

Note to File: 04/04/2018

Licensee: Black Bear Processing, LLC  
License No. 47-31252-01  
Docket No. 03037485

The purpose of this note is to document what has occurred with the subject license, the transfer and disposal of the materials, site visits by RI inspectors, and to recommend license retirement.

Black Bear Processing, LLC, is an NRC licensee that was authorized to possess the Gamma Metrics Model CB-HI Cross-Belt Analyzer fixed gauging device for elemental analysis of bulk material (coal) containing one sealed source of cesium-137 (Cs-137) and two californium-252 sealed sources. The licensee also possessed two Thermo Measure Tech Model 5201 fixed gauging devices containing one sealed source of Cs-137 each that were generally-licensed and registered with the NRC. The specific license was issued on September 4, 2007, and the license expired on August 30, 2017.

The NRC conducted a safety inspection at the facility on January 20, 2013, which resulted in one Severity Level IV violation for the licensee's failure to amend the license when a new Radiation Safety Officer was appointed. The licensee submitted an amendment request on February 25, 2013, and the license was amended. No safety concerns were identified during the inspection.

On February 1, 2017, Region I (RI) was notified by the NRC's Office of the Chief Financial Officer that the licensee had not paid its annual license fees since 2015, and that both the fiscal year 2015 and 2016 invoices, LFB 15-5040 and 16-5014, were referred to the Dept. of Treasury for collection.

In a Note-to-File dated June 20, 2016, an NRC license reviewer noted that Black Bear was believed to be out of business and that another company, Bluestone Resources Inc., had purchased and took possession of the property. In that Note to File, the reviewer stated that he had spoken with the Director of Safety for Bluestone Resources, Inc. via telephone and the Director stated that he would get his RSO to work on applying for a license. LR1 tried but was unable to make contact with anyone from the company after that initial telephone call.

On August 25, 2016, an NRC inspector visited the site at the request of LR1 since the owners had stopped communicating. The inspector documented the visit in a Note to File dated September 20, 2016. In that Note to File, the inspector stated that the site was manned by a mechanic who stated that there is always someone at the site 24 hours per day, 7 days a week. The mechanic further stated that the site was not in operation. The inspector noted that the corporate structure was not clear and that the new owner was sometimes referred to as Tamas Holdings, and sometimes referred to as Justice Companies. The mechanic said that the NRC should be working with the company's Compliance Officer, Zack Wright. The mechanic provided contact information for Mr. Wright. Mr. Wright was out of the office on travel, and wasn't going to be available for the remainder of that week.

In a letter dated January 25, 2017, on behalf of National Resources, Inc., Zachary Wright, Chief Compliance Officer and Attorney in Fact for National Resources, Inc., submitted a request to RI for a license amendment to transfer the Black Bear license to National Resources, Inc. During the license amendment review, the license reviewer (LR2) determined that additional information was needed in order to continue the review. A request for additional information (RAI) was sent to Mr. Wright on February 13, 2017 via email. Mr. Wright contacted LR2 via telephone to discuss the RAI shortly after receiving the email.

During the telephone conversation with LR2 on February 13, 2017, regarding the RAI, Mr. Wright explained that the Black Bear site was purchased by National Resources, Inc. and that National Resources was in the process of selling the property to CM Energy, LP (CM Energy) when the NRC contacted him regarding the need for a license. Mr. Wright further stated that the property was no longer owned by National Resources, Inc. and that he wished to rescind the January 25, 2017, license amendment request.

LR2 contacted the new owners of the property on February 15, 2017 and spoke with CM Energy's Chief Engineer, Jim Higgins. Mr. Higgins confirmed that CM Energy owned the property and that the sale was finalized on or about February 3, 2017. Mr. Higgins stated that CM Energy was not aware of the need to possess an NRC license for the materials and that the company did not have an NRC license. LR2 discussed the licensing process with CM Energy's Chief Engineer and informed him that they were not in compliance with the regulations for licensing in 10 CFR 30. A site visit was conducted by a RI Health Physicist on February 22, 2017, to ensure the byproduct material was secure and to provide additional information to CM Energy regarding the licensing process and disposal options for the material. The inspector determined that the gauges were on site, intact, and secure. A radiological survey was performed and the inspector determined that the dose rates were comparable to those published by the manufacturers of the gauges.

CM Energy's staff was cooperative and corrected the non-conformance by:

1. Securing the licensed materials to prevent unauthorized access;
2. Registering the generally-licensed gauges with the NRC;
3. Transferring the specifically-licensed byproduct material to a licensed entity.

The Regional staff received confirmation that the byproduct material was transferred to a licensed entity and the confirmation receipts are in the docket.

Based on the above information and in consultation with regional management, the staff recommends termination (retirement) of the Black Bear Processing, LLC, license. The licensee has been unresponsive and no forwarding address or other contact information is known to the NRC at this time. Therefore, this note to file will be maintained in the electronic docket file in ADAMS in lieu of providing a letter to the licensee.

Submitted by Scott Wilson on 04/04/2018.

Approved by Arthur Burritt, Branch Chief, on 02/01/2018.