



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-4005

June 13, 2007

BHP Billiton
Navajo Coal Company-Navajo Mine
ATTN: Dusty Fisher
Mining Engineer
P.O. Box 1717
Fruitland, New Mexico 87416

SUBJECT: NEW LICENSE

Please find enclosed License No. 30-29264-01. An environmental assessment for this action is not required, since this action is categorically excluded under 10 CFR 51.22(c)(14)(viii). You should review this license carefully and be sure that you understand all conditions. If you have any questions, please contact me at 925-673-9646.

The NRC needs your Taxpayer Identification Number in order to make payments (refunds). Please complete and return the self-addressed, stamped NRC Form 531, "Request for Taxpayer Identification Number," which is enclosed for your convenience. Also enclosed is a copy of NRC Form 3, "Notice to Employees" which should be posted as specified in 10 CFR 19.11.

NRC's Regulatory Issue Summary (RIS) 2005-31, provides criteria to identify security-related sensitive information and guidance for handling and marking of such documents. This ensures that potentially sensitive information is not made publicly available through ADAMS. The RIS may be located on the NRC Web site at: <http://www.nrc.gov/reading-rm/doc-collections/gen-comm/reg-issues/2005/>. Additionally, the link for frequently asked questions may be located at: <http://www.nrc.gov/reading-rm/faqlist.html>, then select "Withholding of Sensitive Information." Pursuant to NRC's RIS 2005-31, the enclosed materials license will be made publicly available.

NRC expects licensees to conduct their programs with meticulous attention to detail and a high standard of compliance. Because of the serious consequences to employees and the public that can result from failure to comply with NRC requirements, you must conduct your radiation safety program according to the conditions of your NRC license, representations made in your license application, and NRC regulations. In particular, note that you must:

1. Operate by NRC regulations 10 CFR Part 19, "Notices, Instructions and Reports to Workers: Inspection and Investigations," 10 CFR Part 20, "Standards for Protection Against Radiation," and other applicable regulations.
2. Notify NRC in writing of any change in mailing address.
3. In accordance with 10 CFR 30.36(d), notify NRC, promptly, in writing within 60 days, and request termination of the license:
 - a. When you decide to terminate all activities involving materials authorized under

- the license whether at the entire site or any separate building or outdoor area;
- b. If you decide not to acquire or possess and use authorized material; or
 - c. When no principal activities under the license have been conducted for a period of 24 months.
4. Request and obtain a license amendment before you:
- a. Change Radiation Safety Officers;
 - b. Order byproduct material in excess of the amount, radionuclide or form authorized on the license;
 - c. Add or change the areas or address(es) of use identified in the license application or on the license, except for areas of use where byproduct material is used only in accordance with either 10 CFR 35.100 or 35.200; or
 - d. Change the name or ownership of your organization.
5. Submit a complete renewal application or termination request at least 30 days before the expiration date on your license. You will receive a reminder notice approximately 90 days before the expiration date. Possession of radioactive material after your license expires is a violation of NRC regulations.

In addition, please note that NRC Form 313 requires the applicant, by signature, to verify that the applicant understands that all statements contained in the application are true and correct to the best of the applicant's knowledge. The signatory for the application should be the licensee or certifying official rather than a consultant. Since the NRC also accepts a letter requesting amendment or renewal of an NRC license, the signatory for such a request should also be the licensee or certifying official rather than a consultant.

NRC will periodically inspect your radiation safety program. Failure to conduct your program according to NRC regulations, license conditions, and representations made in your license application and supplemental correspondence with NRC may result in enforcement action against you. This could include issuance of a notice of violation; imposition of a civil penalty; or an order suspending, modifying, or revoking your license as specified in the NRC Enforcement Policy. The NRC Enforcement Policy is available on the following internet address:
<http://www.nrc.gov/what-we-do/regulatory/enforcement/enforc-pol.pdf>.

The NRC no longer publishes the NRC Rules and Regulations loose leaf supplements. However, an electronic version of the NRC's regulations is available on the NRC Web site at www.nrc.gov. To view these regulations, highlight "Electronic Reading Room" and choose "Regulations" on the drop down menu. An electronic version of the NUREG-1556 Series publications is also available on the NRC Web site. To view these guidance documents, highlight "Electronic Reading Room"; choose "Collections"; choose "NUREG-Series Pubs"; and select "Publications Prepared by the NRC Staff". Then, choose "NUREG-1556" from the table and select the appropriate volume(s) for your license type.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its

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enclosure will be available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Thank you for your cooperation.

