

SAFETY EVALUATION REPORT

DATE: April 2, 2019

DOCKET: 040-08903

LICENSEE: Homestake Mining Company of California

SITE: Grants Reclamation Project

PROJECT MANAGER: Ron Linton

TECHNICAL REVIEWER: Reginald Augustus, Ron Linton

SUBJECT: 2018 Financial Surety Update to License Condition 28 and Parent Company Guarantee Financial Test Certification

BACKGROUND

Homestake Mining Company of California (Homestake), a subsidiary of Barrick Gold Corporation (Barrick), is the holder of U.S. Nuclear Regulatory Commission (NRC) License No. SUA-1471 for its former conventional uranium mill site near Grants, New Mexico, known as the Grants Reclamation Project (Grants Project). Homestake has been a licensee since the late 1950's. The Grants Project site ceased active uranium recovery operations in 1990. The site is currently under U.S. Environmental Protection Agency Superfund status and has a groundwater discharge permit from the state of New Mexico. Upon closure, the site will be transferred to the U.S. Department of Energy.

By letter dated May 14, 2018, Homestake submitted to the NRC, for review and approval, its 2018 annual financial surety update and parent company guarantee financial test certification for its Grants Project (Homestake, 2018a). NRC staff reviewed the sufficiency of the cost estimate, financial test of the parent company, and appropriateness of the financial instrument used to maintain the surety. This report documents the results of NRC staff's review of the 2018 financial surety package and amendment to License Condition (LC) 28.

REGULATORY REQUIREMENTS

Homestake's license, SUA-1471, was issued under Title 10 of the *Code of Federal Regulations* (10 CFR) Part 40, Domestic Licensing of Source Material. 10 CFR Part 40, Appendix A, Criteria 9, "Financial Criteria" and License Condition 28 require Homestake to maintain an NRC-approved surety arrangement to cover estimated costs for its decommissioning and decontamination activities. Specifically, 10 CFR Part 40, Appendix A, Criterion 9 requires that the cost estimate contain "[a] detailed cost estimate for decontamination, decommissioning, and reclamation" that reflects "[t]he costs of an independent contractor; and an adequate contingency factor. Each cost estimate must also contain "[a]n estimate of the amount of radioactive contamination in onsite subsurface material ... [i]dentification and justification for using the key assumptions ... and [a] description of the method of assuring funds."

Additionally, 10 CFR 40.36 allows for the use of a parent company guarantee of funds for decommissioning costs based on a financial test if the guarantee and test are as contained in 10 CFR Part 30, Appendix A. Part 30 to Appendix A requires licensees who use a Parent Company Guarantee (PCG) to demonstrate that the parent company can pass the required annual financial test. Part 30 to Appendix A also requires that the PCG agreement state that the PCG "...will remain in force unless the guarantor sends notice of cancellation. If the licensee fails to provide alternate financial assurance ... within 90 days after ... notice of cancellation ... the guarantor will provide alternative financial assurance that meets the provisions of the Commission's regulations."

Furthermore, "...the parent company guarantee and financial test will remain in effect until the Commission has terminated the license, accepted in writing the ... alternative financial assurance, or accepted in writing the licensee's financial assurances. A standby trust ... must be established for decommissioning costs before the parent company guarantee agreement is submitted."

Review Guidance

NRC staff used NUREG-1620, Rev. 1, "Standard Review Plan for the Review of a Reclamation Plan for Mill Tailings Sites Under Title II of the Uranium Mill Tailings Radiation Control Act of 1978" (SRP) as guidance in determining elements to be included in a surety review (NRC, 2003). Specifically, NRC staff used the review procedures and acceptance criteria guidance in Appendix C of the SRP.

DISCUSSION

Sufficiency of the Cost Estimate

The surety calculations in Homestake's submittal included costs for decommissioning and decontamination, reclamation of sites, structures, and equipment used in conjunction with site operations. The NRC staff finds that the licensee used either guidance consistent with Appendix C of the SRP (when applicable) or actual costs in the development of the cost estimate.

