

August 19, 2002

MEMORANDUM TO: Daniel M. Gillen, Chief
Fuel Cycle Facilities Branch, NMSS/FCSS

FROM: Claudia Craig, Chief **/RA/**
Facilities Decommissioning Section
Decommissioning Branch, NMSS/DWM

SUBJECT: REVIEW OF HOMESTAKE MINING COMPANY FINANCIAL
ASSURANCE FOR DECOMMISSIONING 2002 UPDATE

By letters dated June 20 and June 26, 2002, Barrick Gold Corporation (Barrick) submitted a parent company guarantee and supporting documentation as financial assurance for the decommissioning costs of its subsidiary, Homestake Mining Company (Homestake) of California.

The staff evaluated the financial assurance instruments for compliance with regulatory requirements and conformance to regulatory guidance.

The staff found that the parent company guarantee must be revised, and a copy of the annual financial statements must be submitted. The staff's evaluation is discussed in the attached Request for Additional Information.

Docket No.: 04008903
License No.: SUA-1471

Attachments: Request for Additional Information
Markup of Parent Company Guaranty

Contact: Thomas L. Fredrichs, NMSS/DWM/DCB
(301) 415-5971

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REQUEST FOR ADDITIONAL INFORMATION HOMESTAKE MINING COMPANY

Introduction

By letter dated June 20, 2002, Barrick Gold Corporation (Barrick) submitted a parent company guarantee on behalf of its subsidiary, Homestake Mining Company (Homestake) of California, as financial assurance for decommissioning costs. By letter dated June 26, 2002, Barrick submitted a financial test to demonstrate its ability to use the parent company guarantee, along with an auditor's report comparing the financial test data to Barrick's financial statements and a resolution of Barrick's Executive Committee of its Board of Directors, resolving that Barrick is authorized to enter into a guarantee with the NRC, and further authorizing the officers of Barrick to execute the guarantee. Homestake holds NRC license number SUA-1471 for the Milan uranium tailings site located in Milan, New Mexico.

The staff evaluated the parent company guarantee and supporting documents for compliance with Criteria 9 and 10 of Appendix A to CFR Part 40, and conformance to regulatory guidance contained in the "Technical Position of Financial Assurances for Reclamation, Decommissioning, and Long-term Surveillance and Control of Uranium Recovery Facilities", and NUREG-1727, "NMSS Decommissioning Standard Review Plan."

The staff found that revisions are necessary to the financial assurance documents. Specific comments on the revisions are listed below.

Specific Comments

(1) Submit a copy of the parent company's audited annual financial statements for the most recent fiscal year, including the auditor's opinion on the financial statements.

NRC regulatory guidance directs parent company guarantors to submit their audited annual financial statements, including the auditor's opinion on the financial statements, along with the financial assurance instruments. The financial statements present a concise report on the financial condition of the company, and include notes concerning financial details important to evaluating the company's ability to continue to meet the requirements of a parent company guarantor.

Therefore, the licensee must submit a copy of its parent company's audited annual financial statements, including the auditor's opinion on the financial statements.

(2) Revise Recital 14 of the parent company guaranty to include specific agreement by the licensee to be bound jointly and severally liable for reasonable litigation costs.

Recital 14 states: "Guarantor agrees that all bound parties shall be jointly and severally liable for all reasonable litigation costs"

However, NRC regulatory guidance provides for specific agreement by the licensee to be held liable for litigation costs incurred by the NRC in a successful effort to enforce the agreement against the Guarantor or licensee. This provision assures that corporate reorganization will not preclude the NRC from collecting reasonable costs if litigation becomes necessary to enforce the agreement.

Therefore, the parent company guaranty must be revised to include specific agreement by the licensee to be bound jointly and severally liable for reasonable litigation costs.

An acceptable revision could read: "Guarantor and licensee ~~agrees~~ that all bound parties shall be jointly and severally liable for all reasonable litigation costs" Underline and strikeout illustrate a revision that is acceptable to the NRC.

Other Comments

Typographical errors in the parent company guaranty should be corrected when the revisions discussed in the Specific Comments section are made.

MARKUP OF PARENT COMPANY GUARANTY

ACCESSION NO.: ML-022280386