

December 19, 2013

Mr. Carl Edlund, Director
Superfund Division
EPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

SUBJECT: THE U.S. NUCLEAR REGULATORY COMMISSION CONCERNS REGARDING
EFFICIENCY OF DUAL FEDERAL REGULATION OF THE HOMESTAKE SITE
IN MILAN, NEW MEXICO

Dear Mr. Edlund:

On August 14, 2013, the Executive Steering Committee (ESC) met in Albuquerque, NM, to discuss the U.S. Nuclear Regulatory Commission's (NRC's) concern that several U.S. Environmental Protection Agency (EPA) activities at the Homestake Mining Company of California (HMC) site are inconsistent with the 1993 Memorandum of Understanding (MOU) and therefore contributing to inefficiencies in the regulatory process for this site. During the meeting, we discussed a number of options available for minimizing dual federal regulation of the HMC site [e.g. deferral of NRC regulatory authority for decommissioning activities to EPA until such time that the site is removed from the National Priorities List (NPL)]. This deferral approach has been previously utilized by the NRC on several complex sites when EPA was actively engaged at the sites to fulfill extensive Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) requirements. However, after further consideration, rather than use this approach for Homestake, NRC plans to continue implementation of the MOU as written, including EPA license amendment review timeframes, in order to make progress in remediating the HMC site.

As discussed during the ESC Meeting, I am concerned that EPA's ongoing activities are delaying NRC's review and approval of Revision 2 of the Corrective Action Plan (CAP), submitted in March 2012. In an effort to unify the regulatory process, the ESC agreed to make the CAP an all-inclusive regulatory document containing the regulatory requirements of NRC, EPA and the New Mexico Environment Department (NMED). As such, on March 29, 2012, the NRC staff requested that EPA identify the EPA regulatory requirements missing in Revision 2 of the CAP. During the ESC Meeting in Santa Fe, EPA agreed to identify the specific, not all potential, requirements missing from the March 2012 version of the CAP. To date, EPA has not provided the agreed upon information, thus we have not been able to complete our various regulatory actions. Although it is clear from your recent letter dated December 9, 2013, that you believe EPA has identified the applicable CERCLA regulations for reclamation of the HMC site, the NRC did not find EPA's list of all potential requirements affecting remedies at the HMC site to be constructive in unifying the regulatory process because it lacked specificity in identifying the actual requirements. In accordance with Section IV of the MOU, NRC may approve license amendments without consideration of EPA comments if comments are not received within 30 calendar days. Since EPA has not provided the requested information in more than one year, the NRC plans to move forward with its review of the CAP.

NRC staff also plans to proceed with the review and approval of HMC's Decommissioning and Reclamation Plan, Update 2013 (DRP), which was submitted to NRC on April 4, 2013. NRC noticed receipt of the DRP in the *Federal Register* on June 27, 2013, and requested comments by August 26, 2013. EPA did not provide comments on the DRP. Therefore, we intend to proceed with our review of the DRP in order to make progress on our regulatory oversight of this site.

If you have any comments or questions regarding this letter, please contact me at 301-416-6673.

Sincerely,

/RA/

Larry W. Camper, Director
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Docket No.: 40-8903
License No.: SUA-1471

cc: Homestake Service List

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Homestake Distribution List

cc:

Sai Appaji
USEPA Region 6
1445 Ross Ave, Ste 1200
Mail Code: 6SF-LT
Dallas, TX 75202-2733

Debbie Barr
U.S. Department of Energy
Office of Legacy Management
2597 B $\frac{3}{4}$ Road
Grand Junction, CO 81503

David Mayerson
Mining Environmental Compliance Section
Ground Water Quality Bureau
Harold Runnels Building Room N2250
1190 St. Francis Drive
P.O. Box 26110
Santa Fe, NM 87502

Phyllis Bustamante
New Mexico Environment Department
Harold Runnels Building, Room N2300
1190 St. Francis Drive
P.O. Box 26110
Santa Fe, NM 87502

Angelo Ortelli
Superfund Oversight Section
Ground Water Quality Bureau
Harold Runnels Building, Room N2250
1190 St. Francis Drive
P.O. Box 26110
Santa Fe, NM 87502

Jon Block
Staff Attorney
New Mexico Environmental Law Center
1405 Luisa Street, Ste. 5
Santa Fe, NM 87505

Candace Head-Dylla, President
Bluewater Valley Downstream Alliance
P.O. Box 2038
Milan, NM 87021

Multicultural Alliance for a Safe Environment
(MASE)
P.O. Box 4254
Albuquerque, NM 87196