



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

August 6, 2009

Clearwater Environmental, Inc.  
ATTN: Shawn I. Rydalch  
Radiation Safety Officer  
P.O. Box 50372  
Idaho Falls, ID 83405-0372

SUBJECT: LICENSE AMENDMENT AND NOTICE OF VIOLATION

Dear Mr. Rydalch:

This letter refers to NRC's review of the Change of Control dated May 8, 2009, that was submitted to the NRC Region IV office by Clearwater Environmental, Inc. (CEI) on May 15, 2009. The change of control supporting documentation stated that the stock for CEI was sold to Premier Technology, Inc. on April 3, 2009. In addition, the Change of Control documentation stated there was no change in the licensed Radiation Safety Officer and that he would continue to maintain responsibilities for the license and the existing radiation protection program. CEI continued to maintain control over the radiography camera; however, there was no radioactive materials loaded in the camera, except for the depleted uranium shielding installed in the camera. A telephonic exit meeting was held between members of my staff and you on August 5, 2009, to discuss the potential violation.

Based on the information developed during the review of the license amendment request for the change of control, the NRC determined that one violation of NRC requirements occurred. As discussed with you during the exit meeting on August 5, 2009, the violation involved the failure to obtain NRC approval and consent in writing prior to the transfer of stocks associated with a radioactive materials license. Licensees are expected to notify NRC of a proposed change of control in a timely manner, allowing NRC enough time to carry out its statutory mandate of ensuring that licensed materials are adequately secured and that public health and safety and the environment are protected. This violation is cited in the enclosed Notice of Violation (Notice).

The failure to notify the NRC in a timely manner and obtain NRC's prior written consent is typically considered to be a Severity Level III violation with a civil penalty. However, since the licensed Radiation Safety Officer continued to maintain control of the radiography camera and the responsibilities of the radiation protection program, and because there was no radioactive materials loaded in the camera, then there was not a perceived risk to public health and safety, the violation is categorized as a Severity Level IV violation in accordance with the NRC Enforcement Policy.

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved is adequately addressed on the docket in the licensing action dated August 6, 2009. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice. For your consideration and convenience, an excerpt from NRC Information Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION," is enclosed.

Please find enclosed Amendment No. 03 to NRC License No. 11-27746-01. The NRC has reviewed the documentation and determined there was a change of control as a result of the transfer of stocks. Your license has subsequently been amended to reflect the change of control. An environmental assessment for this action is not required, since this action is categorically excluded under 10 CFR 51.22(c)(14)(vi). You should review the enclosed document carefully and be sure that you understand all conditions.

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. 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.

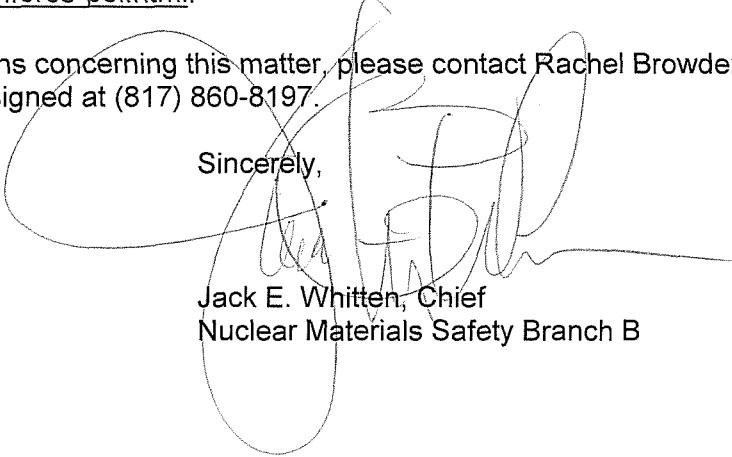
NRC will periodically inspect your radiation safety program. Failure to conduct your program according to NRC regulations, license conditions, and representations made in your license application and supplemental correspondence with NRC may result in enforcement action against you. This could include 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](http://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 and Notice, and your response, should you decide to provide one, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/pdr.html> or [www.nrc.gov/reading-rm/adams.html](http://www.nrc.gov/reading-rm/adams.html). To the extent possible, any response provided by Decisive Testing should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information.) The NRC also includes significant enforcement actions on its Web site at [www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html](http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html).

Should you have any questions concerning this matter, please contact Rachel Browder at (817) 276-6552 or the undersigned at (817) 860-8197.

Sincerely,



Jack E. Whitten, Chief  
Nuclear Materials Safety Branch B

Docket: 030-36173  
License: 11-27746-01  
Control: 472251

Enclosures:

1. Notice of Violation
2. NRC License Amendment No. 03
3. Excerpt from NRC Information Notice 96-28

Hard Copy Distribution w/enclosures:  
RIV Materials Docket File (5<sup>th</sup> Floor)

bcc w/Enclosures 1 and 2 (via e-mail):

A. Howell, D:DNMS  
C. Cain, DD:DNMS  
J. Whitten, C:DNMS/NMSB-B  
V. Campbell, C:DNMS/NMSB-A  
A. Gaines, NMSB-A  
B. Spitzberg, C:DNMS/RSFS  
C. Maier, ACES  
M. Haire, ACES  
R. Browder, NMSB-B

S:\DNMS\

ADAMS	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> SUNSI Review Complete	Reviewer Initials: RSB
		<input checked="" type="checkbox"/> Publicly Available		<input checked="" type="checkbox"/> Non-sensitive
<b>KEYWORD:</b>				
RIV:DNMS:NMSB-B	C:NMSB-B			
RSBrowder;dlf	JEWWhitten			
<i>RSBrowder</i>				
8/6/09	8/6/09			

OFFICIAL RECORD COPY

## NOTICE OF VIOLATION

Clearwater Environmental, Inc.  
Idaho Falls, Idaho

Docket: 030-36173  
License: 11-27746-01

During a review of a license amendment request dated May 15, 2009, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 30.34(b) requires, in part, that no license issued or granted pursuant to the regulations shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of the Act and shall give its consent in writing.

Contrary to the above, on April 3, 2009, the licensee performed a transfer of control of NRC License 11-27746-01 without receiving the Commission's consent in writing. Specifically, Clearwater Environmental, Inc. (CEI) transferred the stock of CEI to Premier Technology, Inc. on April 3, 2009, which resulted in a transfer of ownership and assets of the company which constituted a change of control under 10 CFR 30.34(b), without prior NRC approval and consent in writing. CEI subsequently submitted the Change of Control documentation dated May 8, 2009 to the NRC Region IV office on May 15, 2009.

This is a Severity Level IV violation (Supplement VI).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to be taken to correct the violation and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in licensing action dated August 6, 2009. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region IV, 612 E. Lamar Blvd., Suite 400, Arlington, TX 76011-4125 within 30 days of the date of the letter transmitting this Notice of Violation.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at [www.nrc.gov/reading-rm/pdr.html](http://www.nrc.gov/reading-rm/pdr.html) or [www.nrc.gov/reading-rm/adams.html](http://www.nrc.gov/reading-rm/adams.html). Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction."

Dated this 6 day of August 2009