



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 14, 1998

William G. Heffner
2300 Brown Road
Grove City, OH 43123

Dear Mr. Heffner:

I am responding to your April 22, 1998, letter written on behalf of the defunct Agg-Rok Materials Division of Wapak Sand & Gravel Company (Agg-Rok) and your return of Invoice AM2951-98 for License 34-26095-02 concerning the assessment of the FY 1998 annual fee. You state that Agg-Rok did not seek to renew their license. You also state that Agg-Rok did not own nuclear gauges, but had the right to possess nuclear gauges. We are considering your letter as a request to extend the period of time to file for termination for purposes of avoiding the FY 1998 annual fee. For the reasons stated below, Invoice AM2951-98 has been cancelled.

Footnote 1 of 10 CFR 171.16 provides that the annual fee is waived when a license is terminated prior to October 1 of each fiscal year. The 1998 annual fee is waived for 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, 1997, and permanently ceased licensed activities by September 30, 1997. An amendment filed after October 1 of each fiscal year to cancel a license does not cancel the annual fee invoice. Your April 23, 1998, termination request was not timely filed for purposes of avoiding the fiscal year 1998 annual fee. As provided in 10 CFR 171.17, licenses for which termination requests are filed during the period of October 1 through March 31 of the fiscal year are assessed one-half of the annual fee. Your April 23, 1998, termination request was not timely filed for the 50 percent proration.

The fee billed on Invoice AM2951-98 is not a renewal fee but rather an annual fee assessed under the provisions of 10 CFR Part 171. In accordance with 10 CFR Part 170 and 10 CFR 171 holders of materials licenses and approvals are subject to application, amendment and annual fees. However, as a result of the September 16, 1997, inspection, the NRC reported that Agg-Rok had not possessed licensed material and that Agg-Rok planned to terminate the license within a few months. Further, the report states that Agg-Rok possessed another NRC license under the name Heffner Construction and that all licensed activities of Agg-Rok were performed under the Heffner Construction license.

Based on the information in the inspection report that no licensed material was possessed or used and the information you provided that the company was dissolved and ceased operations via liquidation as of December 31, 1997, the NRC: 1) grants an extension of time to file for termination to April 23, 1998, for purposes of avoiding the FY 1998 annual fee;

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W. Heffner

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2) acknowledges that no materials were possessed or used under the license during FY 1998; and 3) acknowledges that License 34-26095-02 was terminated May 5, 1998, based on your April 23, 1998, "Certificate of Disposition." Invoice AM2951-98 has been cancelled.

If you have any questions, please contact Shirley Crutchfield at (301) 415-6097.

Sincerely,
Original signed by
Peter J. Rabideau for:

Jesse L. Funches
Chief Financial Officer

Distribution:

GJackson, OCFO
LTremper, OCFO
SKimberely, OCFO
DWeiss, cancel Invoice AM2951-98
License File 34-26095-02 w/cy inc
Invoice AM2951-98 w/cy inc
NUDOCS (ML-61)w/cy inc
PDR w/cy inc
OCFO/DAF/LFARB (LF-98-64) w/o cy inc
OCFO/DAF/LFARB/RF w/o cy inc. and encls
OCFO/RF (DAF-8-122)w/o cy inc
OCFO/DAF/SF (LF-3.2.2) w/orig inc
S. Hudson, OCFO
L. Herr, DCFO

DOCUMENT NAME: G:\DAF8-122

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OFFICE	OCFO/DAF/LFARB/LFS	OCFO/DAF/LFARB	OCFO/D/DAF	OGC
NAME	SCrutchfield/BSJones	DBDandons	JTurdici	TRothschild
DATE	7/7/98	7/7/98	7/10/98	7/13/98

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OFFICE	DCFO	OCFO
NAME	PJRabideau	JLFunches
DATE	7/14/98	7/14/98

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DAF ACTION ITEM TRACKING

Date Rec'd: 5/14/98

DAF Action: DAF-8-122

OC Action :

DAF Due Date: 6/1/98

Branch: LFARB

Action Item: Request from Agg Rok Materials
Division of Wapak Sand and Gravel
Co. not to renew license

Description: Letter to: Shirley Crutchfield, NRC From:
William Heffner, AGG Rok Material
Division Subj: Request to NRC to cancel
licence

Date to DIR:

Ext. Date:

Date Closed:

Signature:

Subject File: