

**From:** [Jones, Andrea](#)  
**To:** [elina.teplinsky@pillsburylaw.com](mailto:elina.teplinsky@pillsburylaw.com)  
**Cc:** [Habighorst, Peter](#); [Albert, Michelle](#); [Kim, Grace](#)  
**Subject:** RE: RE: RE: Call regarding a client matter  
**Date:** Wednesday, November 10, 2021 12:02:00 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)

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Ms. Teplinsky,

This email is a follow-up to our call on November 2, 2021. During that call, you requested, on behalf of MP Mine Operations LLC (MPMO), a clarification that the cumulative quantity of 400,000 kilograms (kgs) for export license XSOU8707 started from the November 27, 2017, Order Approving Direct Transfer of Two Export Licenses (License Nos. XSOU8707 and XSOU8827).

The NRC staff performed a comprehensive review of Molycorp and MPMO's licensing actions and confirmed that the time period for the 400,000 kgs cumulative quantity limit starts from the date of the issuance of the original license (August 20, 1991), and that this start date was not altered by the issuance of the 2017 Order that approved the direct transfer of control or the issuance of the conforming license amendments associated with the transfer.

As a matter of background, Molycorp's export license XSOU8707/03, dated February 21, 2007, stated, "The licensee is authorized to export a maximum cumulative total quantity of 400,000.0 kilograms of natural thorium/uranium contained as contaminants (in concentrations ranging from 0.05 percent to 1.0 percent by weight) in various rare earth compounds and mixtures." Page 2 of the license further stated, "This amendment . . . Increases the quantity of material authorized for export by 100,000.0 kilograms or from 300,000.0 kilograms to a new cumulative total of 400,000.0 kilograms."

In MPMO's August 14, 2017, request to transfer control of this export license (ADAMS Accession No. ML17236A034), Box 10a. of the application stated "No change" under MAX TOTAL VOULME/ELEMENT WEIGHT (KG). In the September 14, 2017, email to MPMO, "Follow-up Questions for XSOU8707 and XSOU8827" (ML17258A001), Andrea Jones (NRC) requested MPMO to confirm that given the passage of time and proposed direct transfer of control, there had been no change during the span of the license. On October 5, 2017 (ML17297A131), MPMO confirmed, "10a - XSOU8707 - No change - (No change from 400,000 kg. currently permitted under the license.)." MPMO included the same information in the revised application dated October 19, 2017, that MPMO submitted to request NRC approval of the direct transfer of control and related license amendments (ML17296A544). MPMO also confirmed that "MPMO, as the new licensee, will abide by all constraints, conditions, requirements, representations, and commitments identified in or attributed to the license."

Also, in that September 14, 2017, email, Ms. Jones requested MPMO to describe the plan for the transfer of required records, including those required by 10 C.F.R. § 110.53, and provide a commitment by the proposed new licensee to maintain the records received from the current licensee. In the October 5, 2017, response, MPMO confirmed: "Included in the Asset Purchase Agreement were all manufacturing data and information, operating instructions, documentation, operating records, files, and data. These records have been

maintained and procedures are in place to continue, via either paper or electronic means, to maintain the required records under 10 C.F.R. § 110.53.”

The 2017 NRC Order Approving Direct Transfer of Two Export Licenses (ML17325B702) specifically referenced the supplemental information provided by MPMO as part of the NRC’s consideration of its transfer application. Section II of the Order states:

*After review of the information in the revised applications dated October 19, 2017 and relying on statements and representations contained in the supplemental information dated October 5, 2017, the NRC staff has determined that the proposed transferee is qualified to hold the licenses and that the direct transfers of control are consistent with the applicable provisions of the AEA, regulations, and orders issued by the Commission.*

The conforming license amendments issued with the 2017 Order for this export license (XSOU8707/06) stated, “This license is amended to change the name of the licensee from MolyCorp Minerals, LLC to MP Mine Operations LLC.” Regarding the quantity of source material, the license further stated, “The licensee is authorized to export a cumulative total of 400,000 kilograms of natural thorium/uranium contained as contaminants (in concentrations ranging from 0.05 percent to 1.0 percent by weight) in various rare earth compounds and mixtures. All other conditions remain the same.”

In the September 25, 2020, license amendment (XSOU8707/07), the license was amended to update the point of contact, and no change was made to the license condition regarding the quantity of source material. The license continued to authorize the export of “a cumulative total of 400,000 kilograms of natural thorium/uranium contained as contaminants (in concentrations ranging from 0.05 percent to 1.0 percent by weight) in various rare earth compounds and mixtures.”

