuss with NRC the methodology, data, and analysis. HMC will provide to the NRC all discussion material at least 10 days prior to the discussion. The NRC will perform an audit of the analysis and provide in writing, the NRC audit results, including any recommended changes. HMC will incorporate the NRC audit results in the actions described in Condition 10 of this section.

In the event of a future non-compliance related to the GWPS, HMC will perform a similar assessment of the impacts of the non-compliance. HMC will report the incident to the NRC in accordance with License Condition 40 within 30 days of receipt of initial and confirmatory laboratory results.

16. Condition 35C of License No. SUA-1471 is amended by this Confirmatory Order to read as follows:

"Implement the corrective action program described in the September 15, 1989 submittal, as modified by the reverse osmosis system described in the January 15, 1998 submittal, excluding all sampling and reporting requirements for Sample Point 1, with the objective of achieving the concentrations of all constituents listed in License Condition 35B. Composite samples from Sample Point 2 will be taken monthly and analyzed for the constituents listed in License Condition 35B; the results of these analyses will be reported in the semi-annual and annual reports required by License Conditions 15 and 42."

17. HMC will develop written procedures to ensure that HMC will sample all required composite samples from Sample Point 2 (SP2) monthly and will report the results of those sample results in the semi-annual and annual reports required by License Conditions 15 and 42. The procedure will include a requirement that if sampling is not performed, a justification will be provided in the semi-annual report required by License Condition 15 for that sampling period, e.g., “inadequate volume of water collected per the appropriate sampling procedure due to the RO plant being inoperable for 25 out of 30 days during that sampling period.” For clarity, this reporting requirement does not apply to additional samples taken for operational purposes. For any report submitted to NRC, HMC will clearly identify all values at SP2 that exceed GWPS or regulatory or license limits for the COCs identified in License Condition 35B and corrective actions taken, if any, as a result of the exceedances. HMC will submit these procedures to NRC within 120 days of issuance of this Confirmatory Order.

18. Condition 15 of License No. SUA-1471 is amended by this Confirmatory Order to read as follows:

“The results of all effluent and environmental monitoring required by this license and regulation shall be reported semi-annually, by March 31 and September 30. All groundwater monitoring data shall be reported per the requirements in License Condition 35.”

19. HMC will identify sources of supply water, soil and groundwater data, and reports, and will use those data to develop a land application assessment of any impacts due to the use of the irrigation water containing byproduct material to past, current, or foreseeable future uses of the land application areas in Township 12 North, Range 10 West, Sections 28 (approximately 100 acres), 33 (approximately 150 acres and approximately 24 acres), and 34 (approximately 120 acres). The land application

assessment will establish background concentrations, remedial action levels (radiological dose and non-radiological risk), and current concentrations of COCs in its license at all areas used for land application. The land application assessment will also identify and assess impacts from soil pore water data at the land application areas. HMC's land application assessment will be consistent with the requirements of 10 CFR 20.2002 and in accordance with Appendix F1.4 of NUREG-1620 (ADAMS Accession No. ML032250190) to demonstrate that the discharge of byproduct material containing both radiological and non-radiological constituents did not impact and will not impact members of the public or the environment. In addition, HMC will take immediate action to ensure that the land application areas are not being used to produce crops for human consumption. The land application assessment will be submitted for NRC review and approval within 180 days of issuance of this Confirmatory Order.

20. If the results of HMC's analysis discussed in Condition 19 of this section indicates that radiological doses and non-radiological risks are in excess of the NRC-approved remedial action levels, HMC will propose appropriate measures to control both use and access to the impacted areas, a corrective action plan, if necessary, to achieve the NRC-approved remedial action levels, and final status survey plans to demonstrate that the radiological doses and non-radiological risks are below NRC-approved remedial action levels. If corrective actions are needed, HMC will submit corrective actions (that include completion timeframes), for NRC approval, within 60 days of NRC's approval of HMC's land application assessment.
21. HMC will provide to the NRC an integrated table that sets forth all actions taken pursuant to this Confirmatory Order. An updated integrated table will be provided to

the NRC semi-annually, until all license and procedure changes under this Confirmatory Order are completed.

