



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

April 12, 2021

Mr. Dave K. Olson
Radiation Safety Officer
Eagle Specialty Materials, LLC
dba Prairie Eagle Mining
P.O. Box 3030
Gillette, Wyoming 82718

SUBJECT: LICENSE AMENDMENT AND NOTICE OF VIOLATION 030-32949/2020-001

Dear Mr. Olson:

This letter refers to the Nuclear Regulatory Commission's (NRC) review of the change of control and/or transfer of ownership that was submitted to the NRC Region IV office by Blackjewel LLC, in amendment request dated November 16, 2020, and the required documentation received by NRC on February 9, 2021, and March 11, 2021. The change of control and/or transfer of ownership supporting documentation stated that Blackjewel LLC, initiated a bankruptcy action in the United States Bankruptcy Court for the Southern District of West Virginia on or about July 1, 2019. As a result of the bankruptcy action, Eagle Specialty Materials, LLC, purchased certain assets from the bankruptcy debtor, Blackjewel LLC, including all assets at the Belle Ayr Mine and Eagle Butte Mine located in Wyoming. These mines were identified as locations of use in amendment 18 to NRC license number 49-26963-03 issued to Blackjewel, LLC. The transfer of control is described in Agency Documents Access and Management System (ADAMS) Accession No. ML21063A000. In addition, the change of control and/or transfer of ownership documentation stated that Eagle Specialty Materials, LLC, dba agreed to abide by all statements, representations, procedures, conditions, and commitments made by Blackjewel, LLC. This change of control occurred on October 18, 2019. The NRC staff reviewed this request and approved it in license number 49-26963-03, Amendment 19, issued on April 12, 2021.

Based on the license amendment request dated November 16, 2020, and the required documentation received by NRC on February 9, 2021, and March 11, 2021, for the change of control and/or transfer of ownership, the NRC determined that one Severity Level IV violation of the NRC requirements occurred. The violation involved the failure to obtain the NRC's consent in writing prior to the change of control associated with radioactive materials license number 49-26963-03. An exit meeting was conducted with you on April 8, 2021.

Licensees are expected to notify the NRC of a proposed change of control and/or transfer of ownership in a timely manner, allowing the 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, and the detailed circumstances surrounding it, is cited in the enclosed Notice of Violation (NOV).

The NRC Enforcement Policy, Section 6.3.c.11, states that a failure to seek required NRC approval before the implementation of a significant change in licensed activities that has radiological or programmatic significance, such as a change in ownership, can be characterized as a Severity Level III violation. However, in this case, the change of ownership resulted in little or no adverse impact on radiological or programmatic activities. As a result, and in accordance with the NRC Enforcement Policy Section 6.3.d.7, the violation is categorized as a Severity Level IV.

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 was achieved is already adequately addressed on the docket with the issuance of Amendment 19 to NRC license number 49-26963-03 on April 12, 2021. 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 and its enclosure 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 www.nrc.gov/reading-rm/adams.html. Should you have any questions concerning this inspection, please contact Roberto J. Torres of my staff at 817-200-1189.

Thank you for your cooperation.

Sincerely,

Heather J. Gepford, Ph.D., CHP, Chief
Materials Licensing & Decommissioning Branch
Division of Nuclear Materials Safety

Docket No.: 030-32949
License No.: 49-26963-03
Control No.: 624549

Enclosure:
Notice of Violation

NOTICE OF VIOLATION

Eagle Specialty Materials, LLC
Gillette, WY

Docket: 030-32949
License: 49-26963-03

In an email dated November 16, 2020, and the required documentation received by the NRC on February 9, 2021, and March 11, 2021, for a change of control and/or transfer of ownership that occurred on October 18, 2019, a violation of the 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 October 18, 2019, the licensee transferred control of the NRC License 49-26963-03 without first receiving the Commission's consent in writing. Specifically, Eagle Specialty Materials, LLC, purchased the assets identified in NRC license number 49-26963-03 issued to Blackjewel, LLC, which constituted a change of control under 10 CFR 30.34(b), prior to notifying the Commission and receiving consent.

This is a Severity Level IV violation (NRC Enforcement Policy Section 6.3.d.7).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken, and the date when full compliance will be achieved, is already adequately addressed on the docket with the issuance of Amendment 19 to NRC license number 49-26963-03 on April 12, 2021. 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, 030-32949/2020-001," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Director, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region IV, 1600 E. Lamar Blvd., Arlington, Texas 76011, and emailed to Mary.Muessle@nrc.gov within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's 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, 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).

Dated this 12th day of April 2021

LICENSE AMENDMENT AND NOTICE OF VIOLATION 030-32949/2020-001
 DATED – APRIL 12, 2021

DISTRIBUTION:

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cc:
 Dave Olson, Radiation Safety Officer
 david.olson@pemining.com

ADAMS ACCESSION NUMBER: ML21102A145

<input checked="" type="checkbox"/> SUNSI Review By: RJT	ADAMS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Sensitive <input checked="" type="checkbox"/> Non-Sensitive	<input type="checkbox"/> Non-Publicly Available <input checked="" type="checkbox"/> Publicly Available	Keyword NRC-002
OFFICE	DNMS/MLDB	ORA	C:MLDB	
NAME	RJTorres	DMCylkowski	HJGepford	
SIGNATURE	/RA/	/RA/	/RA/	
DATE	3/17/2021	4/11/2021	4/12/2021	

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