



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

October 28, 2011

Mr. Mark Owens
General Manager
Pathfinder Mines Corporation
935 Pendell Blvd.
P.O. Box 730
Mills, Wyoming 82644

SUBJECT: NRC INSPECTION REPORT 040-06622/11-001 AND NOTICE OF VIOLATION

Dear Mr. Owens:

This refers to the inspection conducted on August 2-3, 2011, at Pathfinder Mines Corporation's Shirley Basin site located in Carbon County, Wyoming. This inspection was an examination of activities conducted under your license as they relate to safety and compliance with the Commission's rules and regulations and with the conditions of your license. Within these areas, the inspection consisted of selected examination of procedures and representative records, observations of activities, and interviews with personnel. The preliminary inspection results were presented to you at the conclusion of the onsite inspection. The final inspection results were postponed until consultation with NRC enforcement staff and were provided to you via teleconference on September 30, 2011. The enclosed report presents the results of this inspection.

Based on the results of this inspection, the NRC has determined that one Severity Level IV violation of NRC requirements occurred. The violation involves your failure to provide complete transportation training to a site worker. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the subject inspection report. The violation is being cited because the NRC identified the violation rather than your staff. In addition, the violation is being cited to ensure that you provide us with the corrective actions necessary to prevent recurrence of the violations.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. For your consideration and convenience, NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," is enclosed. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and 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's Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

Should you have any questions concerning this inspection, please contact Ms. Linda Gersey, Health Physicist, at 817-860-8299 or the undersigned at 817-860-8191.

Sincerely,

/RA/

D. Blair Spitzberg, Ph.D., Chief
Repository and Spent Fuel Safety Branch
Division of Nuclear Materials Safety

Docket: 040-06622

License: SUA-442

Enclosures:

1. Notice of Violation
2. NRC Inspection Report 040-06622/11-001
3. NRC Information Notice 96-28

cc w/Enclosures 1 and 2:

Scott W. Ramsay
Wyoming Radiation Control Program Director
Wyoming Office of Homeland Security
2421 E. 7th Street
Cheyenne, Wyoming 82001

William Hogg
Land Quality Division
Wyoming Department of Environmental Quality
122 W 25th Street
Herschler Building, 3-W
Cheyenne, Wyoming 82002

bcc w/Enclosures 1 and 2:
 Roy Caniano, D:DNMS
 Vivian Campbell, DD:DNMS
 Blair Spitzberg, C:DNMS/RSFS
 Ted Carter, FSME/DWMEP/DURLD
 Linda Gersey, RSFS
 Marisa Herrera, Fee Coordinator, DRMA

Hard copy:
 DNMS File Room
 DNMS Secretarial File

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 FINAL: R:_DNMS\2011\Pathfinder SB 2011-001.doc

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LMGersey	DBSpitzberg			
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10/26 /11	10/28/11			

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NOTICE OF VIOLATION

Pathfinder Mines Corporation
Carbon County, Wyoming

Docket 040-06622
License SUA-442

During an NRC inspection conducted on August 2-3, 2011, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

10 CFR 71.5 states, in part, that each licensee who transports licensed material outside the site of usage or where transport is on a public highway, or delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the U.S. Department of Transportation regulations in 49 CFR Parts 171 through 180.

49 CFR 172.702 requires that each hazmat employer shall ensure that each hazmat employee is trained and tested and that no hazmat employee performs any function subject to the requirements of 49 CFR Parts 171-177 unless trained, in accordance with Subpart H of 49 CFR Part 172. The terms hazmat employer and hazmat employee are defined in 49 CFR 171.8.

49 CFR 172.704(a)(2) states, in part, that each hazmat employee must be provided function-specific training concerning requirements of this subchapter that are specifically applicable to the functions the employee performs.

Contrary to the above, the licensee did not provide function-specific training to one onsite contractor as required by Subpart H to 49 CFR Part 172(a)(2). Specifically, during May-June, 2011, a contractor signed bills of lading as the shipper of licensed material without having been trained on in-house function-specific requirements. Shipments consisted of radioactive contaminated emptied waste containers being returned to customers.

This is a Severity Level IV violation (Section 6).

Pursuant to the provisions of 10 CFR 2.201, Pathfinder Mines Corporation is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, Region IV, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each violation: (1) the reason for the violation or, if contested, the basis for disputing the violation or severity level, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken, and (4) the date when full compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

ENCLOSURE 1

Because 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 <http://www.nrc.gov/reading-rm/adams.html>, to the extent possible, it 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, then 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 material, 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). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

In accordance with 10 CFR 19.11, you may be required to post this Notice within 2 working days.