22. The NRC considers the actions discussed above, along with the NRC's specified approval, to be satisfactory, appropriately prompt, and comprehensively responsive to the apparent violations identified in the NRC's letter to HMC dated October 4, 2016.

Based on the completed actions described above, and the commitments described in Section V below, the NRC agrees to not pursue any further enforcement action based on the apparent violations identified in the NRC's October 4, 2016 letter.

On March 21, 2017, HMC consented to issuing this Confirmatory Order with the commitments, as described in Section V below. HMC further agreed that this Confirmatory Order is to be effective upon issuance, the agreement memorialized in this Confirmatory Order settles the matter between the parties, and that HMC has waived its right to a hearing.

IV.

I find that the HMC actions completed, as described in Section III above, combined with the commitments as set forth in Section V are acceptable and necessary, and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that HMC's commitments be confirmed by this Confirmatory Order. Based on the above and HMC's consent, this Confirmatory Order is effective upon issuance.

V.

Accordingly, pursuant to Sections 81,161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and

10 CFR Part 40.71, IT IS HEREBY ORDERED, EFFECTIVE UPON ISSUANCE, THAT LICENSE NO. SUA-1471 IS MODIFIED AS FOLLOWS:

1. HMC will submit its root cause protocol to an independent third party consultant with expertise in root cause analysis and provide a copy of the independent third party reviewed protocol to the NRC within 120 days of issuance of this Confirmatory Order. The root cause protocol will also be available for review during future inspections. The root cause protocol submitted to the NRC will identify any changes made by the independent third party reviewer and include a qualification statement for the independent third party reviewer. This protocol will be used to complete Conditions 2, 3, and 4 of this section.
2. Within 30 days of submitting to NRC the root cause protocol in Condition 1 of this section, HMC will use the root cause protocol to analyze the reasons for the apparent violations documented in the NRC's October 4, 2016 letter (ADAMS Accession No. ML16251A526). HMC will submit any proposed corrective actions to the NRC for review and approval within 60 days of completing the root cause analyses.
3. HMC will complete an assessment of all HMC activities to determine whether all activities are authorized and are being conducted in compliance with NRC requirements. The assessment will identify areas where clarity could be added to the license. The assessment will include a written report that identifies all areas assessed, the scope of the assessment, the method used to perform the assessment, the results of each assessment and any corrective actions deemed appropriate. This report will identify any proposed changes to the license and procedures. This assessment will include a review of the licensee's Safety Culture, to identify any actions that may be necessary to improve upon or enhance the Safety Culture.

4. HMC will engage an independent third party consultant to review and evaluate HMC's assessments described in Condition 3 of this section. That review will include a written report that identifies all areas assessed, the scope of the assessment, the method used to perform the assessment, the results of each assessment, and any proposed corrective actions. The evaluation will include the effectiveness of any actions proposed by HMC.
 - a. HMC will submit the name and qualifications of the consultant for NRC approval within 30 days of issuance of this Confirmatory Order.
 - b. HMC will submit a copy of the assessment described in Condition 3 of this section to the independent third party consultant within 120 days of NRC approval of the independent third party consultant.
 - c. HMC will provide a copy of the HMC assessment, the consultant's review report, and any modifications by HMC as a result of the third party consultant's report to the NRC within 120 days of submission of the HMC assessment to the independent third party consultant.
 - d. NRC will perform an audit of the assessment and the independent third party report and provide NRC audit results in writing, including any recommended changes. HMC will incorporate NRC audit results in the actions described in Condition 5 of this section.
 - e. HMC will maintain copies of all reports at the site for NRC inspection.
5. Unless otherwise specified, for any changes or additions to the license or procedures resulting from this Confirmatory Order, HMC will either (1) submit to the NRC a license amendment request(s), for NRC approval, or (2) update the appropriate HMC procedure(s) after notification of the NRC. All license amendment requests resulting

from this Confirmatory Order will be submitted to the NRC within 60 days of receiving the results of NRC's audit(s). All notifications of updates to procedures resulting from this Confirmatory Order will be made to the NRC by the end of calendar year 2018.

