

April 10, 2014

The Honorable Martin Heinrich
United States Senate
Washington, DC 20510

Dear Senator Heinrich:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letters of February 14 and 27, 2014, forwarding correspondence from Candace Head-Dylla of the Bluewater Valley Downstream Alliance (BVDA). Ms. Head-Dylla raises a number of concerns with the ongoing remediation efforts at the Homestake Mining Company (Homestake) site near Milan, New Mexico.

Activities at the site are conducted under the requirements of an NRC-issued license consistent with NRC regulations. These requirements are fully protective of public health and safety. The NRC continues to work cooperatively on remediation matters with the U.S. Environmental Protection Agency (EPA) and the State of New Mexico Environment Department (NMED), and believes that NRC's leadership of remediation oversight at Homestake is the best way to continue to move the process forward.

The NRC developed a Memorandum of Understanding (MOU) with EPA in 1993 and revised it in 2013. The MOU was established to promote effective and efficient regulation of the site. The MOU describes NRC's leadership role for the remediation and describes EPA's supportive role. Recently the NRC contemplated allowing EPA to take the lead for the remediation under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). After further consideration, NRC sent a letter to EPA in December 2013 describing our intention to continue implementation of the MOU as written in order to make progress in remediating the Homestake site. NRC believes adherence to the MOU as written is the best way to achieve site decommissioning and remediation objectives, while still allowing EPA to review NRC's licensing decisions and work toward its own objective of issuing a Record of Decision regarding the requirements of CERCLA before the NRC remediation requirements are completed.

The original version of the MOU contained administrative measures to monitor its effectiveness: 1) the NRC should provide site remediation progress reports to the EPA on a semiannual basis, and 2) there should be annual reviews of the MOU. The NRC and EPA agreed to remove the first requirement from the MOU during the 2013 revision because all of the NRC's current Homestake documentation is publicly available in the agency's Agencywide Documents Access and Management System (ADAMS) and each agency is copied on all public correspondence, therefore the progress reports are not necessary. The second measure was incorporated into the MOU as a recommendation, not a requirement. However, the NRC is committed to reviewing the MOU annually to determine whether it can be improved to reflect changing circumstances. These measures were administrative and do not affect the principles of the MOU.

The NRC fully considers all comments received on Homestake licensing actions, including those of BVDA, EPA, and NMED. Currently, the NRC is processing three Homestake licensing requests, on which it has received numerous comments from multiple organizations and individuals. This includes a request from Homestake to move the background radon-in-air monitoring location, which the licensee believes will allow it to obtain a more representative background value. We are processing numerous comments on those requests and will be responding in writing to all of them.

We seek to establish a firm licensing basis for all of our safety decisions, based on a public record, and hope to complete all the licensing actions under review by the end of the year. This includes our review of an update to Revision 2 of the Corrective Action Plan (CAP), received in 2012, on which the NRC provided an extended comment period to accommodate the public's request for additional time. We acknowledge that the ongoing review of the CAP has been lengthy as a result of several factors, including substantial revisions to the CAP to incorporate regulatory requirements of EPA and NMED and the time required to fully address public comments. We are currently finalizing an NRC response to Homestake's revised CAP, and the agency is planning to issue a single document containing written responses to all the individual comments received on the CAP from multiple sources.

Regarding the ongoing flushing and related water use at the site, Homestake is implementing a remediation program that includes flushing the large tailing pile, which was reviewed and approved by the NRC and concurred on by EPA and the State of New Mexico. NRC has received comments about the Homestake tailings flushing program as part of our review of the Homestake CAP. We are reviewing those comments now, and they will be addressed in the request for additional information that is sent to Homestake. The associated water use for flushing the tailing pile is permitted by NMED. That permit is currently up for renewal and a hearing on the renewal will be held in Grants, NM on April 29, 2014.

The NRC shares your belief that community stakeholders deserve to be informed of and understand the NRC's regulatory efforts, as well as provide input on the decommissioning and reclamation activities at the Homestake site. As such, we have maintained communications with the leadership of local community groups by including them on distribution lists of written correspondence with the licensee, posting in ADAMS all publicly available documentation that NRC receives and sends out on the licensing of the Homestake site, and responding to correspondence from community stakeholders. The NRC staff also has held public meetings in Grants, New Mexico regarding the agency's evaluation of Homestake's licensing requests. As a result of these communications and interactions, community stakeholder groups have submitted comments on the three Homestake license amendment requests currently before the NRC. Those comments have informed the NRC review process, and, as I noted earlier, the NRC will be providing written responses to all comments received.

Please be assured that the NRC is committed to the protection of public health and safety at the Homestake site and is moving expeditiously to resolve all outstanding matters. Licensee actions at the site have been reducing the mass and concentration of uranium, as well as the size of the groundwater plume. Our goal is to close the tailings pile and turn the site over to the U.S. Department of Energy. If you have any questions, please contact me or Amy Powell, Associate Director of the Office of Congressional Affairs, at (301) 415-1673.

Sincerely,

/RA/

Mark A. Satorius
Executive Director
for Operations

Please be assured that the NRC is committed to the protection of public health and safety at the Homestake site and is moving expeditiously to resolve all outstanding matters. Licensee actions at the site have been reducing the mass and concentration of uranium, as well as the size of the groundwater plume. Our goal is to close the tailings pile and turn the site over to the U.S. Department of Energy. If you have any questions, please contact me or Amy Powell, Associate Director of the Office of Congressional Affairs, at (301) 415-1673.

Sincerely,

/RA/

Mark A. Satorius
Executive Director
for Operations

DISTRIBUTION: LTR-14-0158-1

RRihm RidsFsmeMailCenter Resource RidsOgcMailCenter Resource
RidsOcaMailCenter Resource RidsEdoMailCenter Resource RidsSecyMailCenter Resource

ADAMS Accession: ML14080A328 (PKG)

OFFICE	OEDO/CPM	FSME	OGC	OCA	EDO
NAME	RRihm	BHolian (MZobler)	BJones	JWeil	MSatorius
DATE	04/7/14	04/03/14	04/07/14	04/04/14	04/10/14

OFFICIAL RECORD COPY