



Canadian Nuclear
Safety Commission

Commission canadienne
de sûreté nucléaire

Record of Decision

In the Matter of

Licensee
Subject to
Order

Rock Tech Lithium Inc.

Subject

Review by the Commission of the Designated
Officer Order Issued on November 30, 2015 in
Regard to the Improper Transfer of a
Radiation Device

Date of
Commission's
Review

February 26, 2018

RECORD OF DECISION

Licensee
subject to order: Rock Tech Lithium Inc.

Address/Location: 900 – 1021 West Hastings Street
Vancouver, British Columbia
V6E 0C3

Purpose: Review by the Commission of the Designated Officer Order Issued
on November 30, 2015 in Regard to the Improper Transfer of an
X-ray Fluorescence Radiation Device

Order Issued: November 30, 2015

Date of Commission's
Review: February 26, 2018

Location: Canadian Nuclear Safety Commission (CNSC) Public Hearing
Room, 280 Slater St., 14th Floor, Ottawa, Ontario

Panel of Commission: M. Binder, Chair

Table of Contents

1.0 INTRODUCTION..... 1
2.0 DECISION..... 2
3.0 ISSUES AND COMMISSION FINDINGS 2
4.0 CONCLUSIONS 3

1.0 INTRODUCTION

1. On November 30, 2015, a Canadian Nuclear Safety Commission¹ (CNSC) Designated Officer issued an Order to Rock Tech Lithium Inc. (Rock Tech Lithium), a mineral exploration company based in Vancouver, BC.² Rock Tech Lithium holds CNSC licence number 14484-1-15.2 and is authorized to possess, use, store and transfer prescribed equipment. The Order was issued after CNSC staff discovered that Rock Tech Lithium had transferred prescribed equipment, a Niton XLP model 522K analyzer radiation device (serial number 25939), to another person who was not authorized by the CNSC to possess the device. Pursuant to subsection 35(1) of the *Nuclear Safety and Control Act* (NSCA),³ the Order required Rock Tech Lithium to recover the Niton XLP model 522K analyzer radiation device and to properly transfer it to a person authorized by the CNSC to possess it.
2. Pursuant to subsection 37(6) of the NSCA, the Designated Officer referred the Order to the Commission for review.
3. Pursuant to paragraph 40(1)(d) of the NSCA, the Commission is required to provide an opportunity to be heard to Rock Tech Lithium, as the licensee subject to and named in the Order. Rock Tech Lithium did not dispute and complied with the Order. The Designated Officer confirmed that the licensee had complied with the terms of the Order.
4. This *Record of Decision* describes the Commission's consideration of the Order and the reasons for its decision in this matter.

Issue

5. In its review of the Order, the Commission was required to confirm, amend, revoke or replace the Order, pursuant to subsection 37(6) of the NSCA.

Order Review

6. Pursuant to section 22 of the NSCA, I established myself to preside a Panel of one Commission Member to review the Order. The Commission, in making its decision, considered the Designated Officer Order, and the information referred to in the November 30, 2015 Order.

¹ The *Canadian Nuclear Safety Commission* is referred to as the "CNSC" when referring to the organization and its staff in general, and as the "Commission" when referring to the tribunal component.

² <http://www.nuclearsafety.gc.ca/eng/acts-and-regulations/regulatory-action/rock-tech-lithium-inc.cfm>

³ Statutes of Canada (S.C.) 1997, chapter (c.) 9.

2.0 DECISION

7. Based on its consideration of the matter, as described in more detail in the following sections of this *Record of Proceedings*,

the Commission, pursuant to subsection 37(6) of the NSCA, confirms the Designated Officer Order issued to Rock Tech Lithium Inc. on November 30, 2015.

3.0 ISSUES AND COMMISSION FINDINGS

8. In reviewing the November 30, 2015 Order issued to Rock Tech Lithium under subsection 37(6) of the NSCA, the Commission considered the reasonableness of the Order. The Commission considered the actions and measures identified in the Order and the information on which the Order was based, as identified in the Order. In this regard, and as elaborated further below, the Commission is satisfied that the Designated Officer, based on the information available, had sufficient evidence and a reasonable basis for issuing an Order to protect the health and safety of persons and maintain the security of nuclear substances.

Background

9. The Order states that CNSC staff was notified on or about July 15, 2015 that prescribed equipment, a Niton XLP model 522K analyzer radiation device, possessed by Rock Tech Lithium had been transferred to another person who was not authorized to possess it. This was determined to demonstrate the serious failure of the licensee to meet its obligation to take all reasonable precautions to protect the health and safety of persons and to maintain the security of nuclear substances, pursuant to paragraph 12(1)(c) of the *General Nuclear Safety and Control Regulations*⁴ (GNSCR).
10. Further, Rock Tech Lithium was found to have contravened section 13 of the GNSCR, which prohibits the transfer of nuclear substances and prescribed equipment to any person not authorized by the CNSC to possess the nuclear substance or the prescribed equipment.
11. Pursuant to subsection 35(1) and paragraph 37(2)(f) of the NSCA, the Designated Officer issued the Order to Rock Tech Lithium on November 30, 2015.

⁴ SOR/2000-202


Actions and Measures of the Order

12. The Order listed the following actions and measures that Rock Tech Lithium was required to perform:
 1. By 15 December 2015:
 - a. Recover possession of the Niton XLp model 522K series analyzer containing up to 1,850 megabecquerels (MBq) of cadmium-109 and up to 1,110 MBq of americium-241 from the person to whom it had been transferred.
 - b. Report to the CNSC Designated Officer that the radiation device had been recovered.
 2. By 31 December 2015:
 - a. Transfer the Niton XLp model 552K series analyzer to another person who was authorized by the CNSC to possess the radiation device.
 - b. Provide documentation the CNSC Designated Officer to demonstrate that the radiation device had been transferred to a person authorized by the CNSC to possess the radiation device.
13. The Designated Officer informed the Commission Secretary via email correspondence dated May 26, 2016 that Rock Tech Lithium had complied with all of the required actions specified in the Order.

4.0 CONCLUSIONS

14. The Commission has considered the information in the Order to Rock Tech Lithium, as well as information from the Designated Officer submitted to the Commission Secretary in regard to this matter.
15. Based on the above information, the Commission is of the view that the Order was warranted.
16. Therefore, pursuant to subsection 37(6) of the NSCA, the Commission confirms the Designated Officer Order issued to Rock Tech Lithium Inc. on November 30, 2015 in the manner described in this *Record of Decision*.

17. The Commission also notes that it is satisfied that Rock Tech Lithium has complied with the conditions of the Designated Officer Order and that this matter is now closed.



Michael Binder
President
Canadian Nuclear Safety Commission

FEB 26 2018

Date