

SAFETY EVALUATION REPORT
PROPOSED CHANGE OF CONTROL FOR BYPRODUCT MATERIALS
LICENSE NUMBER 47-25599-01, COAL-MAC, LLC

DATE: May 13, 2020

DOCKET NO.: 030-36047

LICENSE NO.: 47-25599-01

LICENSEE: Coal-Mac, LLC
P.O. Box 1050
Holden, WV 25625

TECHNICAL REVIEWER: Randolph C. Ragland, Jr.

SUMMARY AND CONCLUSIONS

Coal-Mac, LLC, is authorized by NRC License 47-25599-01 for the possession and use of byproduct material for the purpose of utilizing fixed gauging devices for controlling industrial processes at the Ragland Complex, US Route 65N, Country Road 5, West Virginia. The U.S. Nuclear Regulatory Commission (NRC) staff reviewed a letter dated November 11, 2019, from Coal-Mac, LLC, on behalf of Arch Coal, Condor Holdings, LLC, and JMP Holdings, LLC, a parent company of Condor Holdings, that ownership of Coal-Mac, LLC had transferred from Arch Coal to Condor Holdings, LLC (ML19338D927). Additional information was provided and reviewed including a March 30, 2020, email that transmitted "Information Needed For Transfer of Control Applications (ML20094H573) that showed the transaction of sale occurred on December 13, 2019; an April 30, 2020, email that transmitted "Articles of Merger of Condor Holdings, LLC into Coal-Mac, LLC," (ML20126G435); and a May 4, 2020, email from JMP Holdings, LLC (ML20128J490), that described the relationship between JMP Holdings, LLC, and Blackhawk Mining, LLC. Those communications represented a request for consent to an indirect license transfer.

The request for consent was reviewed by NRC staff for an indirect change in control of a 10 CFR Part 30 license 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. The NRC staff finds that the information submitted by Coal-Mac, LLC, Arch Coal, and JMP Holdings, LLC, sufficiently describes and documents the transactions dated December 13, 2019, and April 1, 2020, and commitments made by Condor Holdings, LLC (now merged into Coal-Mac, LLC) on behalf of JMP Holdings, LLC.

As required by 10 CFR 30.34 and section 184 of the Atomic Energy Act of 1954, as amended (the Act), NRC staff has reviewed the application and finds that the proposed change in control is in accordance with the Act. The staff finds that, after the change of control, Coal-Mac, LLC, will remain qualified to use byproduct material for the purpose requested and will continue to have the equipment, facilities, and procedures needed to protect public health and safety, and promotes the security of licensed material.

SAFETY AND SECURITY REVIEW

According to data obtained from the NRC's Agencywide Documents Access and Management System (ADAMS) and Web Based Licensing System (WBL), Coal-Mac, LLC, has been an NRC licensee since August 21, 2002. The NRC conducted a main office inspection of Coal-Mac, LLC on December 11, 2017 and found no violations of NRC requirements.

Review of the transactions completed by all parties described above confirmed that Coal-Mac, LLC (License No. 47-25599-01):

- A. did not change the radiation safety officer listed in the NRC license;
- B. did not change the personnel involved in licensed activities;
- C. did not change the locations, facilities, and equipment authorized in the NRC license;
- D. did not change the radiation safety program authorized in the NRC license;
- E. did not change the organization's name listed in the NRC license; and
- F. has kept regulatory required surveillance records and decommissioning records.

JMP Holdings, LLC, is the ultimate parent company of Coal-Mac, LLC. Although, JMP Holdings, LLC, severed all ties with Blackhawk Mining, LLC, on November 1, 2019, JMP Holdings, LLC, did hold direct and indirect ownership interest in Blackhawk mining from May 2010, until October 2019. During this time period, Blackhawk Mining, LLC, was a parent company of Blue Creek Mining, LLC (NRC License No. 47-31315-01), Guyandotte Mining, LLC (NRC License 47-24917-01), Panther Creek Mining, LLC (NRC License 47-25301-01), and Rockwell Mining, LLC, (NRC License 47-24809-01). Therefore, for security purposes, JMP Holdings, LLC, is considered a known entity following the guidance provided by the NRC's Office of Nuclear Material Safety and Safeguards (NMSS) "Checklist to Provide a Basis for Confidence that Radioactive Materials Will be Used as Specified on the Application," January 29, 2019. 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.

Coal-Mac, LLC is not required to have decommissioning financial assurance based on the types and amount of material authorized in License No. 47-25599-01.

REGULATORY FRAMEWORK

Coal-Mac, LLC's License No. 47-25599-01, was issued under 10 CFR Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material." The NRC is required by 10 CFR 30.34 to determine if the change of control is in accordance with the provisions of the Act and, if so, give its consent in writing.

10 CFR 30.34(b)(1) states:

No license issued or granted pursuant to the regulations in this part and parts 31 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.

As previously indicated, the staff evaluation is based on guidance in NUREG-1556, Volume 15, Revision 1. The central issue is whether the authority over the license has changed. Coal-Mac, LLC, acting on behalf of Arch Coal and Condor Holdings, LLC, and ultimately JMP Holdings, LLC, request for consent describes an indirect change of control from Arch Coal to Condor Holdings, LLC. Following the completion of the sale, Condor Holdings, LLC merged into Coal-Mac, LLC, and became a wholly-owned subsidiary of JMP Holdings, LLC, and, as such, the transfer required NRC consent.

DESCRIPTION OF TRANSACTION

The transactions are described in ADAMS accession numbers ML19338D927, ML20094H573, ML 20126G435 and ML20128J490. After completion of the sale and subsequent merger, Coal-Mac, LLC continued as the licensee and remained in control of all licensed activities under Materials License No. 47-25599-01. The NRC staff finds that the request for consent adequately provides a complete and clear description of the transaction and is consistent with the guidance provided in Appendix F of NUREG-1556, Volume 15, Revision 1.

TRANSFeree'S COMMITMENT TO ABIDE BY THE TRANSFEROR'S COMMITMENTS

The NRC staff finds that the information submitted by Coal-Mac, LLC, on behalf of Arch Coal, Inc. (transferor), Condor Holdings, LLC, (transferee), and JMP Holdings, LLC, (ultimate parent company), sufficiently describes and documents the commitments made by Coal-Mac, LLC, and Condor Holdings, LLC, and is consistent with the guidance in NUREG-1556, Volume 15, Revision 1.

ENVIRONMENTAL REVIEW

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

CONCLUSION

The staff has reviewed the request for consent submitted by all parties with regard to an indirect change of control of byproduct materials license No. 47-25599-01 and consents to the transfer of control.

The submitted information sufficiently describes the transaction; documents the understanding of the license and commitments; demonstrates that personnel have the experience and training to properly implement and maintain the license and that they will maintain the existing

records; and, in the future, will abide by all existing commitments to the license, consistent with the guidance in NUREG-1556, Volume 15, Revision 1.

Therefore, the staff concludes that the proposed change in control would not alter the previous findings, made under 10 CFR Part 30, that licensed operations will not be inimical to the common defense and security, or to the health and safety of the public.