



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION IV  
1600 E. LAMAR BLVD  
ARLINGTON TX 76011-4511

April 12, 2021

Mr. David K. Olson  
Radiation Safety Officer  
Eagle Specialty Materials, LLC  
dba Prairie Eagle Mining  
P.O. Box 3040  
Gillette, Wyoming 82718

SUBJECT: BLACKJEWEL LLC REQUEST FOR WRITTEN CONSENT TO DIRECT  
LICENSE TRANSFER

By email dated November 16, 2020, and supplemental information provided in email dated February 9, 2021, (Agencywide Documents Access and Management System (ADAMS) Accession Numbers ML20325A028 and ML21041A399, respectively), Blackjewel, LLC submitted to the U.S. Nuclear Regulatory Commission (NRC) a request for written consent to a direct transfer of control of NRC materials license number 49-26963-03 to Eagle Specialty Materials, LLC dba Prairie Eagle Mining. In accordance with Section 184 of the Atomic Energy Act of 1954, as amended (AEA), and 10 CFR 30.34, the NRC consents to the transfer.

Blackjewel LLC is authorized by the NRC for the possession and use of byproduct material under Part 30. By email dated November 16, 2020, Blackjewel LLC requested written consent to the direct transfer of control of its license from the NRC. Because the license was issued under 10 CFR Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material," the NRC must find that the transfer is in accordance with the provisions of the AEA and, if so, must give its consent in writing prior to the transfer, in accordance with Section 184 of the AEA and 10 CFR 30.34(b). Additionally, the NRC staff reviewed the direct transfer of control request using the guidance in NUREG-1556, Volume 15, Revision 1, "Consolidated Guidance About Materials Licenses - Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses," dated June 2016.

10 CFR 30.34(b) states:

- (1) No license issued or granted pursuant to the regulations in [parts 30] through 36, and 39 nor any right under a license 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.
- (2) An application for transfer of license must include:
  - (i) The identity, technical and financial qualifications of the proposed transferee; and
  - (ii) Financial assurance for decommissioning information required by [10 CFR] 30.35.

As described in ADAMS accession numbers ML20325A028 and ML21041A399, the direct transfer of control was the result of bankruptcy proceedings. Specifically, Blackjewel LLC (transferor) initiated a bankruptcy action in the United States Bankruptcy Court for the Southern District of West Virginia on or about July 1, 2019. Eagle Specialty Materials, LLC dba Prairie Eagle Mining (transferee) purchased certain assets from the bankruptcy debtor, Blackjewel LLC, pursuant to that General Assignment and Assumption Agreement and Bill of Sale dated October 18, 2019 ("Bill of Sale"), including all assets at the Belle Ayr Mine and Eagle Butte Mine located in Campbell County, Wyoming. The sale of all the assets at the two mines was confirmed by an Order (I) Approving the Sale of Certain Assets to Eagle Specialty Materials, LLC Free and Clear of Liens, Claims, Encumbrances, and other interests, (II) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (III) Granting Related Relief, entered by the United States Bankruptcy Court for the Southern District of West Virginia, on October 4, 2019.

Because the transfer of control occurred on October 18, 2019, and the request was dated November 16, 2020, this request was for approval of a direct license transfer, without receiving prior written consent from the Commission. The NRC will follow its enforcement process and you will receive a separate correspondence on this matter. The NRC staff finds that the licensee request adequately provided a complete and clear description of the proposed transaction, consistent with 10 CFR 30.34(b) and Chapter 5 and Appendix E of NUREG-1556, Vol. 15, Rev. 1. The sufficiency of the description is evaluated below.

The request for a direct transfer of ownership was posted for public comment on the NRC website for 30 days in accordance with 10 CFR Part 2, Subpart M and as described in NRC's Regulatory Issue Summary 2014-08, Revision 1. No comments were received from members of the public.

In the request for a direct transfer of ownership, Blackjewel LLC provided information regarding its current decommissioning funding plans. Based on the information provided, Blackjewel LLC is not required to have financial assurance for decommissioning because of the types and amount of material authorized in its license. The NRC staff finds that the licensee's request adequately provided information for financial assurance for decommissioning, consistent with 10 CFR 30.34(b) and Chapter 5 and Appendix E of NUREG-1556, Vol. 15, Rev. 1.

Further, the NRC conducted an inspection of Blackjewel LLC on July 8, 2019, at the licensee's two mines located in Wyoming. The NRC identified no violations during this inspection.

Additionally, as described in its request, Eagle Specialty Materials, LLC commits that it:

- A. will not change the radiation safety officer listed in the NRC license;
- B. will not change the personnel involved in licensed activities;
- C. will not change the locations, facilities, and equipment authorized in the NRC license;
- D. will not change the radiation safety program authorized in the NRC license;
- E. will change the organization's name listed in the NRC license from Blackjewel LLC, to Eagle Specialty Materials, LLC d/b/a Prairie Eagle Mining; and
- F. will keep regulatory required surveillance records and decommissioning records.

Based on these commitments, the NRC staff finds that the licensee request adequately documents the constraints, license conditions, requirements, representations, and commitments made by the transferee, consistent with 10 CFR 30.34(b) and Chapter 5 and Appendix E of NUREG-1556, Vol. 15, Rev. 1.

Eagle Specialty Materials, LLC holds other licenses and authorizations issued by the State of Wyoming and the Federal government for the conduct of their operations. The NRC staff used the guidance provided by the NRC's Office of Nuclear Material Safety and Safeguards' "Checklist to provide a basis for confidence that radioactive materials will be used as specified on the application," January 29, 2019, revision. The purpose of this checklist is for the NRC to obtain reasonable assurance from new license applicants or NRC licensees transferring control of licensed activities that the licensed material will be used for its intended purpose and not for malevolent use. Therefore, for security purposes, Eagle Specialty Materials, LLC is considered a known entity.

An environmental assessment for this action is not required because this action is categorically excluded under 10 CFR 51.22(c)(21).

The staff has reviewed the request for a direct transfer of control of NRC license number 49-26963-03. The NRC staff finds that the direct transfer of control is in accordance with Section 184 of the AEA and 10 CFR 30.34(b) and consents to the transfer.

In a separate correspondence you are going to receive the amended NRC license number 49-26963-03 recognizing the new company name and commitments made as a result of the transfer of control. Future changes in the licensee's name, licensed use, licensed materials, licensed location, persons responsible for licensed material, or other changes to the corporate organizational structure require submission of a request to amend the license or a request to transfer the license. NRC approval must be received prior to implementation of any such proposed change.

In accordance with 10 CFR 2.390, a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC website at <https://www.nrc.gov/reading-rm/adams.html>. You can contact me at 817-200-1189 if you have any questions regarding this letter.

Thank you for your cooperation.

Sincerely,

Roberto J. Torres, M.S., Senior Health Physicist  
Materials Licensing and Decommissioning Branch

Docket: 030-32949  
License: 49-26963-03  
Control: 624549