Sincerely,

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James L. Montgomery, Health Physicist
Nuclear Materials Licensing Branch

Docket: 030-37476
License: 30-29264-01
Control: 471377

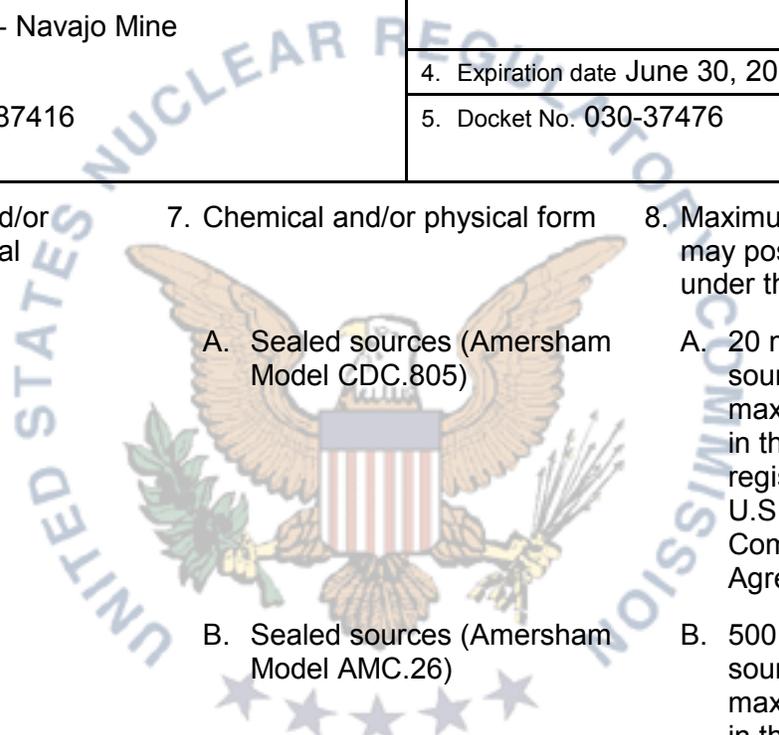
Enclosures: As stated

MATERIALS LICENSE

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974 (Public Law 93-438), and Title 10, Code of Federal Regulations, Chapter I, Parts 30, 31, 32, 33, 34, 35, 36, 39, 40, and 70, and in reliance on statements and representations heretofore made by the licensee, a license is hereby issued authorizing the licensee to receive, acquire, possess, and transfer byproduct, source, and special nuclear material designated below; to use such material for the purpose(s) and at the place(s) designated below; to deliver or transfer such material to persons authorized to receive it in accordance with the regulations of the applicable Part(s). This license shall be deemed to contain the conditions specified in Section 183 of the Atomic Energy Act of 1954, as amended, and is subject to all applicable rules, regulations, and orders of the Nuclear Regulatory Commission now or hereafter in effect and to any conditions specified below.

Licensee	
1. BHP Billiton Navajo Coal Company - Navajo Mine	3. License number 30-29264-01
2. P.O. Box 1717 Fruitland, New Mexico 87416	4. Expiration date June 30, 2017
	5. Docket No. 030-37476

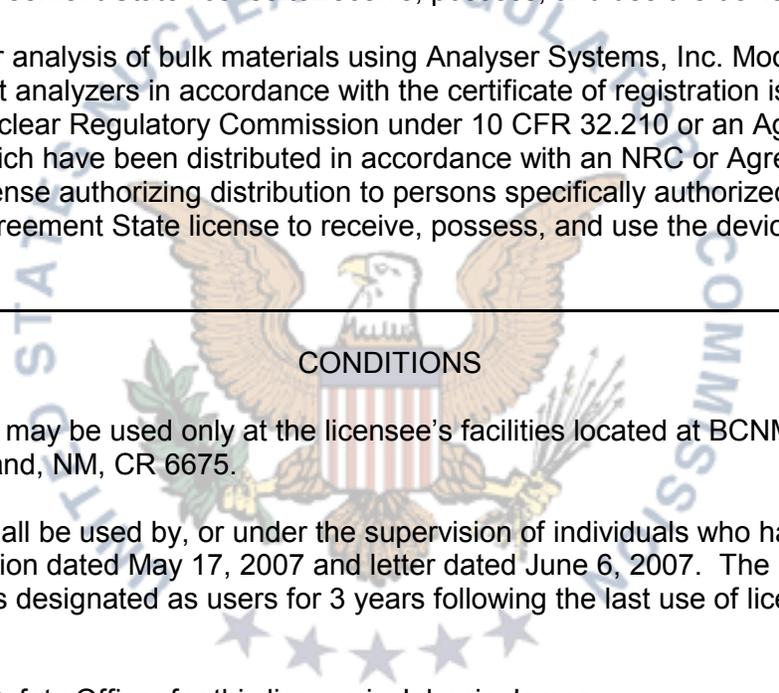
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|---|--|---|
| <p>6. Byproduct, source, and/or special nuclear material</p> <p>A. Cesium-137</p> <p>B. Americium-241</p> <p>C. Californium-252</p> | <p>7. Chemical and/or physical form</p> <p>A. Sealed sources (Amersham Model CDC.805)</p> <p>B. Sealed sources (Amersham Model AMC.26)</p> <p>C. Sealed sources (Frontier Technology Corp. Model Series 10 and 100; AEA Technology Series CVN)</p> | <p>8. Maximum amount that licensee may possess at any one time under this license</p> <p>A. 20 millicuries. No single source to exceed the maximum activity specified in the certificate of registration issued by the U.S. Nuclear Regulatory Commission or an Agreement State</p> <p>B. 500 millicuries. No single source to exceed the maximum activity specified in the certificate of registration issued by the U.S. Nuclear Regulatory Commission or an Agreement State</p> <p>C. 120 millicuries. No single source to exceed the maximum activity specified in the certificate of registration issued by the U.S. Nuclear Regulatory Commission or an Agreement State</p> |
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9. Authorized use

