



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

September 24, 2018

EA-18-110

Thomas Wohlford, Closure Manager
Grants Reclamation Project
Homestake Mining Company of California
P.O. Box 98/Highway 605
Grants, NM 87020

SUBJECT: HOMESTAKE MINING COMPANY OF CALIFORNIA – EXERCISE OF
ENFORCEMENT DISCRETION

Dear Mr. Wohlford:

This refers to the U.S. Nuclear Regulatory Commission (NRC) investigation into ongoing activities at the Homestake Mining Company of California (HMC, the licensee) Grants Reclamation Project (Grants) site.

Based on the results of the investigation and conversations between NRC and HMC from April 2017, until May 2018, the NRC has determined that a violation of NRC requirements occurred. Specifically, Title 10 of the *Code of Federal Regulations* Part 40 (10 CFR 40) Appendix A, Criterion 5D requires, in part, that the licensee submit the proposed groundwater corrective action plan (GCAP) and supporting rationale for Commission approval prior to putting the program into operation, unless otherwise agreed to by the Commission. The GCAP is required to be established, as discussed in 10 CFR 40 Appendix A, Criterion 5B(1), if the groundwater protection standards for the site are exceeded, which is the case at the Grants site. Further, Condition 35C of Materials License SUA-1471 requires, in part, that the licensee implement the GCAP described in the September 15, 1989, submittal as modified by the addition of the reverse osmosis (RO) system described in the January 15, 1998, submittal.

Contrary to the above, HMC allowed a member of the public to discharge effluents from the RO system to his private property, effectively conducting GCAP activities in a manner inconsistent with that described in Materials License SUA-1471. Specifically, the member of the public used water coming from the HMC RO plant to irrigate his property via a flood irrigation method. This method of disposing of byproduct material is an unapproved groundwater remediation method, which is contrary to 10 CFR 40, Appendix A, Criterion 5D and Condition 35C of the HMC license. This member of the public discharged effluents from the RO plant, within his property located outside of the authorized site boundary from approximately 2005 through 2017. A former HMC employee verbally granted informal access in 2005, and HMC management at the time of the NRC's investigation was unaware of this use of water from the RO plant. A description of the violation can be found in the enclosed "Technical Description of the Violation."

This violation is of concern to NRC because use of radioactive material at a location and in a manner that was not authorized and could result in unanalyzed exposures to members of the public.

The violation was evaluated in accordance with the NRC Enforcement Policy and has been characterized at Severity Level III. As part of the NRC evaluation, the NRC also considered Enforcement Manual, Part I, Section 1.3.6, "Documenting Examples of Violations Previously Cited", which allows NRC to consider enforcement discretion for violations that have been previously cited as violations (i.e., Confirmatory Order EA-16-114 (CO)),¹ that occur prior to or during implementation of the corrective actions aimed at correcting that specific condition from a previously identified violation (i.e., as specified in the CO).

Consistent with the Enforcement Manual, Part I, Section 1.3.6, "Documenting Examples of Violations Previously Cited," I have been authorized, after consultation with the Director, Office of Enforcement, to exercise enforcement discretion to not cite this violation. This is because: (1) the violation initially occurred prior to previous enforcement action EA-16-114; (2) the violation is an additional example of the violation cited in EA-16-114; (3) had the violation been known at the time of the original inspection it would have been included in the initial citation to establish the scope and depth of the needed corrective actions; (4) the action does not appear to be willful; (5) the corrective actions for that violation in the previous enforcement action are still pending (Condition 3 in Confirmatory Order dated was not due until September 3, 2018); (6) HMC has completed immediate corrective actions of removing access of the member of the public to the RO water source; and (7) HMC included this item in its self-assessment submitted per Condition 3 of the Confirmatory Order, which will address long-term corrective actions to ensure compliance with license conditions.

Therefore, this violation constitutes an additional example of Apparent Violation 1/EA-16-114 and is not being cited individually. No additional response to violation Apparent Violation 1/EA-16-114 is required. Further corrective actions for this additional example are expected to be taken in conjunction with corrective actions for the previously cited violation.

The current Enforcement Policy and Enforcement Manual are included on the NRC's Web site at the following links, respectively;

<http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

<https://www.nrc.gov/about-nrc/regulatory/enforcement/guidance.html>

The NRC concludes the background information on the apparent violation is adequately addressed on the docket, associated with the actions for the CO. If you contest this action or its significance, you must provide a response within 30 days of the date of this letter, with the basis for your denial and/or corrected information, to the NRC, ATTN.: Document Control Desk, Washington, D.C. 20555-0001, with a copy to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's ADAMS. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

¹ Issued by letter dated March 28, 2017. Agencywide Documents Access and Management System (ADAMS) Accession No. ML17061A455.

