



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

December 19, 2019

EA-19-085

Ms. Heather McDowell,
Vice President Legal, Environmental,
and Government Affairs
Stillwater Mining Company
P.O. Box 1330
Columbus, Montana 59019

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL
PENALTY - \$7,250, NRC INSPECTION REPORT 030-29751/2019-001

Dear Ms. McDowell:

This letter refers to our inspection conducted on June 11, 2019, at your facility in Nye, Montana, including an in-office review through August 8, 2019. The purpose of the inspection was to examine activities conducted under your license as they relate to public health and safety and compliance with the U.S. Nuclear Regulatory Commission (NRC) rules, regulations, and the conditions of your license. A final exit briefing was conducted telephonically with Mr. Jerek Depuydt, Radiation Safety Officer, on September 24, 2019, and the details regarding an apparent violation were provided in NRC Inspection Report 030-29751/2019-001, dated September 27, 2019, NRC's Agencywide Documents Access and Management System (ADAMS) Accession ML19270H873.

In the letter transmitting our inspection report, we provided you with the opportunity to address the apparent violation by either attending a predecisional enforcement conference, requesting alternative dispute resolution, or providing a written response before we made our final enforcement decision. In a letter dated October 25, 2019 (ADAMS Accession ML19305A303), Stillwater Mining Company provided a written response to the apparent violation.

Based on the information developed during the inspection and the information provided in your October 25, 2019, written response, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice). The violation involved a nearly 4-year failure by Stillwater Mining Company to have a named individual perform the duties and responsibilities of the radiation safety officer. Without a radiation safety officer, Stillwater Mining Company had no individual responsible for implementing the radiation safety program to ensure that safety significant issues were identified, corrected, and reported to the NRC as required. Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III. The Enforcement Policy can be found on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$7,250 is considered for a Severity Level III violation.

Because your facility has not been the subject of escalated enforcement actions within the last two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the NRC Enforcement Policy. The NRC determined that *Corrective Action* credit is not warranted. When assessing *Corrective Action* credit, the NRC evaluates both the promptness and the comprehensiveness of the licensee's corrective actions. Notwithstanding eventual effective comprehensive corrective actions, prompt corrective actions were not taken to restore compliance when the violation was identified during an audit in February 2019. The NRC noted the violation was not adequately addressed until after it was identified during an NRC inspection conducted in June 2019.

Therefore, to emphasize the importance of maintaining a radiation safety officer and prompt correction of violations, I have been authorized, after consultation with the Director, Office of Enforcement, to issue the enclosed Notice in the base amount of \$7,250 for this Severity Level III violation. In addition, issuance of this Notice constitutes an escalated enforcement action that may subject you to increased inspection in the future.

If you disagree with this enforcement sanction, you may deny the violation, as described in the Notice, or you may request alternative dispute resolution (ADR) with the NRC in an attempt to resolve this issue. Alternative dispute resolution is a general term encompassing various techniques for resolving conflicts using a neutral third party. The technique that the NRC has decided to employ is mediation. Mediation is a voluntary, informal process in which a neutral mediator works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC's ADR program can be found at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>.

The Institute on Conflict Resolution at Cornell University has agreed to facilitate the NRC's program as a neutral third party. If you are interested in pursuing this issue through the ADR program, please contact: (1) the Institute on Conflict Resolution at (877) 733-9415; and (2) Ms. Patricia Silva at 817-200-1455 within 10 days of the date of this letter. You may also contact the Institute on Conflict Resolution for additional information. Your submitted signed agreement to mediate using the NRC ADR program will stay the 30-day time period for payment of the civil penalties, as identified in the enclosed notice, until the ADR process is completed.

The NRC has concluded that information regarding: (1) the reason for the violation; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance will be achieved is already adequately addressed on the docket in your letter dated October 25, 2019, and NRC Inspection Report 030-29751/2019-001. 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.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter, the Enclosures, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or in the

NRC's ADAMS, accessible from the website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy or proprietary information so that it can be made available to the public without redaction. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

If you have any questions concerning this matter, please contact Ms. Patricia Silva of my staff, at 817-200-1455.

Sincerely,

A handwritten signature in black ink, appearing to read 'SAM', with a large, sweeping flourish extending from the end of the signature.

