



State of New Jersey

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Robert C. Shinn, Jr.
Commissioner

January 14, 1998

Ronald Bellamy, Ph.D., Chief
Decommissioning & Laboratory Branch
Division of Nuclear Materials Safety
U.S. Nuclear Regulatory Commission
Region I
475 Allendale Road
King of Prussia, PA 19406-1415

Dear Dr. Bellamy:

Thank you for providing members of the Bureau of Environmental Radiation (BER) the opportunity to participate in the September 17, 1997 meeting concerning the decommissioning of the Heritage Minerals site in Lakehurst, New Jersey. As you know, the Department of Environmental Protection remains in disagreement with the Nuclear Regulatory Commission (NRC) over the matter of jurisdiction at this site. We believe the NRC should bear responsibility for the remediation of the combined tailings pile because that pile was contaminated with monazite sand at source material concentrations, during the mining operations. Additionally, there are other contaminated areas outside the monazite pile and plant buildings where jurisdictional issues remain unresolved.

Your decision not to take jurisdiction over the combined tailings pile (approximately 850,000 cubic yards), has been communicated to us several times since 1991. I am addressing this issue again because of the publication of your final rule on decommissioning. One of the comments on the rule questioned whether NRC's approval of a licensee's decommissioning activities should be dependent on the licensee fulfilling other agencies' obligations. The NRC response was as follows:

The final rule on radiological criteria for decommissioning applies to residual radioactivity from all licensed and **unlicensed** (emphasis added) sources used by the licensee but excludes background radiation. As such, the NRC or Agreement State, whether acting as the lead or cooperating agency in working with the licensee to ensure appropriate remediation of a contaminated site, would not release a site from its license unless the rule's radiological criteria were met.

ITEM # 16

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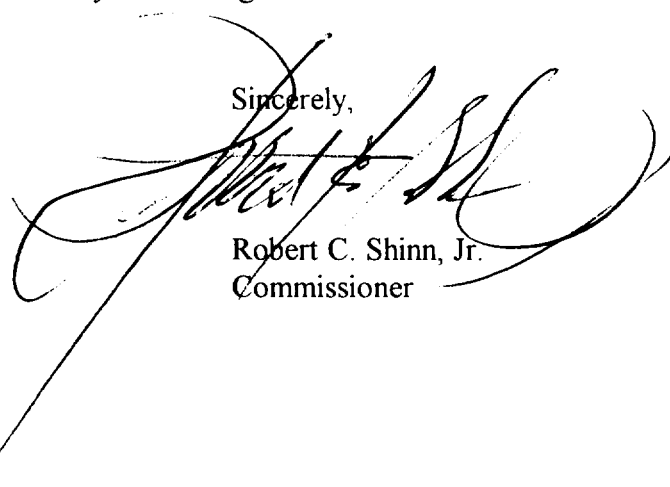
We realize that Heritage Minerals is not complying with this new rule (as is allowed), but thought that the response to the comment was applicable to this site. Also, we feel that it is in the public's interest not to continue to debate the issue, but instead to work together as two public agencies committed to solving a problem.

I would like to suggest that the NRC proceed with the cleanup of the monazite pile and contaminated buildings but not terminate the existing license, and work with the State at the Heritage Minerals site on the cleanup of the other contaminated areas. While we expect the State and Heritage Minerals Inc. (HMI) to agree on a safe and reasonable remediation of the remainder of the site, there could be public opposition to leaving any radioactive soil on the site. If that were the case, HMI may be forced to dispose of all the radioactively contaminated soil off site at an estimated cost of \$900 million. With the NRC's continued involvement at the site, such as attending meetings, reviewing clean-up proposals, and supporting the State on acceptance of a remediation solution, the public may have more confidence on decisions that the State makes at this site.

If you agree that an NRC presence during the remediation of the remainder of the site would benefit all parties concerned, please contact Dr. Gerald P. Nicholls at 609-633-7964 to develop a workable arrangement.

Thank you in advance for your cooperation, and I hope we can continue to support each other on matters of public health and safety concerning radioactive materials.

Sincerely,



Robert C. Shinn, Jr.
Commissioner

From: Craig Gordon
To: RRB1
Date: 3/11/98 12:54pm
Subject: Meeting with NJ - Heritage Minerals, Inc.

Ron

Summary of issues discussed by Marie and I with NJ staff about Heritage Minerals at the 3/10/98 meeting.

NJ management attendees were Jill Lipoti, Pam Gardner, and Jenny Moon. (Gerry Nichols was originally scheduled but over the weekend had a death in the family and was out of the office):

1. We provided updated information on our activities and communications with HMI and the status of the licensing action. The State was informed that we plan to renew the license based on our review of the Final Status Survey Plan and the license would not be terminated until NRC unrestricted release criteria are met. They are reviewing the FSS and expect to provide comments which we will consider and possibly include in our overall transmittal to the licensee.
2. The State raised the recurring issue of site-wide jurisdiction, particularly in those areas where contamination and radiation readings show higher levels outside the areas where NRC-regulated materials are located (a copy of the State's survey will be provided to us). They are concerned that remediation criteria and ALARA considerations are not consistent between agencies and we are limiting cleanup to a small portion of the site. The question of how this would be perceived by the public or in a public hearing process was also raised, especially if NJ is a party to the hearing.
3. If the licensee adequately completes site decommissioning and NRC releases the site for unrestricted use, the State will be placed in a difficult regulatory situation regarding long term oversight and final cleanup. They don't have a timeliness rule and don't believe that present funds are available from either HMI or the State Superfund program to cover decommissioning costs for the entire site.
4. NJ indicated that discussions with the licensee about HMI's responsibilities under State regulations have taken place, but the licensee has not been reactive in terms of initiating decommissioning activities which the State requires. Various remediation options have recently been discussed between NJ and HMI including the State-preferred option to blend monazite sands found around the site with other materials to further reduce residual Thorium levels prior to offsite disposal. This also could raise a public eye since it involves removal of previously licensed NRC material.
5. Jill asked that we continue to examine the State's issues while the review process unfolds and try not to separate NRC and NJ regulatory responsibilities. We explained that before HMI is removed from the SDMP list a staff (and possibly Commission) review will be performed which addresses the safety and environmental issues. Although we may not be able to resolve the problems which the State is encountering, they should be considered and documented in the review.