

Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

In accordance with 10 CFR 2.1205(e), each request for a hearing must also be served, by delivering it personally or by mail, to:

(1) The applicant, Atlas Corporation, Republic Plaza, 370 Seventeenth Street, Suite 3050, Denver, Colorado 80202, Attention: Richard Blubaugh; and

(2) The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852 or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

The request must also set forth the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes a hearing.

Dated at Rockville, Maryland, this 14th day of January 1997.

For the Nuclear Regulatory Commission,  
Daniel M. Gillen,

*Assistant Chief, Uranium Recovery Branch,  
Division of Waste Management, Office of  
Nuclear Material Safety and Safeguards.*  
[FR Doc. 97-1485 Filed 1-21-97; 8:45 am]

BILLING CODE 7590-01-P

#### [Docket No. 40-8903]

#### Homestake Mining Company; Notice

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of licensee request to amend source material license.

**SUMMARY:** Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has received, by letter dated December 18, 1996, an application from Homestake Mining Company (HMC) to amend License Condition (LC) 36 of Source Material License No. SUA-1471 to

change certain reclamation milestone dates.

The license amendment application proposes to modify LC 36 to change the completion dates for two site reclamation milestones. The new dates proposed by HMC would extend completion of (1) placement of final radon barrier on the Large Tailings Pile (LTP) by seven years, (2) placement of erosion protection on the LTP by five years, (3) placement of final radon barrier on the Small Tailings Pile (STP) by eleven years, and (4) shorten completion of placement of erosion protection on the STP by one year. The application cites technical infeasibility as precluding completion in accordance with the present license dates due to incomplete settlement of the LTP and evaporation ponds associated with the groundwater corrective action program located on the STP.

**FOR FURTHER INFORMATION CONTACT:** Mr. Kenneth R. Hooks, Uranium Recovery Branch, Mail Stop TWFN 7-J9, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone 301/415-7777.

**SUPPLEMENTARY INFORMATION:** HMC's application to amend Condition 36 of Source Material License SUA-1471, which describes the proposed changes to the license condition and the reason for the request is being made available for public inspection at the Commission's Public Document Room at 2120 L Street, NW (Lower Level), Washington, DC.

The NRC hereby provides notice of an opportunity for a hearing on the license amendment under the provisions of 10 CFR Part 2, Subpart L, "Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings." Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(c), a request for hearing must be filed within 30 days of the publication of this notice in the Federal Register. The request for a hearing must be filed with the Office of the Secretary, either:

(1) By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

In accordance with 10 CFR 2.1205(e), each request for a hearing must also be served, by delivering it personally or by mail, to:

(1) The applicant, Homestake Mining Company, P.O. Box 98, Grants, New Mexico 87020; and

(2) The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852 or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

The request must also set forth the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes a hearing.

Dated at Rockville, Maryland, this 14th day of January 1997.

For the Nuclear Regulatory Commission,  
Daniel M. Gillen,  
*Assistant Chief, Uranium Recovery Branch,  
Division of Waste Management, Office of  
Nuclear Material Safety and Safeguards.*

[FR Doc. 97-1484 Filed 1-21-97; 8:45 am]

BILLING CODE 7590-01-P

#### [Docket No. 999-90004, General License Pursuant to Part 110, EA 96-342]

#### NDC Systems, Irwindale, California; Confirmatory Order Modifying License (Effective Immediately)

I

NDC Systems (NDC or Licensee) has been granted a General License pursuant to the provisions of 10 CFR 110.19, 110.20, and 110.23. The General License authorizes the Licensee to export licensed material in accordance with the provisions contained therein.

II

Based on the NRC's investigation conducted from April 12 through

August 28, 1996, at NDC's facility in Irwindale, California, and a predecisional enforcement conference held on October 23, 1996, the NRC has concluded that a violation of NRC requirements occurred. The violation involved the willful failure to comply with export requirements (10 CFR 110.50) in that packaging of certain gauging devices containing americium-241 (Am-241) was not in accordance with Department of Transportation (DOT) requirements.

The Commission's regulations in 10 CFR 110.50(a) and 10 CFR 71.5(a) require NDC, as a general licensee, to comply with the applicable DOT requirements in 49 CFR Parts 170 through 189. Prior to November 1, 1995, DOT requirements in 49 CFR Sections 171.11(d), 171.12(d), 173.422, 173.423, 173.431, and 173.475 required shippers to ensure that radioactive materials are packaged properly, with Type A packaging required for packages containing materials having total activity greater than 80 millicuries, and packages containing materials having total activity equal to or less than 80 millicuries being excepted from this requirement. Prior to November 1, 1995, however, NDC systems delivered gauging devices containing 150 millicuries of americium-241 sources for transport by air to foreign countries in excepted packaging, not in Type A packaging.