Homestake estimates that the cost to decommission and decontaminate the site by an independent party at \$83,455,824. This constitutes an increase of \$13,479,646 above the previous NRC approved surety estimate of \$69,976,178. The significant increase in the cost estimate amount is due to water treatment activities to be completed by Homestake as part of its long-term care and maintenance of the site. The cost estimate is based on costs of a third-party contractor, does not take credit for any salvage value, and includes a 15 percent contingency factor.

The NRC staff reviewed the cost estimate adjustments and finds those adjustments are consistent with proposed changes in the operations and that the licensee identified all expected changes during the period for which the proposed surety will be in effect. The NRC staff finds that the licensee has included in the update all activities: (1) listed in the reclamation plan or in Appendix C of the SRP; and (2) to be conducted during the period covered by the estimate. The NRC staff finds the licensee has based the assumptions for the financial surety analysis on

site conditions, including experiences with generally accepted industry practices, and previous operating experience.

Furthermore, the NRC staff reviewed the costs to perform the decommissioning and reclamation of those changes to operations at the Grants Project. The NRC staff finds that the values used in the surety estimate are based on current dollars and reasonable costs for the required reclamation activities are defined. Criterion 9 does not specify a specific contingency factor to be used in the surety calculations. Guidance in the standard review plan, NUREG-1620, Rev. 1, recommends a minimum 15 percent contingency as an acceptance criterion. The contingency used by the licensee is consistent with that guidance.

Therefore, NRC staff finds that the licensee has established an acceptable financial assurance cost estimate based on the requirements in 10 CFR Part 40, Appendix A, Criterion 9. The financial surety amount will be amended in LC 28 from \$69,976,178 to \$83,455,824.

Sufficiency of the Financial Test

In order for Homestake's parent company, Barrick, to qualify for use of a PCG, it must satisfy the criteria found in 10 CFR Part 30, Appendix A, Section II.A.1 or A.2. Homestake's submission intends to demonstrate compliance with 10 CFR Part 30, Appendix A, Section II.A.1 (the "Financial Test"). The Financial Test requires that:

- (i) Barrick pass two of the following three tests: a ratio of total liabilities to total net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;
- (ii) Net working capital and tangible net worth at least six times the amount of decommissioning funds being assured by the PCG for all nuclear facilities;
- (iii) Tangible net worth of at least \$21 million; and
- (iv) Assets located in the United States amounting to at least 90 percent of the total assets or at least six times current decommissioning cost estimates for the total of all facilities.

Per its submission, Barrick's latest independently audited year-end financial statements as of December 31, 2017 state that its total liabilities divided by its total net worth is less than 2.0 (\$14.2 billion / \$11.2 billion = 1.27). Moreover, its net income plus depreciation divided by total liabilities is greater than 0.1 (\$3.2 billion / \$14.2 billion = 0.23). Furthermore, its current assets divided by current liabilities is greater than 1.5 (\$4.7 billion / \$1.7 billion = 2.8).

Additionally, Barrick's net working capital of \$2.9 billion and tangible net worth of \$9.6 billion are greater than six times the total of all decommissioning funds being assured (\$83 million x 6 = \$498 million). Barrick's tangible net worth of \$10.3 billion exceeds the requirement of at least \$21 million. Homestake's total assets in the United States of \$6.6 billion is greater than six times the current decommissioning cost estimates for the total of all facilities of \$498 million. These calculations were reviewed and verified by Barrick's independent auditor Price Waterhouse Coopers (PWC) and documented in its revised auditor's special report dated September 28, 2018.

Additionally, PWC stated that Barrick's 2017 financial statements present fairly, in all material respects, the financial position of Barrick and its consolidated affiliates as of December 31, 2017.

Based on staff's review of the 2018 Homestake surety estimate (Homestake, 2018a), the NRC staff issued a Request for Additional Information (RAI) to Homestake on September 28, 2018, (NRC, 2018b). The RAI requested that the licensee provide an updated accountant's special report, prepared by its independent accountant PWC, to address whether Homestake's parent company Barrick meets all components of the PCG Financial Test after deducting out the aggregate amount of all off-balance sheet transactions from each numeric component of the Financial Test.