- A and B. For analysis of bulk materials using Energy Technologies, Inc. Model DGA-Series 400 rapid ashmeters in accordance with the certificate of registration issued by the U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or an Agreement State and which have been distributed in accordance with an NRC or Agreement State specific license authorizing distribution to persons specifically authorized by an NRC or Agreement State license to receive, possess, and use the devices.
- C. For analysis of bulk materials using Analyser Systems, Inc. Model FSA & EBA elemental belt analyzers in accordance with the certificate of registration issued by the U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or an Agreement State and which have been distributed in accordance with an NRC or Agreement State specific license authorizing distribution to persons specifically authorized by an NRC or Agreement State license to receive, possess, and use the devices.

**CONDITIONS**

10. Radioactive material may be used only at the licensee's facilities located at BCNM-Navajo North Area, 6 miles south of Fruitland, NM, CR 6675.
11. Licensed material shall be used by, or under the supervision of individuals who have received the training described in application dated May 17, 2007 and letter dated June 6, 2007. The licensee shall maintain records of individuals designated as users for 3 years following the last use of licensed material by the individual.
12. A. The Radiation Safety Officer for this license is Johnnie James.
- B. Before assuming the duties and responsibilities as RSO for this license, the individual shall have successfully completed one of the training courses described in Criteria in Section 8.7.1 of NUREG-1556, Volume 4, dated October 1998.
13. Sealed sources containing licensed material shall not be opened or sources removed from source holders by the licensee, except as specifically authorized.
14. A. Sealed sources or detector cells shall be tested for leakage and/or contamination at intervals not to exceed 6 months or at such other intervals as specified by the certificate of registration referred to in 10 CFR 32.210 or by an Agreement State.
- B. Notwithstanding Paragraph A of this Condition, sealed sources designed to emit alpha particles shall be tested for leakage and/or contamination at intervals not to exceed 3 months.
- C. In the absence of a certificate from a transferor indicating that a leak test has been made within 6 months prior to the transfer, a sealed source received from another person shall not be put into use

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until tested and the test results received.

- D. Sealed sources need not be leak tested if:
- (I) they contain only hydrogen-3; or
 - (ii) they contain only a radioactive gas; or
 - (iii) the half-life of the isotope is 30 days or less; or
 - (iv) they contain not more than 100 microcuries of beta and/or gamma emitting material or not more than 10 microcuries of alpha emitting material; or
 - (v) they are not designed to emit alpha particles, are in storage, and are not being used. However, when they are removed from storage for use or transferred to another person, and have not been tested within the required leak test interval, they shall be tested before use or transfer. No sealed source or detector cell shall be stored for a period of more than 10 years without being tested for leakage and/or contamination.
- E. The leak test shall be capable of detecting the presence of 0.005 microcurie of radioactive material on the test sample. If the test reveals the presence of 0.005 microcurie or more of removable contamination, a report shall be filed with the U.S. Nuclear Regulatory Commission in accordance with 10 CFR 30.50(b)(2), and the source shall be removed immediately from service and decontaminated, repaired, or disposed of in accordance with Commission regulations. The report shall be filed within 5 days of the date the leak test result is known with the U.S. Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, ATTN: Director, Division of Nuclear Materials Safety. The report shall specify the source involved, the test results, and corrective action taken.
- F. Tests for leakage an/or contamination, limited to leak test sample collection shall be performed by persons specifically licensed by the Commission or an Agreement State to perform such services. The licensee is not authorized to perform the analysis. Analysis of leak test samples must be performed by persons specifically licensed by the Commission or an Agreement State to perform such services.
15. A. Each gauge shall be tested for the proper operation of the on-off mechanism (shutter) and indicator, if any, at intervals not to exceed 6-months or at such longer intervals as specified in the certificate of registration issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR 32.210 or the equivalent regulations of an Agreement State.
- B. Notwithstanding the periodic on-off mechanism (shutter) and indicator test, the requirement does not apply to gauges that are stored, not being used, and have the shutter lock mechanism in a locked position. The gauges exempted from this periodic test shall be tested before use.
16. The following services shall not be performed by the licensee: installation, initial radiation surveys, relocation, removal from service, dismantling, alignment, replacement, disposal of sealed sources and