6. HMC will submit a revised groundwater CAP to the NRC by the end of calendar year 2018, including amendments to the license approved by that date. The NRC and HMC will work, aggressively and in good faith, toward a goal of final approval of the groundwater CAP within a year from the date of submittal.
7. HMC will conduct initial and annual refresher training for all individuals (employees and vendors, commensurate with their duties) engaged in licensed activities.
 - a. The initial and annual training will address awareness and understanding of regulatory and license No. SUA-1471 requirements, including but not necessarily limited to informing HMC employees of the jurisdiction of the NRC, the Environmental Protection Agency, and the New Mexico Environment Department over the Grants site. The training may be an electronic read and sign format.
 - b. HMC will maintain documentation for each training session conducted. The training documentation will include a summary of the contents of the training and the individuals in attendance. The training documentation will be maintained available for NRC inspection for 5 years after each training session.
8. HMC will use the mass balance methodology described in its revised 2012 groundwater CAP submittal, incorporating the issues raised in the Requests for Additional Information provided by NRC (ADAMS Package No. ML13360A224), and adapting the methodology for the purpose of completing an analysis of the re-injection system's impact to the time estimate for completion of the groundwater CAP. The analysis will be completed within 120 days of issuance of this Confirmatory Order. No

less than 30 days prior to its finalization of the re-injection analysis, HMC will discuss with NRC the methodology, data, and analysis. HMC will provide to NRC all discussion material at least 10 days prior to the discussion. NRC will perform an audit of the analysis, and provide in writing NRC audit results, including any recommended changes. HMC will incorporate NRC audit results in the actions described in Condition 5 of this section.

9. As soon as practicable, but not to exceed 30 days from issuance of this Confirmatory Order, HMC will adjust operations to better ensure compliance with the Ground Water Protection Standards (GWPS) in License Condition 35B as required by License Condition 35C (as amended by this Confirmatory Order) and described in HMC's submittal dated January 15, 1998 (ADAMS Accession No. ML12291A910) and the NRC's approval dated March 5, 1998 (ADAMS Accession No. ML14203A023). HMC will evaluate the procedure required by License Condition 23 to ensure that the process is adequate to reduce constituent concentrations to values below the GWPS listed in License Condition 35B before discharge.

10. HMC will use the methodology described in NUREG-1620 (ADAMS Accession No. ML032250190) to analyze the impact of exceedances documented in the NRC's October 4, 2016 letter to HMC. The analysis will be completed within 120 days of issuance of this Confirmatory Order. No less than 30 days prior to its finalization of the impact of exceedances analysis, HMC will discuss with NRC the methodology, data, and analysis. HMC will provide to NRC all discussion material at least 10 days prior to the discussion. The NRC will perform an audit of the analysis and provide in writing, the NRC audit results, including any recommended changes. HMC will incorporate NRC audit results in the actions described in Condition 5 of this section.

In the event of a future non-compliance related to the GWPS, HMC will perform a similar assessment of the impacts of the non-compliance. HMC will report the incident to the NRC in accordance with License Condition 40 within 30 days of receipt of initial and confirmatory laboratory results.

11. Condition 35C of License No. SUA-1471 is amended by this Confirmatory Order to read as follows:

“Implement the corrective action program described in the September 15, 1989 submittal, as modified by the reverse osmosis system described in the January 15, 1998 submittal, excluding all sampling and reporting requirements for Sample Point 1, with the objective of achieving the concentrations of all constituents listed in License Condition 35B. Composite samples from Sample Point 2 (SP2) will be taken monthly and analyzed for the constituents listed in License Condition 35B; the results of these analyses will be reported in the semi-annual and annual reports required by License Conditions 15 and 42.”