NDC representatives stated that the circumstances surrounding the failure to comply with DOT requirements began around 1989 with the practice of improperly labeling gauges that were going to certain countries. Gauges going to certain countries were purposefully mislabeled to reflect a lower activity of 25 mCi, even though NDC personnel knew that the gauges contained 150 mCi. (This occurred after Amersham, the manufacturer of the sources, began shipping to NDC 150 mCi cylinder sources rather than 25 mCi disk sources.) Since the lower activity was within the DOT limit for excepted packaging, NDC personnel improperly packaged the mislabeled gauges in excepted packaging rather than the required Type A packaging. Thus, NDC shipping personnel were packaging and sending gauges going to certain countries in excepted packaging, while the same model gauges, with the same sources, were shipped to other countries in Type A packaging. However, NDC personnel stated that they did not realize they were violating DOT requirements.

Some NDC personnel stated that they raised concerns about the practice of mislabeling the gauge to senior NDC management on a number of occasions.

Although NDC senior management agreed the practice was improper, NDC personnel were instructed to continue the practice despite their concerns. At the conference, NDC senior management stated that it condoned this inappropriate practice with the rationalization that it would be a temporary practice until the devices were registered in those certain countries. All involved NDC personnel stated that there was no discussion of mispackaging the devices which was the natural consequence of the mislabeling. Due to NDC senior management's admitted "sloppy" practices and total lack of oversight, NDC senior management inadequately evaluated the mislabeling concern and did not consider that the mislabeling would result in mispackaging. Thus, the NRC has concluded that this violation was willful based, at least, on the careless disregard by senior NDC management of applicable requirements.

NDC stated that the root causes of the violation are: (1) a lack of management oversight of the NDC shipping program to ensure compliance with DOT regulations and (2) a lack of a thorough understanding of applicable DOT regulations.

During the October 23 predecisional enforcement conference, NDC proposed various corrective actions that it had taken and planned to take to preclude recurrence of this violation and future DOT violations. In later discussions with NDC, the corrective actions were enhanced to address specific NRC concerns.

### III

By letter dated November 21, 1996, the NRC described to the Licensee the NRC's understanding of the Licensee's modified corrective actions. The Licensee subsequently consented to issuing this Order with the conditions, as described in Section IV below, in a letter signed on November 29, 1996. The Licensee further agreed that this Order be immediately effective and that its hearing rights be waived. The NRC has reviewed the above conditions and concludes that implementation of these actions would provide enhanced assurance that sufficient resources will be applied to the radiation safety program, and that the program will be conducted safely and in accordance with NRC requirements.

I find that the Licensee's commitments as set forth in Section IV are acceptable and necessary, and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that the public health and safety require that the

Licensee's commitments in its November 29, 1996, letter, be confirmed by this Order. Based on the above and on the Licensee's consent, this Order is immediately effective upon issuance.

### IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 110, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT NDC'S GENERAL LICENSE PURSUANT TO 10 CFR PART 110 IS MODIFIED AS FOLLOWS:

A. NDC shall retain the services of an independent individual or organization (consultant) to perform two audits of the Licensee's activities conducted under the general license, and shall provide the NRC with reports of the audits' findings as described in Provisions D and E below. The audits shall include, but are not limited to:

- (1) Review of export activities, including NDC's compliance with Department of Transportation (DOT) regulations;
- (2) discussion and interviews with NDC employees to verify that employees understand DOT regulations as they relate to NDC's shipping activities and to verify the effectiveness of NDC's corrective actions to the violation identified in the Order;
- (3) discussion and interviews with NDC employees to verify that NDC employees have been adequately trained on and understand NDC's procedures and policies for raising safety concerns and for seeking guidance related to NRC-licensed activities; and
- (4) discussion and interviews with NDC employees to determine whether employees have concerns about NDC's policies or procedures for raising safety issues and for seeking guidance.

B. Within 30 days of the date of the Order, NDC shall submit to the NRC, for NRC review and approval, the name and qualifications of the consultant it proposes to use in conducting these audits. The consultant shall be independent of the Licensee's organization and shall be experienced in performing evaluations of NRC or Agreement State licensee programs with respect to implementation of the Department of Transportation (DOT) regulations.

