

NOV 23 1992

M&H Concrete Structures, Inc.  
ATTN: Jerry A. Gunter  
Office Manager (Former)  
SR 4, Box 107A  
Ivydale, West Virginia 25113

Gentlemen:

I am responding to your letter dated October 16, 1992, seeking relief from the FY 1991 annual fee for License No. 47-21347-01 (AM03880-91).

The bases for your request are: 1) the owner was not aware that there would be a 1991 license fee until invoiced for the fee on August 9, 1991, and having no Nuclear Officer to handle his transactions with NRC, was not knowledgeable that the license must be surrendered rather than allowed to expire; 2) he assumed that by having ceased operations and selling his gauges in December 1990, that this would conclude his association with NRC; 3) upon receipt of the second notice, the owner contacted you and his former Nuclear Officer and began the process of surrendering the license in late September 1991 by telephone conversation with our Atlanta office and submitting NRC Form 313; 4) you were subsequently advised Form 314 was the required form and it was filed by you on November 13, 1991; and 5) you received notification from NRC terminating your license on November 19, 1991, and you were told by the Atlanta office representative that by submitting the form within 30-days of your telephone conversation that you would be within the guidelines and the fee would be waived.

The final rule revising 10 CFR Part 170 and 10 CFR Part 171 provided an opportunity for licensees who wished to relinquish their licenses and who were capable of permanently ceasing licensed operations by September 30, 1991, to avoid the FY 1991 annual fee if the licensee notified the Commission in writing within the 30-day period prior to the effective date of the rule (56 FR 31475 and 31485; July 10, 1991). As stated in the **Federal Register** notice, and the notice which was mailed with the invoice, the effective date of the rule was August 9, 1991.

Based on the information provided in your October 16, 1992, letter, the Commission: 1) grants an extension to the time to file for termination to November 13, 1991; 2) acknowledges that all licensed activities ceased prior to September 30, 1991;

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PDR ADOCK 03020530  
C PDR

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DISTRIBUTION:

10 CFR 171 Exemption File FY 1992 (w/orig. inc.)  
License File 47-21347-01 (w/copy inc.)  
Materials Annual Fee Correspondence File (w/copy inc.)  
Invoice File AM03880-91 (w/copy inc.)  
NUDOCS (ML61) (w/copy inc.)  
PDR  
GJackson  
DDandois  
EBlack  
DWeiss  
LNaval  
JHolloway (w/copy inc.)  
GFehst  
EDO  
OC-92-440  
DAF R/F  
LFDCB R/F (2)  
LTremper (add this name if cancelling invoice and/or issuing refund)

OFFICE: LFDCB:mac  
NAME: GJACKSON  
DATE: / /92

LFDCB  
DDANDOIS  
11/9/92

DAF  
EBLACK  
11/12/92

DAF  
LHILLER  
11/15/92

OFFICE: OC  
NAME: JHOLLOWAY  
DATE: / /92

OC  
JFUNCHES  
11/16/92

OGC  
TROTHCHILD  
11/20/92

OFFICE: OC  
NAME: RSCROGGINS  
DATE: 11/17/92

EDO  
JTAYLOR  
11/23/92

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3) considers your actions timely for purposes of avoiding the FY 1991 annual fee; and 4) acknowledges that your license was terminated on November 19, 1991.

Invoice No. AM03880-91 will be canceled.

Sincerely,

/s/

James M. Taylor  
Executive Director  
for Operations