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non-routine maintenance or repair of components related to the radiological safety of the gauge (i.e., the sealed source, the source holder, source drive mechanism, on-off mechanism (shutter), shutter control, shielding). These services shall be performed only by persons specifically licensed by the U.S. Nuclear Regulatory Commission or an Agreement State to perform such services.

17. The licensee may initially mount a gauge if permitted by the certificate of registration issued by the U.S. Nuclear Regulatory Commission or an Agreement State and under the following conditions:
- A. The gauge must be mounted in accordance with written instructions provided by the manufacturer;
 - B. The gauge must be mounted in a location compatible with the "Conditions of Normal Use" and "Limitations and/or Other Considerations of Use" in the certificate of registration issued by the U.S. Nuclear Regulatory Commission or an Agreement State;
 - C. the on-off mechanism (shutter) must be locked in the off position, if applicable, or the source must be otherwise fully shielded;
 - D. the gauge must be received in good condition (i.e. package was not damaged); and
 - E. the gauge must not require any modification to fit in the proposed location.

Mounting does not include electrical connection, activation or operation of the gauge. The source must remain fully shielded and the gauge may not be used until it is installed and made operational by a person specifically licensed by the U.S. Nuclear Regulatory Commission or an Agreement State to perform such operations.

18. A. The licensee may maintain, repair, or replace device components that are not related to the radiological safety of the device containing byproduct material and that do not result in the potential for any portion of the body to come into contact with the primary beam or in increased radiation levels in accessible areas.
- B. The licensee may not maintain, repair or replace any of the following device components: the sealed source, the source holder, source drive mechanism, on-off mechanism (shutter), shutter control, or shielding, or any other component related to the radiological safety of the device, except as provided otherwise by specific condition of this license.
19. Prior to initial use and after installation, relocation, dismantling, alignment, or any other activity involving the source or removal of the shielding, the licensee shall assure that a radiological survey is performed to determine radiation levels in accessible areas around, above, and below the gauge with the shutter open. This survey shall be performed only by persons authorized to perform such services by the Commission or an Agreement State.
20. The licensee shall operate each gauge within the manufacturer's specified temperature and environmental limits such that the shielding and shutter mechanism of the source holder are not compromised.

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21. The licensee shall assure that the shutter mechanism of each device is locked in the closed position during periods when a portion of an individual's body may be subject to the direct radiation beam. The licensee shall review and modify as appropriate its "lock-out" procedures whenever a new device is obtained to incorporate the device manufacturer's recommendations.
22. The licensee shall conduct a physical inventory every 6 months, or at other intervals approved by the U.S. Nuclear Regulatory Commission, to account for all sealed sources and/or devices received and possessed under the license. Records of inventories shall be maintained for 5 years from the date of each inventory, and shall include the radionuclides, quantities, manufacturer's name and model numbers, and the date of the inventory.
23. Except for maintaining labeling as required by 10 CFR Part 20, or 71, the licensee shall obtain authorization from the U.S. Nuclear Regulatory Commission before making any changes in the sealed source, device or source-device combination that would alter the description or specifications as indicated in the respective certificate of registration issued either by the Commission pursuant to 10 CFR 32.210 or by an Agreement State.
24. In addition to the possession limits in Item 8, the licensee shall further restrict the possession of licensed material to quantities below the minimum limit specified in 10 CFR 30.35(d) for establishing decommissioning financial assurance.
25. The licensee is authorized to transport licensed material in accordance with the provisions of 10 CFR Part 71, "Packaging and Transportation of Radioactive Material."
26. Except as specifically provided otherwise in this license, the licensee shall conduct its program in accordance with the statements, representations, and procedures contained in the documents, including any enclosures, listed below. The Nuclear Regulatory Commission's regulations shall govern unless the statements, representations, and procedures in the licensee's application and correspondence are more restrictive than the regulations.

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- A. Application dated May 17, 2007
- B. Letter dated June 6, 2007



FOR THE U.S. NUCLEAR REGULATORY COMMISSION

Date June 13, 2007By IRA
James L. Montgomery, Health Physicist
Nuclear Materials Licensing Branch
Region IV
Arlington, Texas 76011