

Wilson, Scott

From: Wilson, Scott
Sent: Thursday, September 01, 2016 12:00 PM
To: 'larrv.a@czarky.net'
Cc: 'carriecrumpton@consolenergy.com'
Subject: Request for Additional Information; Southeastern Land, LLC; Mail Control Nos. 591721 and 591720; Docket Nos. 03032497 and 03038853

Larry D. Adams, P.E.
Vice President, Permitting and Environmental Affairs
Booth Energy
P.O. Box 190
Lovely, KY 41231

Mail Control Nos. 591721
591720

License Nos. 37-35255-01 *103038853*
47-25168-01 *103032497*

Dear Mr. Adams:

This letter is in reference to the license amendment letters you submitted dated July 29, 2016. The letters request a review of possible change of control for NRC licenses issued to Fola Coal Company, LLC, and CONSOL of Kentucky, License Nos. 37-35255-01 and 47-25168-01, respectively. In your request you provided that certain assets of these companies are to be acquired by Southeastern Land, LLC. In order to continue our review of the two request letters, we need additional information.

10 CFR 30.34(b) requires, in part, that "No license issued or granted pursuant to the regulations, 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." Therefore, control of licenses cannot be transferred without the prior written consent of the Commission.

This requires that the licensee notify the Commission that they are undergoing a possible change of control. The NRC will review the information provided to ensure that the transfer is in accordance with the provisions of the Atomic Energy Act of 1954, as amended (AEA) and the regulations in 10 CFR Part 2, Subpart M, which require that notice must be provided. Once notified, NRC will ask that licensees submit the details of the transaction, as described in Sections 5.1 through 5.6, and Appendix E of NUREG-1556, Volume 15, Rev. 1, "Consolidated Guidance About Materials Licenses; Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses."

Your letters did not provide sufficient information to complete our review. Please provide the following information as required by NUREG-1556, Volume 15, Revision 2, Sections 5.1 through 5.6, and Appendix E "Information Needed For Transfer Of Control Application":

1. Item 1 of Appendix E requires the licensee to provide the new licensee name, mailing address, and contact information, including phone numbers. Your letters did not specifically state that Southeastern Land, LLC, will be the name of the new licensee. Also, you did not include contact information, including telephone numbers for Southeastern Land, LLC. **Please provide this information.**

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2. Item 3 of Appendix E requires, in part, that the licensee describe any changes in the locations to be covered by the license. In your letters, you did not fully describe the locations of use covered by the licenses to be transferred. **Please confirm that the licensed locations of use will remain the same. The licensed locations are currently:**
 - a. For the Fola Coal Company license, those locations include: the licensee's facilities located at Fola Coal Company's Peach Orchard Preparation Plant and Loadout Facility and Peach Orchard Preparation Plant No. 2 approximately 2 miles south of Bickmore on Route 16, and at the former WiNoc Preparation Plant off Route 17, approximately 5 miles east of Bickmore, West Virginia; and
 - b. For the CONSOL of Kentucky Inc. license, those locations include: the licensee's facilities located at Preparation Plant No. 1, Big Branch Road, one and a half miles north of Route 65, Naugatuck, West Virginia.
3. Item 7 of Appendix E requires the licensee to confirm that both transferor and transferee agree to transferring control of the licensed material and activity, and the conditions of transfer, and that the transferee has been made aware of any open inspection items and its responsibility for possible resulting enforcement actions. Your letters were signed by you as Vice President of Permitting and Environmental Affairs for Booth Energy. The letters were not signed by principals of the transferee and transferor. **Please submit letters signed by both parties confirming that both the transferor and transferee agree to the change of control.**

Following our review of the information provided, NRC will notify the licensee as to its determination and include an analysis describing the staff's rationale for that determination, including whether the licensee meets other regulatory requirements applicable to the activity subject to the license. This analysis must provide the basis for the NRC staff's determination, referencing relevant regulatory criteria and guidance documents where appropriate, include the potential impact of the transfer on public health and safety, and support the NRC staff's conclusion as to whether to consent to the transfer of control, including a finding that the transfer is in accordance with the AEA.

Your reply must be an originally signed and dated letter. The letter may be scanned and submitted as a pdf document attached to an email; or it may be transmitted by facsimile to (610) 337-5269; or it may be sent by regular mail. If we do not receive a reply from you within 30 calendar days from the date of this e-mail, we will assume that you do not wish to pursue your request.

Please respond by e-mail to acknowledge that you have received this e-mail request for additional information.

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