

November 10, 1993

Shoosmith Bros., Inc.
ATTN: Jeffrey L. Harris
Radiation Safety Officer
11800 Lewis Road
Chester, VA 23831

Gentlemen:

I am responding to your letter of August 17, 1993, in which you requested that the FY 1993 fee for License 45-24975-01 be waived.

Footnote 1 of 10 CFR 171.16 provides that the annual fee is waived where a license is terminated prior to October 1 of each fiscal year. The NRC has exempted from the FY 1993 annual fee those licensees, and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage only licenses prior to October 1, 1992, and were capable of permanently ceasing licensed activities entirely by September 30, 1992. An amendment request filed after October 1 of each fiscal year to cancel a license does not cancel the annual fee invoice.

The bases for your request are: (1) the licensed units have been in storage since November 1991 other than to perform leak tests and inventory; (2) the nuclear units were sold on March 2, 1993, to Newton Asphalt, Inc. and (3) the license was terminated March 18, 1993.

A review of the files indicates that safety violations were noted during an inspection on May 26, 1992. Your July 27, 1992, response to the July 16, 1992, Notice of Violation was processed as an amendment to your license to change the radiation safety officer. Subsequently you filed for termination on March 2, 1993, and the license was terminated March 18, 1993. The March 2, 1993, termination request, however, was not timely filed for purposes of avoiding the FY 1993 annual fee.

Based on the foregoing, I find no unique circumstances to warrant granting an exemption of the fee. Annual fees are assessed based on whether a licensee holds a valid NRC license that authorizes possession and use of radioactive material. Whether or not a licensee is actually conducting operations using the materials is a matter of licensee discretion. Therefore, your request for a waiver is denied.

NRC acknowledges receipt of your payment of \$2,127.19 for Invoice No. AM03477-93.

Sincerely,

Original signed by
James M. Taylor

James M. Taylor
Executive Director
for Operations

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See Previous Correspondence

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10 CFR 171 Exemption File FY 1993 (w/orig. inc.)

License File 45-24975-01

Materials Annual Fee Correspondence File

Invoice File AM03477-93

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