The cumulative total of 400,000 kg was in place well before the 2017 direct transfer of control. It has been included in the license since XSOU8707/03, issued in 2007: “Increases the quantity of material authorized for export by 100,000.0 kilograms or from 300,000.0 kilograms to a new cumulative total of 400,000.0 kilograms.” A statement was also included in the license in XSOU8707/07 to be explicit that the cumulative total starts from the issuance of the original license XSOU8707. As noted in your email, the original license was issued on August 20, 1991.

The 2017 direct transfer of control did not result in granting MPMO a new original license; rather, it involved a direct transfer of control of two existing export licenses subject to the preexisting terms and conditions of those licenses, except as modified by the license amendments requested in the transfer application and approved by the NRC. As previously noted, in its transfer application, MPMO specifically stated that it was not requesting a change to the maximum cumulative total quantity, and none of the license amendments requested affected the quantity of source material authorized by this export license.

In conclusion, the 400,000 kgs is the cumulative total authorized from the original license issued in August 1991. If MPMO wishes to request a quantity increase for this export license, an amendment application is required. As stated in 10 C.F.R. § 110.51(a)(2), an amendment is required for changes in amount or quantity for a specific license issued

under Part 110.

The NRC considers your inquiry about the maximum cumulative total quantity to be closed. If you have additional questions, you may request a teleconference with our attorneys.

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**From:** Teplinsky, Elina <[elina.teplinsky@pillsburylaw.com](mailto:elina.teplinsky@pillsburylaw.com)>  
**Sent:** Monday, November 08, 2021 12:17 PM  
**To:** Habighorst, Peter <[Peter.Habighorst@nrc.gov](mailto:Peter.Habighorst@nrc.gov)>; Jones, Andrea <[Andrea.Jones2@nrc.gov](mailto:Andrea.Jones2@nrc.gov)>  
**Cc:** Leidich, Anne <[anne.leidich@pillsburylaw.com](mailto:anne.leidich@pillsburylaw.com)>  
**Subject:** [External\_Sender] RE: RE: Call regarding a client matter

Thank you very much, Pete. Greatly appreciated. Please don't hesitate to me know if you need any further information or if another call would be helpful.

In parallel, MP will be submitting its application to increase the cumulate total either later today or tomorrow.

All my best,

Elina

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**From:** Habighorst, Peter <[Peter.Habighorst@nrc.gov](mailto:Peter.Habighorst@nrc.gov)>  
**Sent:** Wednesday, November 3, 2021 7:43 AM  
**To:** Teplinsky, Elina <[elina.teplinsky@pillsburylaw.com](mailto:elina.teplinsky@pillsburylaw.com)>; Jones, Andrea <[Andrea.Jones2@nrc.gov](mailto:Andrea.Jones2@nrc.gov)>  
**Cc:** Leidich, Anne <[anne.leidich@pillsburylaw.com](mailto:anne.leidich@pillsburylaw.com)>  
**Subject:** RE: RE: Call regarding a client matter

Thank you Elina

After some internal discussions in the next couple of days we should get back to you on your clarification that the cumulative total of 400,000 kgs starts from the date of the license transfer to MP rather than the original license.

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**From:** Teplinsky, Elina <[elina.teplinsky@pillsburylaw.com](mailto:elina.teplinsky@pillsburylaw.com)>  
**Sent:** Tuesday, November 02, 2021 10:29 AM  
**To:** Habighorst, Peter <[Peter.Habighorst@nrc.gov](mailto:Peter.Habighorst@nrc.gov)>; Jones, Andrea <[Andrea.Jones2@nrc.gov](mailto:Andrea.Jones2@nrc.gov)>  
**Cc:** Leidich, Anne <[anne.leidich@pillsburylaw.com](mailto:anne.leidich@pillsburylaw.com)>  
**Subject:** [External\_Sender] RE: Call regarding a client matter

Pete and Andrea –

Thank you so much for your time this morning and for the helpful discussion. As promised, please see attached copies of the original license XSOU8707 and all of the amendments. I have also summarized the evolution of the cumulative total language in the table below. The license transfer

occurred in 2017.

As we discussed, MP would like to obtain a clarification that the cumulative total of 400,000.0 kg starts from the date of the license transfer to MP, rather than the date the original license was issued (August 20, 1991). We greatly appreciate your review of this issue and I would be happy to schedule a follow-up call with you once you have a chance to review the attached and the license transfer documentation.

