

August 7, 1997

EA 97-187

Island Creek Coal Company
ATTN: Mr. Gerald F. Ramsey
Radiation Safety Officer
P. O. Box Drawer L
Oakwood, Virginia 24631

SUBJECT: NRC INSPECTION REPORT NO. 45-15262-02/97-01

Dear Mr. Ramsey:

Thank you for your response of June 5, 1997, and supplemental response of July 24, 1997, to our Notice of Violation (NOV), issued on May 14, 1997, concerning activities conducted for your Oakwood, Virginia facility. We have evaluated your overall response and found that it meets the requirements of 10 CFR 2.201.

After reviewing your letter, we agree with your conclusion that Violation A of the May 14, 1997, NOV did not constitute a violation. Accordingly, we will adjust our records to reflect that no violation of regulatory requirements occurred with respect to Violation A.

With regards to Violation A, you stated in your letter that the capital stock of Island Creek Coal Company's (ICCC) parent company was sold to Consol, Incorporation and that in your view the transfer of the licensee's stock did not by law amount to the transfer of the license. While it may be true that the sale of the capital stock of ICCC's parent company did not amount to a transfer of the license, such a sale could have resulted in a change in the individuals ultimately responsible for exercising control over the company and all of its activities. The Commission was deprived of the kinds of information it needs in order to ensure that: 1) Radioactive materials are controlled only by persons with valid NRC licenses; 2) Materials are properly handled and secured; 3) Persons using such materials are capable, competent and committed to implementing appropriate radiological controls; 4) Licensees provide adequate financial assurance for compliance with NRC requirements; and 5) Public health and safety are not compromised by the use of such materials. While you have indicated in your response to the NOV that the sale of the capital stock has not affected the day-to-day operations of ICCC or its corporate structure, this information should have been provided to the NRC in advance of the stock sale so that informed decisions regarding the above criteria could have been made. Had the sale in fact, resulted in a change of ownership or control of the ICCC license, a violation of 10 CFR 30.34(b) would have been appropriate.

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ICCC

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We will examine the implementation of your corrective actions for Violations B and C during future inspections.

We appreciate your cooperation in this matter.

Sincerely,

(Original signed by D. M. Collins)

Douglas M. Collins, Acting Director
Division of Nuclear Materials Safety



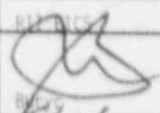
Docket No. 030-13600
License No. 45-15262-02

cc: Commonwealth of Virginia

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PDR



CONSOLIDATION COAL COMPANY
Virginia Operations Engineering
Drawer L
Oakwood, VA 24631
(540) 498-8200

July 24, 1997

United States Nuclear Regulatory Commission
Regional Administrator
Region II
Atlanta Federal Center
61 Forsyth Street, SW, Suite 23T85
Atlanta, Georgia 30303

RE: **Reply to a Notice of Violation;** NRC Inspection Report No. 45-15262 and
Notice of Violation; Docket No. 030-13600; License No. 45-15262-02.

Gentlemen:

As requested by NRC letter dated July 10, 1997, the following information is submitted on behalf of Island Creek Coal Company ("ICCC"), a Delaware Corporation, as the revised response to Violations B and C of the NRC Notice of Violation issued May 14, 1997.

Violation B

1) Violation B occurred because the Radiation Safety Officer failed to stay abreast of the most current NRC Regulation by carefully reviewing the published changes in the regulations as provided by the NRC.

2) Two methods of decommissioning the licensed material are presently being evaluated. First, I have contacted Troxler, the gauge manufacturer, and have obtained Quotation No. LO7116 for the disposal of Model 3411B, Serial Number 5536 Moisture Density Gauge. Second, a local consulting firm has expressed an interest in acquiring the gauge for their use. The firm is investigating the licensing process and requirements before making a final decision. The disposition of the gauge will be by one of the two above methods. As a part of the process and in preparation for decommissioning the gauge was leak tested on June 4, 1997. A copy of the Leak Test Certificate is enclosed.

3) Since the licensed material will be decommissioned in accordance with the NRC Regulation, future violation of this regulation will not occur.

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4) Full compliance with the decommissioning regulations will be achieved by October 31, 1997.

Violation C

1) The licensed material is stored in the engineering vault in a cabinet to which only the Radiation Safety Officer has a key for access. Since the gauge was not being used and was safely stored, failure to conduct the physical inventory of the device was an oversight on my part as the Radiation Safety Officer.

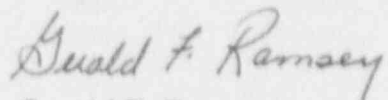
2) A physical inventory of the device was conducted on March 19, 1997. The equipment was found to be intact and in good condition.

3) A reminder has been placed in my daily planner at six month intervals.

4) Full compliance with the physical inventory requirements was achieved March 19, 1997.

I trust that this response provides the specific information requested in the NRC NOV dated May 14, 1997. If, however, you should have any questions or need additional information please contact me.

Very Truly Yours,



Gerald F. Ramsey
Radiation Protection Officer

Encl.

cc: U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, D.C. 20555

**Troxler Electronic Laboratories, Inc.**

3008 Cornwallis Rd., P.O. Box 12057

Research Triangle Park, NC 27709

Tel: (919) 549-8661 Fax: (919) 549-0761

License: NC 032-0182-1

LEAK TEST CERTIFICATE**DEVICE:**

Model: 3411

Serial No: 5536

Sample Date: 4-4-97**SEALED SOURCES:**

NUCLIDE	SERIAL NO.	INITIAL ACTIVITY (mCi)	CURRENT ACTIVITY (mCi)
CS-137	40 - 2474	8.6	5.5
AM-241:BE	47 - 1633	40.0	38.8

LEAK TEST ANALYSIS:

The sample has been analyzed using a counting system capable of measuring beta, gamma, and alpha contamination.

Date of last calibration: 1/14/97

	ALPHA	BETA-GAMMA
Conversion factor (cpm/uCi)	4.51E+05	7.45E+05
Background measurement (cpm)	1	26
Sample measurement (cpm)	0	19
Activity (uCi)	< MDA	< MDA
Min. Detectable Activity (uCi)	8.0E-06	1.0E-05

This certifies that the above leak test results are:

☒ Less than 0.005 uCi (200 Bq)☐ Greater than 0.005 uCi (200 Bq)

Measurement Date: 6/12/97

Certified by: Aug Wells

If greater than 0.005 uCi :

Person Notified _____

Date _____

Phone _____

and/or Fax _____