



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555

February 10, 1994

Mr. Michael F. McBride, Esq.
LeBoeuf, Lamb, Greene & MacRae
1875 Connecticut Avenue, N.W.
Washington, DC 20009-5728

Dear Mr. McBride:

SUBJECT: RESPONSE TO YOUR LETTER REGARDING FIVE STAR PRODUCTS, INC., AND NRC
INFORMATION NOTICE 92-66

This letter is in response to your letter, dated January 11, 1994, in which you requested that the Office of Nuclear Reactor Regulation issue a supplement to NRC Information Notice (IN) 92-66 informing the industry of the staff's conclusion that concrete and grout products manufactured by your client, Five Star Products (FSP), do not constitute a safety concern.

The main point discussed in the information notice is the denial of access to NRC inspectors for the inspection of the test laboratory and test records for products supplied by FSP to the nuclear industry. The denial of access to NRC inspectors resulted in the statement that the NRC does not have reasonable assurance that the products produced are adequate for use in nuclear safety-related applications and, in addition, resulted in the current NRC review of FSP programs. The NRC issuance of the information notice does not constitute a prohibition on the use of Five Star products by Commission licensees, but does serve to inform the industry of information which may affect the safe operation of a licensee facility. It is the responsibility of each user of safety-related products supplied by FSP to review and evaluate the applicability of the information contained in the information notice.

Furthermore, on August 25, 1992, FSP informed all recipients of its quality assurance (QA) manual that it was suspending its 10 CFR Part 50, Appendix B, QA program immediately, and would henceforth supply grout and concrete products on a commercial grade basis only. NRC Information Notice 92-66 addresses only the FSP sale of safety-related products to NRC licensees, not FSP's sale of commercial grade products. NRC licensees purchasing commercial grade products are responsible to assure that the product received is suitable for use in its intended application.

The NRC staff statement in its Opposition to Construction Products Research, Inc., Motion to Quash, dated September 9, 1993, that "Five Star's products did not constitute a safety concern" was based on a review of the documents seized during the execution of a Federal search warrant on September 1, 1992. Although the NRC staff review of the seized documents determined that there was not a significant safety concern for licensees who have used Five Star

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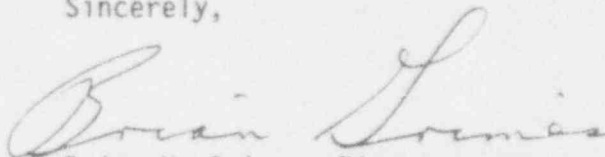
Mr. Michael McBride

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products in safety-related applications, the staff review of the FSP program is not yet complete. The staff still has concerns including the FSP overall QA program and its implementation, lot/batch testing at the Shamokin Filler Plant, and claims made to Commission licensees by FSP that all testing of safety-related products was performed by an independent laboratory. These issues currently remain open and are being reviewed along with the 10 CFR Part 50.7 issues related to Mr. Edward Holub.

In summary, the IN contains information that is factually correct. In addition, the staff's review of FSP's activities prior to suspending its Appendix B QA program is not complete. Therefore, it is not appropriate to supplement the IN at this time.

Sincerely,

A handwritten signature in cursive script, appearing to read "Brian K. Grimes".

Brian K. Grimes, Director
Division of Operating Reactor Support
Office of Nuclear Reactor Regulation

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Sincerely,

Original signed by
Brian K. Grimes

Brian K. Grimes, Director
Division of Operating Reactor Support
Office of Nuclear Reactor Regulation

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