Dated this 28th day of October 2011

U.S. NUCLEAR REGULATORY COMMISSION
REGION IV

Docket 040-06622
License SUA-442
Report 040-06622/11-001
Licensee: Pathfinder Mines Corporation
Facility: Shirley Basin Mill site
Location: Carbon County, Wyoming
Dates: August 2-3, 2011
Inspector: Linda Gersey, Health Physicist
Repository and Spent Fuel Safety Branch
Approved by: D. Blair Spitzberg, Ph.D., Chief
Repository and Spent Fuel Safety Branch
Attachment: Supplemental Inspection Information

EXECUTIVE SUMMARY

Pathfinder Mines Corp. Shirley Basin Mill Site NRC Inspection Report 040-06622/11-001

This inspection was a routine, announced inspection of decommissioning activities being conducted at the Shirley Basin mill site.

Management Organization and Controls

- Staffing levels were sufficient for the work in progress. Site procedures had been established and were being maintained up-to-date (Section 1).

Radiation Protection

- The licensee implemented a radiation protection program that met the requirements of 10 CFR Part 20 and the license (Section 2).
- The licensee suspended occupational radiation exposure monitoring as allowed by regulations (Section 2).

Operator Training/Retraining

- Radiation protection training was provided to site workers as required by regulations and the license, with one exception (Section 3).
- One previously identified violation involving failure to conduct bimonthly safety meetings was closed. Another previously identified violation related to failure to provide Department of Transportation training was closed (Section 3).
- One violation related to failure to provide function-specific Department of Transportation training was identified (Section 3).

Maintenance and Surveillance Testing

- Instrument calibrations were being conducted in accordance with the license requirements (Section 4).

Environmental Protection

- The licensee implemented the environmental and groundwater monitoring programs in accordance with the license. The licensee had not released licensed material into the environment in quantities exceeding regulatory or licensed limits (Section 5).

Transportation of Radioactive Material and Radioactive Waste Management

- The licensee was conducting transportation and waste disposal operations in accordance with license requirements and site procedures, with the exception noted in Section 3 (Section 6).

Report Details

Summary of Plant Status

At the time of the inspection, no reclamation activities were in progress. The licensee continued to accept byproduct material for disposal in the Pond 3 area. The remaining structures on site included the office, change house/garage, wash bay, and lubrication bay.

The licensee plans to complete site reclamation at a later date, after disposal operations have been permanently discontinued. The areas that remain onsite that must be reclaimed include the shop yard, stockpile area, office, industrial pond, Pond 3 area, and local roads. In addition to the above reclamation activities, the licensee also has to complete the construction of three drainage channels after disposal operations are discontinued. The first channel will be located adjacent to the former evaporation ponds, the second channel will be located parallel to the access road, and the third channel will be located at the Pond 3 area.

1 Management Organization and Controls (88005)

1.1 Inspection Scope

Ensure that the licensee had established an organization to administer the technical programs specified in the license.

1.2 Observations and Findings

At the time of the inspection, site staffing consisted of one onsite contractor and the radiation safety officer (RSO) who was also the General Manager. The contractor was a former employee of the licensee that conducted onsite work as needed. Onsite work conducted by the contractor included receipt of waste disposal shipments, equipment release surveys, heavy equipment operations, and water sampling. The RSO conducted oversight activities and reviews as needed to maintain compliance with the license.

Although there is no license requirement to perform routine site inspections, the RSO attempts to go to the site once a week to check on site conditions. The site inspections are seasonal, since in the winter months the roads may be impassable.

License Condition 33 states, in part, that standard operating procedures shall be established. The inspector reviewed selected procedures and confirmed that the required procedures had been established. The procedures provided sufficient detail for conducting the work. The RSO continues to perform annual reviews of remaining procedures.

1.3 Conclusions

Staffing levels were sufficient for the work in progress. Site procedures had been established and were being maintained up-to-date.

2 Radiation Protection (83822)

2.1 Inspection Scope

Determine if the licensee's radiation protection program was in compliance with 10 CFR Part 20 requirements and the license.

2.2 Observations and Findings

The inspector reviewed the licensee's occupational exposure monitoring program. The licensee had previously discontinued the use of personnel dosimeters during 2006 as allowed by 10 CFR 20.1502(a) because a review of dosimetry records determined that external doses were consistently less than 10 percent of the annual limits. Also, since the previous inspection, no internal doses were monitored for workers.