C. Prior to supervising or performing any shipping activities, and no later than 60 days after the date of the Order, NDC will provide formal classroom training consistent with the training requirements of 49 CFR Part 172 Subpart H. All individuals who are

involved in shipping activities, the Shipping Supervisor and Operations Manager, and the individual or individuals with responsibility for oversight of the radiation safety program, are subject to this commitment. For the purpose of the Order, shipping activities include tasks such as packaging, labeling, and completion of appropriate transportation documents.

D. Within 60 days of the date of NRC's approval of a consultant, NDC shall provide the NRC with a copy of the first audit report, including a description of actions taken and planned in response to any recommendations, comments, or findings in the audit report.

Alternatively, if NDC does not believe any specific recommendation should be adopted or an audit finding should not be addressed, NDC will provide justification for its position to the NRC.

E. Within 12-18 months of the date of the Order, NDC shall provide the NRC with a copy of the second audit report, including a description of actions taken and planned in response to any recommendations, comments, or findings in the audit report.

Alternatively, if NDC does not believe any specific recommendation should be adopted or an audit finding should not be addressed, NDC will provide justification for its position to the NRC. If NDC chooses to use a different auditor for this audit, NDC shall submit the qualifications of the auditor to the NRC for approval prior to conducting the audit.

F. For the purpose of the Order, NDC shall send the audits and its responses, and the qualifications of the auditor, to the Director, Division of Nuclear Material Safety, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, and a copy to Chief, Materials Branch, NRC WCFO, 1450 Maria Lane, Walnut Creek, California 94596-5368.

The Regional Administrator, Region IV, may relax or rescind, in writing, any of the above conditions upon a showing by the Licensee of good cause.

V

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted

to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, D.C. 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, and to the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

Dated at Rockville, Maryland this 13th day of January 1997.

For the Nuclear Regulatory Commission,  
James Lieberman,

*Director, Office of Enforcement*  
[FR Doc. 97-1488 Filed 1-21-97; 8:45 am]

BILLING CODE 7590-01-P

[Docket No. 50-443]

**North Atlantic Energy Service Corporation, et al., Seabrook Station, Unit No. 1; Environmental Assessment and Finding of No Significant Impact**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption for Facility Operating License No. NPF-86 issued to North Atlantic Energy Service Corporation (the licensee or North Atlantic) for operation of the Seabrook Station, Unit No. 1 (Seabrook) located in Rockingham County, New Hampshire. North Atlantic is authorized

to act as agent for the eleven owners of the facility.

**Environmental Assessment**

***Identification of the Proposed Action***

This Environmental Assessment addresses the potential environmental issues related to the proposed issuance of a temporary exemption from certain requirements of 10 CFR 50.75(e)(2). Specifically, the proposed exemption would allow Great Bay Power Corporation (Great Bay) 6 months from the date of issue, to obtain a surety bond or other allowable decommissioning funding assurance mechanism for non-electric utilities. Great Bay holds an undivided 12.1324 percent ownership interest in Seabrook.

***The Need for the Proposed Action***

On May 8, 1996, North Atlantic submitted to the NRC a request on behalf of Great Bay for Commission consent to the indirect transfer of control of Great Bay's interest in the Seabrook Operating License through formation of a holding company. Additional information relating to this request was submitted on October 18, 1996, and December 9, 1996. Approval of the application would allow Great Bay, through the formation of several corporate entities and a merger, to become a wholly-owned subsidiary of a new holding company, Great Bay Holdings Corporation. Such a restructuring would expand Great Bay's opportunities, thereby potentially improving Great Bay's financial strength, benefiting public health and safety. The indirect transfer of control of Great Bay's share of Seabrook is subject to NRC approval pursuant to 10 CFR 50.80.

Great Bay was established in 1994 as a successor to EUA Power Company, which had filed for reorganization under Chapter 11 of the U.S. Bankruptcy Code. When the NRC staff approved the plan for Great Bay's emergence from bankruptcy in 1993, it believed that Great Bay would continue to be an electric utility based upon its status as such prior to bankruptcy and upon the expectation that the reorganized entity would be successful in obtaining long-term contracts for the sale of most of its share of power from Seabrook. However, Great Bay has been marketing most of its share of electricity from Seabrook on the spot wholesale market. The staff has not yet completed its review of the proposed transfer of control, but it appears that Great Bay does not now meet the definition of "electric utility" as provided in 10 CFR 50.2, in that it does not appear to