12. HMC will develop written procedures to ensure that HMC will sample all required composite samples from Sample Point 2 (SP2) monthly and will report the results of those sample results in the semi-annual and annual reports required by License Conditions 15 and 42. The procedure will include a requirement that if sampling is not performed, a justification will be provided in the semi-annual report required by License Condition 15 for that sampling period, e.g., “inadequate volume of water collected per the appropriate sampling procedure due to the RO plant being inoperable for 25 out of 30 days during that sampling period.” For clarity, this reporting requirement does not apply to additional samples taken for operational purposes. For any report submitted to NRC, HMC will clearly identify all values at SP2 that exceed GWPS or regulatory or license limits for the COCs identified in License Condition 35B and corrective actions

taken, if any, as a result of the exceedances. HMC will submit these procedures to NRC within 120 days of issuance of this Confirmatory Order.

13. Condition 15 of License No. SUA-1471 is amended by this Confirmatory Order to read as follows:

“The results of all effluent and environmental monitoring required by this license and regulation shall be reported semi-annually, by March 31 and September 30. All groundwater monitoring data shall be reported per the requirements in License Condition 35.”

14. HMC will identify sources of supply water, soil and groundwater data, and reports, and will use those data to develop a land application assessment of any impacts due to the use of the irrigation water containing byproduct material to past, current, or foreseeable future uses of the land application areas in Township 12 North, Range 10 West, Sections 28 (approximately 100 acres), 33 (approximately 150 acres and approximately 24 acres), and 34 (approximately 120 acres). The land application assessment will establish background concentrations, remedial action levels (radiological dose and non-radiological risk), and current concentrations of COCs in its license at all areas used for land application. The land application assessment will also identify and assess impacts from soil pore water data at the land application areas. HMC's land application assessment will be consistent with the requirements of 10 CFR 20.2002 and in accordance with Appendix F1.4 of NUREG-1620 (ADAMS Accession No. ML032250190) to demonstrate that the discharge of byproduct material containing both radiological and non-radiological constituents did not impact and will not impact members of the public or the environment. In addition, HMC will take immediate action to ensure that the land application areas are not being used to produce crops for human consumption. The land application assessment will be

submitted for NRC review and approval within 180 days of issuance of this Confirmatory Order.

15. If the results of HMC's analysis discussed in Condition 14 of this section indicates that radiological doses and non-radiological risks are in excess of the NRC-approved remedial action levels, HMC will propose appropriate measures to control both use and access to the impacted areas, a corrective action plan, if necessary, to achieve the NRC-approved remedial action levels, and final status survey plans to demonstrate that the radiological doses and non-radiological risks are below NRC-approved remedial action levels. If corrective actions are needed, HMC will submit corrective actions (that include completion timeframes), for NRC approval, within 60 days of NRC's approval of HMC's land application assessment.

16. HMC will provide to the NRC an integrated table that sets forth all actions taken pursuant to this Confirmatory Order. An updated integrated table will be provided to the NRC semi-annually, until all license and procedure changes under this Confirmatory Order are completed.

In the event of the transfer of license SUA-1471 to another entity, the terms and conditions set forth hereunder shall continue to apply to the new entity and accordingly survive any transfer of ownership or license.

Unless otherwise specified, all dates are from the date of issuance of the Confirmatory Order. The term "days" in the Confirmatory Order means calendar days.

Unless otherwise specified, all documents required to be submitted to the NRC pursuant to this Confirmatory Order prior to NRC approval of the revised groundwater CAP described in Condition 6 of this section will be sent to: Director, Office of Enforcement, U.S. Nuclear

Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Deputy Director, Division of Decommissioning, Uranium Recovery and Waste Programs, Two White Flint North, 11545 Rockville Pike, Rockville, MD 20852-2738.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by HMC or its successors of good cause.

VI.

In accordance with 10 CFR 2.202 and 2.309, any person adversely affected by this Confirmatory Order, other than HMC, may request a hearing within thirty (30) days of the issuance date of this Confirmatory Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene (hereinafter "petition"), and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended by 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at

hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates

and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the *Federal Register* and served on the parties to the hearing.

If a person (other than HMC) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date of this Confirmatory Order without further order or proceedings. If an extension of

time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

A REQUEST FOR HEARING SHALL NOT STAY THE EFFECTIVENESS OF THIS ORDER.

Dated at Rockville, Maryland, this 28th day of March 2017.

For the Nuclear Regulatory Commission.

/RA/

Patricia K. Holahan, Director
Office of Enforcement