If you have any questions, please contact the NRC Project Manager, Mr. Jeffrey Whited, at (301) 415-4090 or by e-mail at Jeffrey.Whited@nrc.gov.

Sincerely,

/RA/

John R. Tappert, Director
Division of Decommissioning, Uranium Recovery
and Waste Programs
Office of Nuclear Material Safety
and Safeguards

Docket No.: 040-08903
License Number: SUA-1471

Enclosure:
Technical Detail Regarding Investigation
at Homestake Mining Company of California
on April 25, 2017

SUBJECT: HOMESTAKE MINING COMPANY OF CALIFORNIA – EXERCISE OF ENFORCEMENT DISCRETION, DATED SEPTEMBER 24, 2018

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**Technical Detail Regarding Investigation at
Homestake Mining Company of California
on April 25, 2017**

Review Scope

The NRC conducted an investigation of ongoing site activities at the Homestake Mining Company of California (HMC, the licensee) Grants Reclamation Project (Grants) site on April 25, 2017. The purpose of the investigation was to determine if activities at the site were in accordance with the groundwater corrective action plan (GCAP) as described in the licensee's September 15, 1989,¹ submittal as modified by the January 15, 1998,² submittal.

Observations and Findings

Description:

In April 2017, the NRC staff informed the licensee of water being discharged from HMC to private property. Following this, the NRC staff went to the area in question with the licensee to evaluate the situation. At this time, the NRC inspectors observed a pipe running from HMC property to private property. Through discussions with the private property owner at a later date, HMC determined that, in approximately 2005, the owner had obtained a verbal informal access agreement with a former HMC employee for the use of this water, allowed HMC staff to install a connection in the HMC piping, connected a feeder pipe that discharged onto their private property, and has been periodically using the water for land irrigation. It was later determined that the member of the public connects and disconnects the feeder pipe, as needed for irrigation. It appears that the current management at HMC was not aware of this activity.

During this time, the NRC staff was informed that HMC had allowed similar use to a separate private property owner. Based on discussions with HMC it was determined that this situation is similar to that previously described. Wherein, in approximately 2005 HMC staff installed a connection in the HMC piping, and allowed (under a verbal informal agreement) the member of the public to use the water to fill up his duck pond. It appears that the current management at HMC was not aware of this activity either.

NRC staff determined that the water being discharged onto the private property was from the reverse osmosis (RO) system. Use of water from RO enabled these individuals to essentially perform licensed activities for HMC outside of those described in the September 15, 1989, GCAP submittal as modified by the addition of the reverse osmosis (RO) system described in the January 15, 1998, submittal. In May of 2017, HMC staff disconnected the pipes running from HMC land to the private properties of both of these individuals.

Homestake was already knowledgeable of the NRC Order (issued March 2017) to cease all activities not described in the GCAP, as described and modified, and failed to identify and address these items.

¹ Agencywide Documents Access and Management System (ADAMS) Accession No. ML12222A088.

² ADAMS Accession No. ML12291A910.

Because HMC entered into two cases of informal access agreement with members of the public for use of the RO water outside of the licensed boundary, it appears HMC actions were not in accordance with license number SUA-1471 and the requirements of 10 CFR 40 Appendix A, Criterion 5D, which require that HMC conduct its activities in accordance with its approved GCAP.

Analysis:

The performance deficiency associated with this violation involved HMC's failure to properly verify that activities on the site were being conducted in accordance with the GCAP. This issue was initially considered to be of greater than minor significance because a situation exists where radioactive material was used at a location and in a manner that was not authorized and could result in unanalyzed exposures to members of the public due to operations as described above. As required by License Condition 35C, HMC took samples of the water coming from the RO at Sampling Point 2 in April 2017. The results of this sample, as provided in the 2017 Annual Monitoring Report/Performance Review,³ indicate that the water met the groundwater protection standards. Therefore, it was determined that there were no actual adverse health impacts so this issue is of minor safety significance and no formal evaluation would be required. The licensee included this situation in its self-assessment submitted by letter dated August 31, 2018.⁴ Submittal of the self-assessment was required by Condition 3 of Confirmatory Order EA-16-114.⁵ This should ensure that all the issues are addressed and corrective actions are completed.

Summary

A Severity Level III violation of 10 CFR 40 Appendix A, was identified for the implementation of an activity not described in the GCAP without receiving prior approval from the NRC.

The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

³ ADAMS Package Accession No. ML18102A947.

⁴ ADAMS Package Accession No. ML18248A265.

⁵ ADAMS Accession No. ML17061A455.