Homestake responded to the RAI on October 18, 2018, providing an update to its accountant's special report, prepared by PWC, which noted that no off-balance sheet arrangements were identified (Homestake, 2018c). The NRC staff found this additional language, along with the other supporting information in the financial surety submission, is sufficient to determine that Barrick Gold meets the financial test as outlined in 10 CFR Part 30, Appendix A.

Appropriateness of the Financial Instrument

The instrument to be used by Homestake for its financial assurance update is a PCG. The PCG submission, which included revised language that included the current decommissioning cost estimate amount, expressly stated that the PCG would remain in force unless cancelled and replaced with alternative financial assurance and stated that the PCG and Financial Test would stay effective until alternative financial assurance was approved by NRC. Moreover, the PCG submission included all the elements of the Financial Test as set forth in 10 CFR Part 30, Appendix A.1.

In addition, licensees who use a PCG are required to have a Standby Trust Agreement (STA) in place, pursuant to criteria in 10 CFR Part 40, Appendix A, Criterion 9, which states, "[I]f a trust is not used, then a standby trust fund must be set up to receive funds in the event the Commission or State regulatory agency exercises its right to collect the surety." The purpose of an STA is to provide a separate account to hold decommissioning funds in the event of a default. Homestake has provided a draft STA agreement to hold funds in event of a default by the licensee. Homestake's submission states that upon NRC approval, a final executed copy of the STA agreement will be provided to NRC.

Therefore, NRC staff finds that Homestake has established an acceptable financial assurance mechanism based on the requirements in 10 CFR Part 30, Appendix A.

Environmental Review:

A license amendment to reflect an update in the amount of financial assurance or corrective revisions belongs to a category of actions which the NRC has determined do not individually or cumulatively have a significant effect on the environment. Such actions qualify for a categorical exclusion under 10 CFR 51.22(c) and do not require an environmental assessment.

Specifically, the NRC staff has determined that the financial assurance (surety) update is categorically excluded from further environmental review under 10 CFR 51.22(c)(10)(i).

CONCLUSION

Based on the information provided in the application and the review conducted of the surety estimate and financial test for Homestake's Grants Project site, the NRC staff concludes that the current financial surety reasonably includes funds sufficient to cover the estimated costs to decommission the site. In addition, the submission includes a PCG, draft STA agreement, and a demonstration that it meets the financial test required in 10 CFR Part 30, Appendix A, when using a PCG. Upon approval, Homestake will provide NRC with a finalized version of the STA agreement. Therefore, the financial surety and financial test for the current surety period is acceptable.

REFERENCES

10 CFR Part 40. *Code of Federal Regulations*, Title 10, Energy, Part 40, "Domestic Licensing of Source Material."

10 CFR Part 30, Appendix A. "Criteria Relating to Use of Financial Tests and Parent Company Guarantees for Providing Reasonable Assurance of Funds for Decommissioning."

Homestake, 2018a. Letter from T. Wohlford, Homestake Mining Company of California, to J. Whited, US NRC, "2018 Financial Surety," May 14, 2018. ADAMS Package Accession Number ML18141A408.

NRC, 2018b. Letter from J. Whited, US NRC, to T. Wohlford, Homestake Mining Company of California, "Request for Additional Information," September 28, 2018, ADAMS Accession Number ML18215A460.

Homestake, 2018c. Letter from T. Wohlford, Homestake Mining Company of California, to R. Linton, US NRC, "Reply to Request for Additional Information - NRC Review of Homestake 2018 Financial Surety License Amendment Request," October 18, 2018. ADAMS Accession Number ML18297A064.

NRC, 2003. U.S. Nuclear Regulatory Commission, "Standard Review Plan for the Review of a Reclamation Plan for Mill Tailings Sites Under Title II of the Uranium Mill Tailings Radiation Control Act of 1978," NUREG-1620, Rev. 1, June 2003. ADAMS Accession Number ML032250190.