Scott A. Morris
Regional Administrator

Docket No. 030-29751
License No. 25-26871-01

Enclosures:

1. Notice of Violation and Proposed Imposition of Civil Penalty
2. NUREG/BR-0254 Payment Methods

cc w/ enclosures:

Carter S. Anderson, Administrator
Montana Department of Public Health &
Human Services

NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY - \$7,250, NRC
INSPECTION REPORT 030-29751/2019-001- DATED DECEMBER 19, 2019

DISTRIBUTION:

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JPeralta, OE
LDesotell, OE
AMoreno, CA
JWeil, CA
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Cvr Ltr & All Encl: ADAMS ACCESSION NUMBER: **ML19352E331**

SUNSI Review: JGK ADAMS: Non-Publicly Available Non-Sensitive Keyword: By:
 Yes No Publicly Available Sensitive

OFFICE	SES:ACES	C:MLIB	TL:ACES	RC	D:DNMS	NMSS
NAME	JKramer	PSilva	JGroom	DCylkowski	MHay	MBurgess
SIGNATURE	/RA/	/RA/	/RA/	/RA/ E	/RA/	/RA/ E
DATE	12/09/19	12/09/19	12/10/19	12/12/19	12/10/19	12/11/19
OFFICE	OE	OGC	RA			
NAME	JPeralta	RCarpenter	SMorris			
SIGNATURE	/RA/ E	/NLO/ E	/RA/			
DATE	12/13/19	12/13/19	12/13/19			

OFFICIAL RECORD COPY

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

Stillwater Mining Company
Nye, Montana

Docket No. 030-29751
License No. 25-26871-01
EA-19-085

During an NRC inspection conducted June 11, 2019, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the NRC proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The violation and associated civil penalty are set forth below:

License Condition 12.A of NRC Materials License 25-26871-01, Amendment 14, dated February 4, 2015, authorized a named individual to fulfill the duties and responsibilities of the Radiation Safety Officer (RSO) for the license.

Contrary to the above, from September 9, 2015, to August 30, 2019, the licensee failed to have the named individual on the license perform the duties and responsibilities of the RSO. Specifically, the RSO listed on the license resigned on September 9, 2015, and the licensee did not submit a license amendment to name a new RSO until June 13, 2019. The license was amended on August 30, 2019, with an authorized named individual.

This is a Severity Level III violation (NRC Enforcement Policy Section 6.3.c.11.d).
Civil Penalty - \$7,250 (EA-19-085)

The NRC has concluded that information regarding: (1) the reason for the violation; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance will be achieved is already adequately addressed on the docket in your letter dated October 25, 2019, and NRC Inspection Report 030-29751/2019-001.

However, if the description therein does not accurately reflect your position or your corrective actions, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 within 30 days of the date of the letter transmitting this Notice of Violation (Notice). In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation; EA-19-085," and send it to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001 with a copy to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, and the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511.

Stillwater Mining Company may pay the civil penalty proposed above in accordance with NUREG/BR-0254 (Enclosure 2) and by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, a statement indicating when and by what method payment was made, or may protest imposition of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice. Should the licensee fail to answer within 30 days of the date of this Notice, the NRC will issue an order imposing the civil penalty. Should the licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation; EA-19-085" and may: (1) deny the violation listed in this Notice, in whole or in part; (2) demonstrate

extenuating circumstances; (3) show error in this Notice; or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the response should address the factors addressed in Section 2.3.4 of the Enforcement Policy. Any written answer addressing these factors pursuant to 10 CFR 2.205 should be set forth separately from the statement or explanation provided pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. Your attention is directed to the other provisions of 10 CFR 2.205 regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205 to be due, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The responses noted above, i.e., Reply to Notice of Violation, Statement as to payment of civil penalty, and Answer to a Notice of Violation, should be addressed to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, with a copy to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, and the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511.

Your response will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy or proprietary 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 that such material is withheld from public disclosure, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim (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).

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

Dated this 19th day of December 2019

QUESTIONS?

If you have questions, please visit <https://www.nrc.gov> and search for "License Fees."

Questions may also be directed to the NRC Accounts Receivable Help Desk by e-mail at nrc@fiscal.treasury.gov, by phone at (301) 415-7554, or by writing to the address below:

U.S. NUCLEAR REGULATORY COMMISSION
OCFO/DOC/ARB
Mail Stop T9-E10
Washington, DC 20555-0001



Payment Methods

U.S. NUCLEAR REGULATORY COMMISSION
OCFO/DOC/ARB
Mail Stop T-9-E10
Washington, DC 20555-0001
PH (301) 415-7554



NUREG/BR-0254, Rev. 9
June 2019



Enclosure 2

Estimated burden per response to comply with this voluntary collection request: 10 minutes. This brochure provides information about available payment methods. Forward comments about to burden estimate to the Records Management Branch (T6-F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to the Paperwork Reduction Project (3150-0190), Office of Management and Budget, Washington, DC 20503. If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

NRC accepts the methods described below.

PAYMENT BY AUTOMATED CLEARINGHOUSE

To pay by Automated Clearinghouse/Electronic Data Interchange (ACH/EDI), provide a copy of NRC Form 628 to your financial institution. You may obtain a copy of NRC Form 628 from the NRC Web site at <http://www.nrc.gov> by searching for "NRC Form 628." You can also obtain a form by calling the NRC Accounts Receivable Help Desk at (301) 415-7554.

