UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

March 31, 2008

Docket No. 03017472 License No. 37-19350-01
03037668 37-19350-02

Control No. 141990
141991

Paul I. Detwiler, III
Executive Vice President
New Enterprise Stone & Lime Co., Inc.
P.O. Box 77
New Enterprise, PA 16664

SUBJECT: NEW ENTERPRISE STONE & LIME CO., INC., LICENSE AMENDMENT AND NEW LICENSE, CONTROL NOS. 141990 AND 141991

Dear Mr. Detwiler:

By letter dated January 15, 2008, we informed you of the impending Agreement between the U.S. Nuclear Regulatory Commission (NRC) and the Commonwealth of Pennsylvania, whereby, the NRC will relinquish regulatory authority for certain licenses of byproduct, source, and special nuclear material. We also explained that your NRC license, which authorized licensed activities in Pennsylvania and at temporary job sites anywhere in the United States where the NRC maintains jurisdiction (non-Agreement States), required an amendment prior to the transfer. This action is necessary since authorization to conduct licensed activities at temporary job sites in NRC-regulated states will no longer be valid once the Agreement is signed and Pennsylvania assumes regulatory authority.

On March 3, 2008, J. Lon Reffner, of your organization informed the NRC that you wished to continue the use of licensed material in States that are under NRC jurisdiction. Therefore, your current NRC license has been amended to remove all Pennsylvania locations of use and/or storage, leaving all other locations (including temporary job sites, if applicable) which authorize work activities in non-Agreement States. In addition, we have issued you a new license authorizing work activities only in the Commonwealth of Pennsylvania. Enclosed with this letter are both licenses.

Please review the enclosed documents carefully and be sure that you understand and fully implement all the conditions incorporated into the licenses. If there are any errors or questions on the NRC license, please notify the U.S. Nuclear Regulatory Commission, Region I Office, Licensing Assistance Team, (610) 337-5239, so that we can provide appropriate corrections and answers. Errors or questions on the license authorizing licensed activities in the Commonwealth should be directed to Ronald Hamm at the Pennsylvania Department of Environmental Protection, Bureau of Radiation Protection at (717) 787-2480.

An environmental assessment for this action is not required, since this action is categorically excluded under 10 CFR 51.22(c)(14).

Thank you for your cooperation.

Sincerely,

Original signed by Craig Z. Gordon

Craig Z. Gordon
Senior Health Physicist
Materials Security and Industrial Branch
Division of Nuclear Materials Safety

Enclosures:
License No. 37-19350-01, Amendment No. 8
License No. 37-19350-02

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DATE	3/20/2008		3/20/2008					

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U.S. NUCLEAR REGULATORY COMMISSION

Amendment No. 8

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. New Enterprise Stone & Lime Co., Inc.	In accordance with the administrative amendment request dated March 3, 2008, 3. License number 37-19350-01 is amended in its entirety to read as follows:
2. P. O. Box 77 New Enterprise, Pennsylvania 16664	4. Expiration date September 30, 2011 5. Docket No. 030-17472 Reference No.

6. Byproduct, source, and/or special nuclear material	7. Chemical and/or physical form	8. Maximum amount that licensee may possess at any one time under this license
A. Cesium 137	A. Sealed sources registered either with the U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or with an Agreement State.	A. 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
B. Americium 241	B. Sealed neutron sources registered either with the U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or with an Agreement State.	B. 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

9. Authorized use:

A. and B. For measuring physical properties of materials, in portable gauging devices that have been registered either with U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or with an Agreement State and have been distributed in accordance with a Commission or Agreement State specific license authorizing distribution to persons specifically authorized by an Commission or Agreement State license to receive, possess, and use the devices.

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CONDITIONS

10. Licensed material may be used at temporary job sites of the licensee anywhere in the United States where the U.S. Nuclear Regulatory Commission maintains jurisdiction for regulating the use of licensed material, including areas of exclusive Federal jurisdiction within Agreement States.