License application Section 5.5.4 and License Conditions 33 and 42 provide the bioassay program requirements. The inspector reviewed the licensee's implementation of the bioassay program. The licensee suspended routine bioassay sampling during 2006. The program was suspended because the risk of ingesting tailings material was minimal. Future bioassay samples will be collected at the discretion of the RSO. The suspension of the bioassay program was consistent with the conditions of the license.

The licensee issued its last radiation work permit during 2006. No radiation work permit has been issued since the previous NRC inspection.

License Condition 36 states, in part, that the annual As Low As Reasonably Achievable (ALARA) report will be submitted to the NRC for review. The licensee continued to conduct annual radiation protection program reviews. The most recent ALARA reports were submitted to the NRC on August 8, 2009, and August 30, 2010. The inspector reviewed these reports, discussed the results of the reports with the RSO, and determined that the annual reviews were adequate for the work in progress.

The inspector conducted a site tour to observe site status. During the site tour, the inspector conducted radiation surveys using a Ludlum Model 19 microRoentgen survey meter (NRC 015546, calibration due date of February 21, 2012, calibrated with radium-226). The background ambient gamma exposure rate, measured in the office, was 18-20 microRoentgens per hour. Ambient gamma exposure rates averaged 30-50 microRoentgens per hour in most areas of the site. The areas adjacent to the Pond 3 waste disposal area measured up to 100 microRoentgens per hour.

2.3 Conclusions

The licensee implemented a radiation protection program that met the requirements of 10 CFR Part 20 and the license. The licensee suspended occupational monitoring as allowed by regulations.

3 Operator Training/Retraining (88010)

3.1 Inspection Scope

Determine whether the licensee was implementing the employee training program as

required by the license and regulations.

3.2 Observations and Findings

The inspector reviewed the licensee's training program to determine compliance with 10 CFR 19.12, License Condition 35, and Section 5.3.2 of the license application. The licensee provided refresher training during 2008-2010. No new employees were assigned to the site since the previous inspection; therefore, the licensee did not provide new employee training during this time frame.

During the previous inspection, the licensee had suspended bimonthly safety meetings, as required by License Condition 35. The licensee's failure to conduct bimonthly safety meetings during 2008 and the first 7 months of 2009 was a violation of License Condition 35 (NOV 040-06622/0901-01). The licensee responded to this violation in a letter dated October 7, 2009, and confirmed that the bimonthly safety meetings would be reinstated immediately. The inspector reviewed the records for the bimonthly meetings and confirmed that they had been conducted as required by the license. This violation is closed.

During the previous inspection, one violation was identified (NOV 040-006622/0901-02) related to the failure of the licensee to provide Department of Transportation (DOT) hazardous materials training for a contractor. The contractor was acting as the shipper and signing shipping papers for return shipments of empty radioactive waste containers going back to the original consignees. The licensee responded to the violation in a letter dated October 7, 2009, committing to provide the appropriate DOT training before the next waste shipment. The inspector reviewed the licensee's documentation of the DOT training and found that only three of the required four training topics had been covered. The DOT training was provided by a consultant in October 2009 and included the general awareness, safety, and security awareness training as required by 49 CFR 172.704, although no function-specific training was provided. The licensee did provide DOT training as committed to in the violation response letter, and NOV 040-006622/0901-02 is considered closed. Although, further inquiry by the inspector determined that the contractor was unable to identify what function-specific duties (i.e., procedure requirements) entailed being the shipper. No in-house training was conducted for function-specific duties that are required if the contractor signs the DOT shipping papers as the shipper. This failure to provide function-specific training is a violation (NOV 040-006622/1101-01) of 49 CFR 172.704(a).

3.3 Conclusions

Radiation protection training was provided to site workers as required by regulations and the license, with one exception. One previously identified violation involving failure to conduct bimonthly safety meetings was closed. Another previously identified violation related to failure to provide DOT training was closed. One violation related to failure to provide function-specific DOT training was identified.

4 Maintenance and Surveillance Testing (88025)

4.1 Inspection Scope

Determine whether instrument calibrations were being conducted in accordance with

license requirements and site procedures.

