



Homestake Mining Company of California

P.O. Box 98
Grants, NM 87020

Tel +1 505 287 4456
Fax +1 505 287 4457

June 15, 2023

Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Mr. David Pelton
Director
Office of Enforcement
U.S. Nuclear Regulatory Commission MS T-5A10, 11545 Rockville
Pike Rockville, MD 20852

**RE: Homestake Mining Company of California – Grants Reclamation Project –
Response to Relaxation of Confirmatory Order (EA-16-114) Condition 6**

Mr. Pelton,

On May 19, 2023, Homestake Mining Company of California (HMC) received your letter regarding Condition 6 of Confirmatory Order EA-16-114 (CO) (ML17061A455). The letter relaxed the previously established due date of November 15, 2020 for Condition 6 and requested HMC submit a revised Groundwater Corrective Action Program (GCAP) by December 1, 2023 because NRC did not accept HMC's alternate concentration limits (ACL) license amendment request for technical review.

After a review of Condition 6, HMC concludes that it has satisfied this condition, and as such, resubmission of a revised GCAP is unnecessary and the CO should be terminated.

The plain language of Condition 6 states that "HMC will submit a revised groundwater CAP to the NRC..." HMC satisfied this requirement when it submitted a revised GCAP on November 13, 2020 (ML20358A151) in response to NRC staff's requests for supplemental information (ML21112A051) on the GCAP previously submitted on December 19, 2019 (ML19354B965). Condition 6 does not contain language specifying that docketing, acceptance, approval, or agreement with the conclusions of the GCAP are requirements to satisfy the condition. To date, NRC has not explained its rationale for determining that HMC has not met this condition based on the plain language of the CO and our previous two submittals.

The November 13, 2020 GCAP submitted to NRC concluded that restoration of groundwater to current license condition standards was not reasonably achievable and that ACLs were the appropriate corrective action. NRC staff's April 30, 2021 letter not accepting the 2020 GCAP for technical review specifically states "... The NRC staff will suspend its review of the revised GCAP" if HMC submits a License Amendment Request for ACLs. To that end, HMC submitted an ACL Application on August 8, 2022.

Now, however, NRC has reverted to requiring HMC to prepare a submission that is obsolete. Site conditions have not changed, and a revised GCAP will reach the same conclusion that ACLs are the appropriate corrective action. Another revised submission will run to thousands of pages, divert countless NRC and HMC resources, and delay actual progress toward site closure, to again conclude that ACLs are required.

The May 19, 2023 letter requests that the GCAP “include an updated description of the existing GCAP program to reflect the current operation, including for example: systems, components, operational capacities, and procedures”. NRC staff indicated in a public meeting on May 22, 2023 that the intent of the Condition 6 at the time of the alternative dispute resolution was a compendium of all GCAP related information in a single document so that the license would be reflective of the activities currently ongoing at the site. As articulated by NRC staff, the purpose of the compendium was to assist NRC staff in finding the various requirements that they had established under HMC’s license, including those imposed and removed after 2016 when the CO was negotiated and went into effect. HMC suggests that a crosswalk summarizing where specific information can be found in license conditions and tie down documents would be more appropriate to meet NRC’s objective than a revised GCAP submission.

Further, the key factors that drove the 2016 settlement have all been addressed and resolved by HMC’s fulfillment of the other CO Conditions, including cessation and response to activities that were not in compliance with the license at the time of the alternative dispute resolution process:

- The Collection for Re-Injection program ceased in July of 2016. The evaluation of the impacts from this program was required under Condition 8 of the CO and was deemed satisfied by NRC staff in 2022 (ML22275A002).
- The Land Application program ceased in 2012, and the areas have been free - released by NRC staff, satisfying conditions 14 and 15 of the CO. (ML21032A306).
- The zeolite treatment systems are no longer in use as of 2022. They were permitted for use in Amendment 55 to the radioactive materials license SUA-1471.

Therefore, as discussed above, the specific requirements of Condition 6 have been satisfied, and the current site GCAP activities are now consistent with the existing license and its associated tiedown documents. Submission of a revised GCAP is unnecessary, and HMC instead requests continued advancement of the ACL Application.

HMC further requests that the CO and its associated License Condition 44 be terminated because all CO conditions have been met. The CO was drafted in accordance with 10 CFR 2.202. Neither this regulation, nor the Enforcement ADR Guidance for Program Participants, prescribe perpetual enforcement of COs, particularly where all conditions have been met. Outdated modifications and license conditions should be removed from HMC’s license.

Thank you for your time and attention on this matter. If you have any questions, please contact me via e-mail at bbingham@homestakeminingcoca.com or via phone at 505.290.8019.

Respectfully,



Brad R. Bingham

Closure Manager

Homestake Mining Company

Grants, New Mexico

Office: 505.287.4456 x35 | Cell: 505.290.8019

cc:

J. Marshall, NRC, Rockville, Maryland (electronic copy)
B. Von Till, NRC, Rockville, Maryland (electronic copy)
R. Linton, NRC, Rockville, Maryland (electronic copy)
P. Jehle, NRC, Rockville, Maryland (electronic copy)
N. Olin, DOE, Grand Junction, Colorado (electronic copy)
M. Purcell, EPA, Dallas Texas (electronic copy)
A. Maurer, NMED, Santa Fe, New Mexico (electronic copy)
M. McCarthy, Barrick, Salt Lake City, Utah (electronic copy)
E. Rudolf, Barrick, Salt Lake City, Utah (electronic copy)
S. Mathiascheck, Washington, DC (electronic copy)
D. Lattin, Barrick, Elko, Nevada (electronic copy)