    If the jurisdiction status of a Federal facility within an Agreement State is unknown, the licensee should contact the Federal agency controlling the job site in question to determine whether the proposed job site is an area of exclusive Federal jurisdiction. Authorization for use of radioactive materials at job sites in Agreement States not under exclusive Federal jurisdiction shall be obtained from the appropriate state regulatory agency.

11. Licensed material shall be used by, or under the supervision and in the physical presence of, individuals who have received the training described in the application dated September 6, 2001.

12. The Radiation Safety Officer for this license is J. Lon Reffner.

13. 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), 40.36(b), and 70.25(d) for establishing financial assurance for decommissioning.

14. A. Sealed sources shall be tested for leakage and/or contamination at intervals not to exceed the intervals specified in the certificate of registration issued by the U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or under equivalent regulations of an Agreement State.

    B. In the absence of a certificate from a transferor indicating that a leak test has been made within the intervals specified in the certificate of registration issued by the U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or under equivalent regulations of an Agreement State, prior to the transfer, a sealed source received from another person shall not be put into use until tested and the test results received.

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C. Sealed sources need not be tested if they 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 shall be stored for a period of more than 10 years without being tested for leakage and/or contamination.

D. The leak test shall be capable of detecting the presence of 0.005 microcurie (185 becquerels) of radioactive material on the test sample. If the test reveals the presence of 0.005 microcurie (185 becquerels) or more of removable contamination, a report shall be filed with the U.S. Nuclear Regulatory Commission in accordance with 10 CFR 30.50(c)(2), and the source shall be removed immediately from service and decontaminated, repaired, or disposed of in accordance with Commission regulations.

E. Tests for leakage and/or contamination, limited to leak test sample collection, shall be performed by the licensee or by other persons specifically licensed by the U.S. Nuclear Regulatory 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 U.S. Nuclear Regulatory Commission or an Agreement State to perform such services.

15. Sealed sources or source rods containing licensed material shall not be opened or sources removed or detached from source rods or gauges by the licensee, except as specifically authorized.

16. The licensee shall conduct a physical inventory every six months, or at other interval approved by the U.S. Nuclear Regulatory Commission, to account for all sealed sources and/or devices received and possessed under the license.

17. Each portable nuclear gauge shall have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The gauge or its container must be locked when in transport or storage, or when not under the direct surveillance of an authorized user.

18. Any cleaning, maintenance, or repair of the gauges that requires detaching the source or source rod from the gauge shall be performed only by the manufacturer or by other persons specifically licensed by the U.S. Nuclear Regulatory Commission or an Agreement State to perform such services.

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19. A. If the licensee uses unshielded sealed sources extended more than 3 feet below the surface, the licensee shall use surface casing that extends from the lowest depth to 12 inches above the surface and other appropriate procedures to reduce the probability of the source or probe becoming lodged below the surface. If it is not feasible to extend the casing 12 inches above the surface, the licensee shall implement procedures to ensure that the cased hole is free of obstruction before making measurements.

    B. If a sealed source or a probe containing sealed sources becomes lodged below the surface and it becomes apparent that efforts to recover the sealed source or probe may not be successful, the licensee shall notify the U.S. Nuclear Regulatory Commission and submit the report required by 10 CFR 30.50(b)(2) and (c). The licensee shall not abandon the sealed source or probe without obtaining the Commission's prior written consent.

20. The licensee is authorized to transport licensed material in accordance with the provisions of 10 CFR Part 71, "Packaging and Transportation of Radioactive Material."

21. 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 U.S. 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.

    A. Application dated September 6, 2001

For the U.S. Nuclear Regulatory Commission

Date March 31, 2008

By ***Original signed by Craig Z. Gordon***

Craig Z. Gordon
Materials Security and Industrial Branch
Division of Nuclear Materials Safety
Region I
King of Prussia, Pennsylvania 19406