License Amd. #	License Rev. Date	Condition
0	August 20, 1991	Natural thorium / uranium (in concentrations ranging from 0.05 percent to 1.0 percent).
1	May 25, 1995	The licensee is authorized to export a maximum cumulative total quantity of 200,000.0 kilograms of natural thorium/uranium contained as contaminants (in concentrations ranging from 0.05 percent to 1.0 percent by weight) in various rare earth compounds and mixtures.
2	February 6, 1997	The licensee is authorized to export a maximum cumulative total quantity of 300,000.0 kilograms of natural thorium/uranium contained as contaminants (in concentrations ranging from 0.05 percent to 1.0 percent by weight) in various rare earth compounds and mixtures.
3	February 21, 2007	The licensee is authorized to export a maximum cumulative total quantity of 400,000.0 kilograms of natural thorium/uranium contained as contaminants (in concentrations ranging from 0.05 percent to 1.0 percent by weight) in various rare earth compounds and mixtures.
4	March 21, 2008	The licensee is authorized to export a maximum cumulative total quantity of 400,000.0 kilograms of natural thorium/uranium contained as contaminants (in concentrations ranging from 0.05 percent to 1.0 percent by weight) in various rare earth compounds and mixtures.
5	November 10, 2008	The licensee is authorized to export a maximum cumulative total quantity of 400,000.0 kilograms of natural thorium/uranium contained as contaminants (in concentrations ranging from 0.05 percent to 1.0 percent by weight) in various rare earth compounds and mixtures.
<b>6</b>	<b>November 28, 2017</b>	<b>The licensee is authorized to export a cumulative total of 400,000 kilograms of natural thorium/uranium contained as contaminants (in concentrations ranging from 0.05 percent to 1.0 percent by weight) in various rare earth compounds and mixtures.</b>
7	September 25, 2020	This license is authorized to export a cumulative total of 400,000 kilograms of natural thorium/uranium contained as contaminants (in concentrations ranging from 0.05 percent to 1.0 percent by

		weight) in various rare earth compounds and mixtures. The cumulative total starts from the issuance of the original license XSOU8707.
8	August 30, 2021	This license is authorized to export a cumulative total of 400,000 kilograms of natural thorium/uranium contained as contaminants (in concentrations ranging from 0.05 percent to 1.0 percent by weight) in various rare earth compounds and mixtures. The cumulative total starts from the issuance of the original license XSOU8707.

All my best,

Elina

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**From:** Habighorst, Peter <[Peter.Habighorst@nrc.gov](mailto:Peter.Habighorst@nrc.gov)>  
**Sent:** Monday, November 1, 2021 8:51 AM  
**To:** Teplinsky, Elina <[elina.teplinsky@pillsburylaw.com](mailto:elina.teplinsky@pillsburylaw.com)>  
**Cc:** Steele King, Kimberly M. <[kimberly.king@pillsburylaw.com](mailto:kimberly.king@pillsburylaw.com)>; Jones, Andrea <[Andrea.Jones2@nrc.gov](mailto:Andrea.Jones2@nrc.gov)>  
**Subject:** RE: Call regarding a client matter

Elina,  
Thanks yes all is well. NRC would be happy to discuss the export license for MP Materials to export natural uranium/thorium.

Good times for a discussion could be tomorrow 11/2 9-10 am; or 1-2 pm, or after 4:00pm

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**From:** Teplinsky, Elina <[elina.teplinsky@pillsburylaw.com](mailto:elina.teplinsky@pillsburylaw.com)>  
**Sent:** Friday, October 29, 2021 12:21 PM  
**To:** Habighorst, Peter <[Peter.Habighorst@nrc.gov](mailto:Peter.Habighorst@nrc.gov)>  
**Cc:** Steele King, Kimberly M. <[kimberly.king@pillsburylaw.com](mailto:kimberly.king@pillsburylaw.com)>  
**Subject:** [External\_Sender] Call regarding a client matter

Pete,

I hope that you're well. Would you have some time early next week for a call to discuss a client matter? I'm doing some work for MP Materials, which has a license (attached) to export natural uranium / thorium in various rare earths to destinations other than restricted / embargoed countries. MP Materials acquired the mine that produces the rare earths from Molycorp back in 2017 and we wanted to discuss one of the conditions on the license (which was originally issued to Molycorp in 1995).

If I could have 30 minutes of your time to discuss the issue, I would much appreciate it. Thank you in

advance.

Best,

Elina

**Elina Teplinsky** | Partner

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