



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION I  
2100 RENAISSANCE BOULEVARD, SUITE 100  
KING OF PRUSSIA, PA 19406-2713

May 9, 2016

Docket No. 03020185  
Control No. 590401

License No. 47-23023-01

Kenny Daniel  
Senior Manager of Permitting  
ERP Environmental Fund, Inc.  
P.O. Box 305  
Madison, WV 25130

SUBJECT: ERP ENVIRONMENTAL FUND, INC., LICENSE AMENDMENT, CONTROL NO.  
590401

Dear Mr. Daniel:

This refers to your license amendment request. Enclosed with this letter is the amended license.

In a letter dated May 13, 2015 (ML15162A109), Patriot Coal Corporation notified the NRC that it had filed for bankruptcy along with several of its wholly-owned subsidiaries, some of whom were also NRC licensees. In response, the NRC notified them of their obligations to comply with NRC requirements, including the requirement in the Atomic Energy Act of 1954, as amended, and NRC's regulations that they may not transfer control of licensed material without the NRC's prior written approval. The NRC provided this notice in a letter dated June 25, 2015 (ML15181A068) and an October 15, 2015 notice filed in the bankruptcy proceeding, "Notice of Prohibition Against Transfer of License or Disposal of Licensed Radioactive Material Without Prior Written Approval of NRC and Notice of Debtors' Obligations as General Licensee of the NRC."

Patriot Coal Corporation notified the NRC in a letter dated November 24, 2015 from Earl Moles, Environmental Manager, Patriot Coal Services, to NRC Region 1 (ML15337A432), that it had completed the Chapter 11 restructuring process and sold some of Patriot's operating assets to Virginia Conservation Legacy Fund (VCLF), including the licensed material. Patriot Coal and VCLF Land Trust Inc., an affiliate of VCLF, did not receive NRC approval prior to the transfer of control. In response, the NRC informed VCLF Land Trust Inc. that they must request approval for license transfers and VCLF Land Trust Inc.'s wholly-owned subsidiaries, ERP Environmental Complex, LLC and ERP Environmental Fund, Inc., then requested post-hoc approval of the transfers.

By letter dated February 5, 2016 (ML16076A296), ERP Environmental Fund, Inc., submitted to the NRC a request for approval of a change of control by indirect transfer of NRC Materials License No. 47-23023-01 and a license amendment reflecting a name change to ERP Environmental Fund, Inc., which is a wholly-owned subsidiary of VCLF Land Trust Inc. Based on the information you provided, we understand that the transfer resulted from a Chapter 11 bankruptcy sale on October 28, 2015, whereby Patriot Coal Corporation sold some of its operating assets to VCLF.

As a result of the Chapter 11 sale, the VCLF Land Trust Inc.'s wholly-owned subsidiary, ERP Environmental Fund, Inc., requested post-hoc approval for an amendment to the current license to change the name from Hobet Mining, LLC to ERP Environmental Fund, Inc. upon approval of the indirect transfer of control. Additional details of the sale of assets are provided in the letter dated November 24, 2015 (ML15337A432) from Earl Moles, Environmental Manager, Patriot Coal Services to NRC Region 1 and letter dated February 5, 2016, (ML16076A296) from Kenny Daniel, Senior Manager of Permitting, ERP Environmental Fund, Inc. to John Miller, Health Physicist, NRC Region 1. We further understand that this transfer will not result in any change to licensed materials, persons using the license material, location of use of licensed material, or persons responsible for the licensee's radiation safety program, with the exception that Michael Henderson will replace you as the Radiation Safety Officer.

Based on the above understandings and as more fully detailed in the enclosed NRC staff's Safety Evaluation Report which documents the NRC staff's review of the transfer, the NRC consents to the transfer of control. Accordingly, the NRC is amending your NRC license to reflect this transaction and the name change.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," 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 Agency-wide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html>.

Please review the enclosed document carefully and be sure that you understand and fully implement all the conditions incorporated into the amended license. If there are any errors or questions, please notify the U.S. Nuclear Regulatory Commission, Region I Office, Licensing Assistance Team, (610) 337-5239, so that we can provide appropriate corrections and answers.

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

Current NRC regulations and guidance are included on the NRC's website at [www.nrc.gov](http://www.nrc.gov); select **Nuclear Materials; Med, Ind, & Academic Uses**; then **Licensee Toolkits**, see our **toolkit index page**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 8:00 a.m. to 5:30 p.m. EST, Monday through Friday (except Federal holidays).

The NRC's Safety Culture Policy Statement became effective in June 2011. While a policy statement and not a regulation, it sets forth the agency's *expectations* for individuals and organizations to establish and maintain a positive safety culture. You can access the policy statement and supporting material that may benefit your organization on NRC's safety culture Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/safety-culture.html>. We

K. Daniel

3

strongly encourage you to review this material and adapt it to your particular needs in order to develop and maintain a positive safety culture as you engage in NRC-regulated activities.

Thank you for your cooperation.

Sincerely,

***Original signed by John Miller***

John Miller  
Health Physicist  
Commercial, Industrial, R&D and Academic  
Branch  
Division of Nuclear Materials Safety

Enclosure:  
Amendment No. 22  
Safety Evaluation Report

cc:  
Michael Henderson, Radiation Safety Officer

DOCUMENT NAME: G:\WordDocs\Current\Lic Cvr Letter\L47-23023-01.590401.doc

**SUNSI Review Complete: JMiller**

After declaring this document "An Official Agency Record" it **will** be released to the Public.

To receive a copy of this document, indicate in the box: C = Copy w/o attach/encl E = Copy w/ attach/encl N = No copy

OFFICE	DNMS/RI	N	OGC/Houseman	N	DNMS/RI	N		
NAME	JMiller /JJM/		NLO f/ via email /JJM/		JMiller /JJM/			
DATE	4/22/16		4/22/16		5/9/16			

OFFICIAL RECORD COPY