4.2 Observations and Findings

License Conditions 33 and 34 include requirements for annual instrument calibrations. All survey instruments are sent to a vendor for annual calibrations. The alpha swipe counter used by the licensee was calibrated on a semiannual basis by the licensee in accordance with the site operating procedure. All instruments in use appeared to be in good working order, up-to-date, and functional during the inspection.

4.3 Conclusions

Instrument calibrations were being conducted in accordance with the license requirements.

5 Effluent Control and Environmental Protection (88045)

5.1 Inspection Scope

The environmental and effluent monitoring programs were reviewed to assess the effectiveness of the licensee to monitor the impacts of site activities on the local environment.

5.2 Observations and Findings

Amendment 52 to the license dated February 13, 2003, removed the environmental monitoring program requirements with the exception of groundwater and surface water sampling. The licensee implemented a new sampling program during August 2005, concurrent with the approval of Amendment 57 to the license. The current sampling program, specified in License Condition 47, includes sampling of 14 wells and five surface waters.

License Condition 22 specifies that the results of all effluent and environmental monitoring required by the license shall be reported to the NRC in semiannual reports. The inspectors reviewed the semiannual effluent reports for 2009-2010. Based on the information provided in these reports and the original records, the inspector concluded that the licensee collected the required number of water samples and analyzed the samples for the required chemical and radiological constituents.

License Condition 47.B lists the groundwater protection standards for the point-of-compliance wells. The inspector compared the sample results for 2009-2010 to the protection standards. None of the sample results reviewed by the inspector exceeded the protection standards.

An annual survey of land use is required by License Condition 21. The annual surveys for 2009-2010 were reviewed during the inspection. The reports provided a summary of land use within 5 miles of the site. The nearest residence continued to be located 3 miles southeast of the site. The inspector determined that the annual land surveys were conducted in accordance with license conditions.

5.3 Conclusions

The licensee implemented the environmental and groundwater monitoring programs in accordance with the license. The licensee had not released licensed material into the environment in quantities exceeding regulatory or licensed limits.

6 Transportation of Radioactive Materials and Radioactive Waste Management (86740 and 88035)

6.1 Inspection Scope

Determine if transportation and waste disposal activities were being conducted in compliance with license and regulatory requirements.

6.2 Observations and Findings

a. Radioactive Waste Management

Security requirements are discussed in Section 5.4 of the license application. Buildings, fences, gates, and operating equipment were observed during the site tour. The access gates were functional, and fences were posted. The inspector determined that licensed material was adequately secured within the site property as required by 10 CFR 20.1801 and the license application.

b. Transportation of Radioactive Material

License Condition 46 authorizes the licensee to dispose of byproduct material, as defined by 10 CFR 40.4, generated onsite or at other licensed facilities. The licensee was actively disposing of byproduct material wastes from two other sites. The licensee continues to receive shipments during the May-November time frame. The inspector observed the licensee's waste disposal area and reviewed selected shipping records. The licensee described the shipping and disposal process, and the process agreed with site procedure requirements. The shipping records reviewed by the inspectors met DOT requirements.

6.3 Conclusions

The licensee was conducting transportation and waste disposal operations in accordance with license requirements and site procedures.

7 Exit Meeting Summary

The inspector presented the preliminary inspection results to the licensee's representatives at the conclusion of the onsite inspection on August 3, 2011. A final exit briefing was conducted with the licensee by telephone on September 30, 2011. During the inspection, the licensee did not identify any information reviewed by the inspectors as proprietary.

SUPPLEMENTAL INSPECTION INFORMATION

PARTIAL LIST OF PERSONS CONTACTED

M. Owens, General Manager
K. Hurley, Contractor

INSPECTION PROCEDURES USED

IP 83822	Radiation Protection
IP 86740	Transportation of Radioactive Material
IP 88005	Management Organization and Control
IP 88010	Operator Training/Retraining
IP 88025	Maintenance and Surveillance Testing
IP 88035	Radioactive Waste Management
IP 88045	Effluent Control and Environmental Protection

ITEMS OPENED, CLOSED, AND DISCUSSED

Opened

040-06622/1101-01 VIO Failure to provide function-specific transportation training

Closed

040-06622/0901-01 VIO Failure to conduct bimonthly safety meetings during 2008-2009

040-06622/0901-02 VIO Failure to provide transportation training

Discussed

None

LIST OF ACRONYMS

ALARA	as low as is reasonably achievable
DOT	U.S. Department of Transportation
IP	inspection procedure
NRC	Nuclear Regulatory Commission
RSO	radiation safety officer
VIO	NRC Notice of Violation