PAYMENT BY CREDIT CARD

The NRC is currently accepts credit card payments of up to \$24,999.99. For payment by credit card, go to Pay.gov, search for "U.S. Nuclear Regulatory Commission Fees" and enter the required information.

You may also mail or fax NRC Form 629 following the directions on the form. To obtain a copy of NRC Form 629 go to <http://www.nrc.gov> and search for "NRC Form 629" or call the NRC Accounts Receivable Help Desk at (301) 415-7554.



PAYMENT BY FEDWIRE DEPOSIT SYSTEM

The NRC can receive funds through the U.S. Department of the Treasury (Treasury) Fedwire Deposit System. The basic wire message format below complies with the Federal Reserve Board's standard structured third-party format for all electronic funds transfer (EFT) messages.

See the sample EFT message to Treasury below. Each numbered field is described below.

The image shows a sample EFT message form with the following fields and their corresponding numbers:

- 1: TO (021030004)
- 2: FROM (021030004)
- 3: ORDERING BANK AND RELATED DATA
- 4: REF (16-character reference number)
- 5: AMOUNT (\$)
- 6: TREAS NYC/CTR
- 7: BNF-/AC-31000001 OBI-
- 8: (blank)
- 9: (blank)
- 10: (blank)

1 RECEIVER-DFI# – Treasury's ABA number for deposit messages is 021030004.

2 TYPE-SUBTYPE-CD – The sending bank will provide the type and subtype code.

3 SENDER-DFI# – The sending bank will provide this number.

4 SENDER-REF# – The sending bank will insert this 16-character reference number at its discretion.

5 AMOUNT – The transfer amount must be punctuated with commas and decimal point; use of the "\$" is optional. The depositor will provide this item.

6 SENDER-DFI-NAME – The Federal Reserve Bank will automatically insert this information.

7 RECEIVER-DFI-NAME – Treasury's name for deposit messages is "TREAS NYC". The sending bank will enter this name.

8 PRODUCT CODE – A product code of "CTR" for customer transfer should be the first item in the receiver text field. Other values may be entered, if appropriate, using the ABA's options. A slash must be entered after the product code.

9 AGENCY LOCATION CODE (ALC) – THIS ITEM IS OF CRITICAL IMPORTANCE. IT MUST APPEAR ON THE FUNDS TRANSFER DEPOSIT MESSAGE IN THE PRECISE MANNER AS STATED TO ALLOW FOR THE AUTOMATED PROCESSING AND CLASSIFICATION OF THE FUNDS TRANSFER MESSAGE TO THE AGENCY LOCATION CODE OF THE APPROPRIATE AGENCY. The ALC identification sequence can, if necessary, begin on one line and end on the next line; however, the field tag "BNF=" must be on one line and cannot contain any spaces. The NRC's 8-digit ALC is: BNF=/AC-31000001

10 THIRD-PARTY INFORMATION – The Originator to Beneficiary Information (OBI) field tag "OBI=" signifies the beginning of the free-form third-party text. All other identifying information intended to enable the NRC to identify the deposit—for example, NRC annual fee invoice number, description of fee, 10 CFR 171 annual fee, and licensee name—should be placed in this field.

The optimum format for fields 7, 8, 9, and 10 using an 8-digit ALC is as follows:

TREAS NYC/CTR/BNF=/AC-31000001 OBI=

The optimum format, shown above, will allow 219 character positions of information following the "OBI=" indicator.

If the licensee's bank is not a member of the Federal Reserve System, the nonmember bank must transfer the necessary information and funds to a member bank, which then must transfer the information and funds to the local Federal Reserve Bank.

For a transfer of funds from local Federal Reserve Banks to be recorded on the same day, the transfer must be received at the New York Federal Reserve Bank by 4 p.m., EST. Otherwise, the deposit will be recorded on the next workday.

PAYMENT BY CHECK

Checks should be made payable to the U.S. Nuclear Regulatory Commission with the invoice number, Enforcement Action number, or other information that identifies the payment, written on the check. Mail the check to the following address:

U.S. Nuclear Regulatory Commission
U.S. Bank
P.O. Box 979051
St. Louis, MO 63197-9000

FedEx or overnight mailings must be delivered to the following address:

U.S. Nuclear Regulatory Commission
U.S. Bank Government Lockbox
SL-MO-C2GL
1005 Convention Plaza
St. Louis, MO 63101

TAXPAYER IDENTIFICATION NUMBER

You must file your Taxpayer Identification Number (TIN) with the NRC. Use NRC Form 531 to provide your TIN. You may obtain NRC Form 531 from the NRC Web site at <http://www.nrc.gov> by searching for "NRC Form 531" or by calling the NRC Accounts Receivable Help Desk at (301) 415-7554.