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September 26, 1996

CAL No. 3-96-014

Paul C. Wilson
Radiation Safety Officer
Black Rock, Inc.
1510 South State Street
Girard, Ohio 44420

SUBJECT: CONFIRMATORY ACTION LETTER

Dear Mr. Wilson:

This confirms the conversations on September 19, 1996 and September 23, 1996, between Ms. B. J. Holt and members of the inspection staff, Division of Nuclear Materials Safety, and you related to the routine safety inspections conducted on May 15 and September 13, 1996, at Black Rock, Inc.

This also acknowledges receipt of your letter dated August 30, 1996, in response to our letter and Notice of Violation (NOV) dated June 24, 1996. However, your response failed to adequately address the violations and our concern regarding a lack of management and Radiation Safety Officer (RSO) oversight of licensed activities.

The purpose of the September 19, 1996 and September 23, 1996 teleconferences was to obtain an understanding of the corrective actions Black Rock, Inc. has taken, or plans to take, for the problems identified during the inspections. With respect to the matters discussed, we understand that you have performed or will perform the following actions:

1. Review your NRC Byproduct Material license, application, and applicable transportation regulations with a Troxler representative or other knowledgeable person to assure that you and your staff have an understanding of the conditions and requirements for possessing NRC-licensed gauges. In addition, describe the mechanism and methods you will use to oversee and audit the radiation safety program to ensure proper RSO oversight.
2. Contact the Ohio Department of Transportation (ODOT) and determine what, if any, agreement exists between ODOT and Black Rock, Inc. for ODOT personnel to use NRC-licensed gauges belonging to Black Rock, Inc. Specifically, determine which NRC Byproduct Material license ODOT personnel are working under while using Black Rock, Inc.'s gauges at Black Rock, Inc.'s facility.
 - A. If ODOT personnel use gauges owned by Black Rock, Inc. under the authority of Black Rock, Inc.'s license, you must ensure ODOT personnel comply with all NRC requirements and Black Rock, Inc.'s

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license commitments. Describe your actions to ensure NRC compliance under the above condition which includes, but not limited to, (1) providing ODOT personnel Black Rock, Inc.'s routine and emergency operating procedures; (2) ensuring ODOT personnel have successfully completed the required training program for gauge users; (3) ensuring ODOT personnel wear the required dosimetry and that the dosimetry is exchanged at the required frequency; and (4) ensuring that the dosimetry records of ODOT personnel are maintained on file and are reviewed by the RSO.

- B. If ODOT personnel use gauges owned by Black Rock, Inc. under the authority of ODOT's license, you must ensure the transfer of the NRC-licensed gauges from Black Rock, Inc.'s possession to ODOT is in accordance with 10 CFR 30.41 NRC requirements.

Describe the arrangement between ODOT and Black Rock, Inc. concerning the use of Black Rock, Inc.'s NRC-licensed gauges by ODOT personnel.

3. Provide a second response to Violations No. 1, 3, 4 and 5 described in our NOV dated June 24, 1996, supplementing the information in your initial response dated August 30, 1996. No further response to Violation No. 2 is required since we recently learned that a change in ownership of the NRC-licensed program did not occur. Include the following in your supplemental response for each violation from the June 24, 1996 NOV, excluding Violation No. 2: (a) the reason for the violation, or, if contested, the basis for disputing the violation, (b) the corrective steps that have been taken and the results achieved, (c) the corrective steps that will be taken to avoid further violations, and (d) the date when full compliance will be achieved.
4. Provide a written response to the NRC by October 7, 1996, describing the specific steps taken for items 1 and 2 and the supplemental information requested by item 3.

Pursuant to Section 182 of the Atomic Energy Act, 42 U.S.C. 2232, you are required to:

1. Notify me in writing immediately if your understanding differs from that set forth above;
2. Notify me if for any reason you cannot complete the actions within the specified schedule and advise me in writing of your modified schedule in advance of the change;
3. Notify me in writing when you have completed the actions addressed in this Confirmatory Action Letter; and
4. Notify me in writing if for any reason you need to change, deviate from, or cannot complete any of the actions, prior to the change or deviation.

Based on your response to this Confirmatory Action Letter, we will determine if a management meeting between you and the NRC staff is needed at the Region III office.

Issuance of this Confirmatory Action Letter does not preclude issuance of an order formalizing the above commitments or requiring other actions on the part of Black Rock, Inc.; nor does it preclude the NRC from taking enforcement action for violations of NRC requirements that may have prompted the issuance of this letter. In addition, failure to take the actions addressed in this Confirmatory Action Letter may result in enforcement action.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and your response will be placed in the NRC Public Document Room (PDR). To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information.

If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

We will gladly discuss any questions you may have concerning these matters.

Sincerely,

Original signed by W. L. Axelson for
A. Bill Beach
Regional Administrator

Docket No. 030-30991
License No. 34-26013-01

Enclosure: 10 CFR Part 30

cc w/encl: State of Ohio
Ohio Dept. of Transportation/RSO

bcc w/o encl: Office of Enforcement
H. Thompson, OEDO

C. Paperiello, NMSS
PUBLIC IE07

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* See Previous Concurrence

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OFFICE	* RIII	* RIII	RIII *	RIII
NAME	BBurgess	BBerson	CPederson	ABBeach
DATE	09/ /96	09/ /96	09/ /96	09/25 /96

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A. Bill Beach
Regional Administrator

Docket No. 030-30991
License No. 34-26013-01

Enclosure: 10 CFR Part 30

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bcc w/o encl: Office of Enforcement
H. Thompson, OEDO

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A. Bill Beach
Regional Administrator, Region III

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DATE	09/24/96		09/24/96		09/24/96		09/24/96	
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