

Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestors/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A

petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii).

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) e-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, hearingdocket@nrc.gov; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415-1101, verification number is (301) 415-1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by e-

mail to OGCMailCenter@nrc.gov. A copy of the request for hearing and petition for leave to intervene should also be sent to Jay Silberg, Esq., Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

For further details with respect to this action, see the application for amendment dated August 25, 2006, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 28th day of August 2006.

For the Nuclear Regulatory Commission.

Jack Donohew,

Senior Project Manager, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6-14511 Filed 8-31-06; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 040-08980]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment for Heritage Minerals, Inc.; Manchester Township, NJ

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

FOR FURTHER INFORMATION CONTACT:

Marjorie McLaughlin, Project Manager, Decommissioning Branch, Division of Nuclear Materials Safety, Region I, U.S. Nuclear Regulatory Commission, 475 Allendale Road, King of Prussia, Pennsylvania, 19406-1415. Telephone: (610) 337-5240; fax number: (610) 337-5269; e-mail: mmm3@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the

issuance of a license amendment to Materials License No. SMB-1541 issued to Heritage Minerals, Inc. (HMI or the licensee), to authorize release of the NRC-licensed areas of its facility in Manchester Township, New Jersey (the Heritage site) for unrestricted use and license termination, and has prepared an Environmental Assessment (EA) in support of this amendment in accordance with the requirements of 10 CFR part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate. The amendment will be issued following the publication of this Notice.

II. EA Summary

The purpose of the proposed amendment is to allow the release of the NRC-licensed areas of the licensee's Manchester Township, New Jersey, facility for unrestricted use and license termination. HMI was authorized by the NRC on January 2, 1991, to possess radioactive source materials resulting from past minerals processing operations at the site. The facility was used by HMI and previous owners from 1973-1989 for the mechanical processing of dredged native sand to extract various heavy minerals (zirconium and titanium). The native sand also contained natural uranium and thorium, which were concentrated in the waste tailings of the processing operation.

The processing operation involved two stages, with each stage producing a separate tailings waste stream that was immediately combined and stockpiled on site. In 1987, HMI began reprocessing the stockpiled tailings to extract any remaining heavy minerals, producing a more concentrated combined waste stream. This more concentrated waste was then further processed by HMI starting in 1989. With this further reprocessing, HMI also installed a process change, by which the waste streams from the two stages were no longer combined, but were instead maintained separate. The resultant waste tailings from one stage of this process contained a concentration of uranium and thorium in excess of 0.05% by weight, meeting the 10 CFR part 40 definition of radioactive source material (10 CFR 40.4). This concentration exceeds the unimportant quantity exemption for source material stated in 10 CFR 40.13(a), and therefore required an NRC license. HMI separated the source material from all other waste material, and stored this sand within a stockpile area that was later enclosed by a fence. On March 10, 1989, HMI submitted an application for an NRC

source material license. Before the license was issued, reduced demand and price for zircon caused HMI to cease processing activities, and no additional source material was added. On January 2, 1991, the NRC issued Materials License No. SMB-1541 authorizing HMI to possess the stockpiled source material and to perform decommissioning of the impacted areas of the site (two mill buildings and the ground beneath the stockpile), comprising approximately one acre.

The ground (approximately 287 acres) between and surrounding the impacted areas contains uranium and thorium concentrations that are above background but below 0.05% by weight. The above-background concentrations of source material in these regions resulted from staging and regrading waste sands from previous (unlicensed) processing activities. Because the source material concentration of this material is below 0.05% by weight, it remains exempt from NRC regulations, and is not part of the license. Removal of this material may be required by the State of New Jersey. Within this region, however, NRC confirmatory surveys identified several pockets of material exceeding 0.05% source material concentration by weight. NRC staff determined that these pockets were inadvertently formed from the staging and grading of the exempt material described above. Consequently, the staff determined that this material was "licensable," in that it met the 10 CFR part 40 definition of source material. The staff required HMI to remediate all pockets of licensable material in the same manner as the licensed material.

On March 4, 2005, HMI requested that NRC release the facility for unrestricted use. Both mill buildings have been demolished and only the concrete pads remain. The stockpiled licensed material has been disposed and the ground beneath the pile excavated. The pockets of licensable material identified between the impacted areas have also been excavated and disposed offsite. The HMI has conducted surveys of the impacted areas and the remediated pockets and provided information to the NRC demonstrating these areas meet the license termination criteria for unrestricted release in its approved Decommissioning Plan (DP). HMI's DP was previously noticed in the **Federal Register** on September 1, 1999 (64 FR 47872-47877), along with a notice of an opportunity to request a hearing.

The 10 CFR 20 Subpart E, "The License Termination Rule" (LTR), bases termination of NRC licenses and release of facilities for unrestricted use on

meeting residual radioactivity levels distinguishable from background, that do not result in a Total Effective Dose Equivalent (TEDE) to an average member of the critical group above 25 millirem (mrem) per year. The rule was a change from past practice, which based release of a site for unrestricted use on meeting specific concentration-based cleanup levels. When the LTR was published (62 FR 39088), a provision was included in 10 CFR 20.1401(b)(3) to "grandfather" sites with DPs submitted to the NRC before August 20, 1998, and approved by August 20, 1999, (the approval date was extended to August 20, 2000, for 12 sites, including Heritage Minerals, by SECY-99-195). Grandfathered sites are decommissioned under the criteria in their approved DPs, using the previous concentration-based cleanup levels. These cleanup standards were considered to result in a dose less than the public dose limit of 100 mrem/yr, specified in 10 CFR 20.1301.

