



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
612 EAST LAMAR BLVD, SUITE 400
ARLINGTON, TEXAS 76011-4125

May 7, 2009

J.R. Simplot Company
Smoky Canyon Mine
ATTN: Joe Booth
Radiation Safety Officer
P.O. Box 1270
Afton, Wyoming 83110

SUBJECT: LICENSE AMENDMENT

Please find enclosed Amendment No. 03 to NRC License No. 49-27521-01. **This license amendment authorizes you as the Radiation Safety Officer.** Please note that the NRC does not list an "Alternate Radiation Protection Officer" in a license. The Radiation Safety Officer (RSO) is responsible for the overall management of the radiation safety program; identifying radiation safety problems, initiating, recommending or providing corrective actions; verifying implementation of corrective actions; ensuring compliance with the Commission's rules and regulations and conditions of the license. An RSO should actively participate in the day-to-day management of the radiation safety program. Although the performance of certain radiation safety tasks may be delegated by the RSO to other individuals (such as an alternate Radiation Safety Officer), the responsibility for the overall effectiveness of the radiation safety program and for compliance with NRC rules and regulations and conditions of the license reside with the RSO.

The license was also amended to reflect a total possession limit for the gauges authorized on the license based on the inventory that you provided on May 5, 2009. The historical information that we have regarding your license indicates that all of your gauges are generally licensed devices except for the slurry analyzer, SL76P. During the license renewal in 2005, Mr. Larson had requested that the cesium-137 gauges be added to the license so that he could transfer the generally licensed devices to your specific license. I have enclosed a copy of the regulations pursuant to 10 CFR 31.5, which states in part that a holder of a specific license may transfer a device for possession and use under its own specific license without prior approval as long as certain actions are taken. Therefore, you would be authorized to transfer the 7062P and 7063P gauges to your specific license. However, you would have to submit a license amendment request prior to transferring SA1-C10 to your specific license, because the location of use would have to be authorized on your license.

Alternatively, if you decide to maintain the gauges as generally licensed devices, then please recognize that the generally licensed devices must be registered as required by 10 CFR 31.5, paragraph 13, which I have highlighted. Your devices may already be registered and you should be receiving a separate invoice from the NRC for your generally licensed devices. If you decide to maintain the gauges as generally licensed devices, then please submit a license amendment request to remove the cesium-137 from your specific license.

Please note that License Condition 17 authorizes Mr. Darrell Larson or other individuals who have completed the training as specified in the application dated April 18, 2005, to perform

certain maintenance activities. The required manufacturer provided training shall cover specifically licensed fixed gauge removal, re-installation, and use/performance of survey instruments for fixed gauge surveys. Please note, that these licensed activities may not be performed except by individuals who have received this specific training from the manufacturer.

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 the enclosed document carefully and be sure that you understand all conditions. If there are any questions, please contact me at (817) 276-6552.

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/sensitive-info/materials.html>. Pursuant to NRC's RIS 2005-31, the enclosed materials license will not 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. By 10 CFR 30.36(d) and/or license condition, notify NRC, promptly, in writing, 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; or
- d. Change the name or ownership of your organization.

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 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/reading-rm/doc-collections/enforcement/>.

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. Additional information regarding use of radioactive materials may be obtained on the NRC Web site at <http://www.nrc.gov/materials/miau/mat-toolkits.html>. This site also provides the link to the toolbox for updated information on the revised regulations for naturally-occurring and accelerator-produced radioactive materials (NARM).

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



Rachel S. Browder, Health Physicist
Nuclear Materials Safety Branch B

Docket: 03033871
License: 49-27521-01
Control: 472178

Enclosure: As stated