

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

| | | |
|-------------------------------|---|---------------------|
| In the Matter of |) | |
| |) | |
| Empire Sand & Gravel Co. Inc. |) | Byproduce Material |
| P.O. Box 1215 |) | License 25-17576-02 |
| Billings, Montana 59103 |) | |

ORDER TERMINATING PROCEEDINGS

I

Empire Sand & Gravel Co. Inc., P.O. Box 1215, Billings, Montana 59103 ("the licensee") is the holder of Byproduct Material License 25-17576-02 ("the license") issued by the Nuclear Regulatory Commission ("the Commission"). The license authorizes the possession and use of byproduct material under certain conditions specified therein. This license was originally issued on July 11, 1983. The present expiration date of the license is July 31, 1988.

II

On July 11, 1984, the licensee's activities authorized by License 25-17576-02 and located at Mary Street, Billings, Mt., were inspected by a representative(s) of the NRC Region IV Office for health and safety purposes. On September 28, 1984, the Commission sent Invoice 1516T to the licensee requesting payment within 30 days of the inspection fee of \$530 required by 10 CFR 170 of the Commission's regulations. A second notice of payment due, together with a Notice of Violation, was sent to the licensee on November 13, 1984. A final notice of payment due was sent to the licensee on December 3, 1984.

The licensee failed to respond to three invoices. Consequently, on May 31, 1985 the Chief, License Fee Management Branch, Office of Administration, issued an Order to Show Cause ("the Order"), directing the licensee to show cause why the license should not be revoked permanently. As an alternative to filing an answer, the Order provided that, if payment of the fee were made

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within 20 days of the date of receipt of the Order, the Director of Administration or the undersigned would issue a subsequent Order terminating the revocation proceeding. In response to the Order, the licensee followed this alternative procedure and paid the inspection fee of \$530.

III

Accordingly, in view of the payment of the inspection fee under the terms of the Order, and, pursuant to the Commission's "Rules of Practice" in 10 CFR Part 2, IT IS HEREBY ORDERED THAT:

This proceeding is terminated.

FOR THE NUCLEAR REGULATORY COMMISSION

Original Signed by

Wm. O. Miller

William O. Miller, Chief
License Fee Management Branch
Office of Administration

Dated at Bethesda, Maryland
this *23rd* day of *July, 1985*

DISTRIBUTION:

LFMB Orders File
License File
PDR
R Fonner, OELD
RRakowski, ORM
DWeiss, LFMB
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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

LFMB:ADM
JDweiss:ldj
7/2/85

LFMB:ADM
WOMiller
7/1/85