The NRC staff has prepared an EA in support of the proposed action of terminating HMI's Materials License No. SMB-1541, and releasing the NRC-licensed areas of the Heritage site for unrestricted use. The staff evaluated the request from HMI and the results of their surveys, performed independent, confirmatory measurements, and performed a quantitative dose assessment of the licensed areas. The mill pads were modeled with the assumption of reuse of the structures for residential occupancy. The highest resultant TEDE for this scenario is 1.6 mrem/yr. The stockpile area was modeled for a suburban resident, resulting in a maximum possible TEDE of 40 mrem/yr.

III. Finding of No Significant Impact

The staff has prepared an EA in support of the proposed license amendment to terminate HMI's license and release the NRC-licensed areas of the Heritage site for unrestricted use. The staff has found that the radiological environmental impacts from the proposed action would not exceed the public dose limit of 100 mrem/yr. Surface and groundwater analyses performed at the site confirm that no significant radionuclide transport or elevated concentrations are occurring in the surface water or aquifer system. The NRC staff has determined that the proposed action would have no impact on site geology, ecology, or water. The staff has also found that the proposed action is procedural in nature because HMI has completed all NRC-required remediation at the site. On the basis of the EA, NRC has concluded that there

are no significant environmental impacts from the proposed action of terminating HMI's license and releasing for unrestricted use the NRC-licensed areas of the Heritage site, and has determined not to prepare an environmental impact statement.

IV. Further Information

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/>

[reading-rm/adams.html](#). From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are:

| | Summarized document description | ADAMS Accession No. |
|----------|---|---------------------|
| 1 | Environmental Assessment for the Proposed Termination of U.S. Nuclear Regulatory Commission Materials License No. SMB-1541, Issued to Heritage Minerals, Inc. in Manchester Township, New Jersey, and Release for Unrestricted Use. | ML062350098 |
| 2 | "Five Options for NRC Approval of Disposal or Onsite Storage of Thorium or Uranium Wastes From Past Nuclear Operations," dated 10/23/81. | ML033630718 |
| 3 | FC 83-23 "Termination of Byproduct, Source, and Special Nuclear Materials Licenses," dated 11/4/83 | ML003745523 |
| 4 | Letter terminating Heritage plant activities, dated 8/23/90 | ML030370350 |
| 5 | Additional Information for License Application, dated 7/25/90 | ML030370324 |
| 6 | Environmental Assessment and Finding of No Significant Impact for HMI DP, dated 10/19/99 | ML031320778 |
| 7 | HMI Final Status Survey, dated 11/25/01 | ML021150357 |
| 8 | NRC Confirmatory Survey Report, dated 4/10/02 | ML021060589 |
| 9 | HMI proposed additional remediation activities, dated 3/10/03 | ML030830547 |
| 10 | HMI amendment to proposed additional remediation activities, dated 5/6/03 | ML031320537 |
| 11 | NRC Confirmatory Survey Phase 2, dated 12/31/03 | ML040250070 |
| 12 | HMI proposed final remediation activities, dated 6/30/04 | ML041910222 |
| 13 | NRC letter accepting proposed final remediation activities, dated 11/17/04 | ML043240049 |
| 14 | HMI Termination Request, dated 3/04/05 | ML050960109 |
| 15 | Soil Sample Results from HMI, dated 2/14/05 | ML050960038 |
| 16 | NJDEP comments on draft HMI EA, dated 7/12/05 | ML052000408 |
| 17 | Dose Assessment for Unrestricted Future Use Scenarios of the HMI site, dated 8/25/05 | ML052410061 |

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov.

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at King of Prussia, Pennsylvania this 23rd day of August, 2006.

For the Nuclear Regulatory Commission.

Marie Miller,

Chief Decommissioning Branch, Division of Nuclear Materials Safety, Region I.

[FR Doc. E6-14519 Filed 8-31-06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-27468; File No.812-13273]

Merrill Lynch Life Insurance Company, et al; Notice of Application

August 28, 2006.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application for an amended order pursuant to Section 6(c) of the Investment Company Act of 1940

("Act") granting exemptions from the provisions of Sections 2(a)(32) and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder.

Applicants: Merrill Lynch Life Insurance Company ("MLLIC"), Merrill Lynch Life Variable Annuity Separate Account A, Merrill Lynch Life Variable Annuity Separate Account C, Merrill Lynch Life Variable Annuity Separate Account D, ML Life Insurance Company of New York ("MLNY"), ML of New York Variable Annuity Separate Account A, ML of New York Variable Annuity Separate Account C, ML of New York Variable Annuity Separate Account D, and Merrill Lynch, Pierce, Fenner & Smith Incorporated ("MLPF&S") (except for MLLIC, MLNY, and MLPF&S, each a "separate account" and collectively the "Separate Accounts").

Summary of Application: The Applicants request an order amending an existing order to permit the recapture of amounts applied to purchase payments made under certain variable annuity contracts. Applicants also request that the relief under the order extend to any current or future separate accounts of Merrill Lynch and their successors in interest, which may offer or support contracts that are substantially similar in all material respects to the contracts described in the application and to any other NASD

registered broker/dealers under common control with Merrill Lynch, that serves as distributor or principal underwriter for the contracts.

Filing Date: The application was filed on February 15, 2006, and amended and restated on August 24, 2006.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested person may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 25, 2006, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090. Applicants, c/o Kirsty Lieberman, Esq., Merrill Lynch Insurance Group, Inc., 1300 Merrill Lynch Drive, 2nd Floor, Pennington, New Jersey 08534.

FOR FURTHER INFORMATION CONTACT: Robert Lamont, Senior Counsel or Joyce M. Pickholz, Branch Chief, Office of