SEP 18 1985

Docket Nos. 50-556/557

Public Service Company of Oklahoma
ATTN: Mr. Martin E. Fate, Jr., President
P.O. Box 201
Tulsa, Oklahoma 74102

Dear Mr. Fate:

This is in response to your letter dated June 12, 1985, requesting waiver of 10 CFR 170 fees for costs incurred for the review of the withdrawn Black Fox Station (BFS) construction permit application. In a meeting on January 29, 1985, Vaughn L. Conrad and Albert J. Givray informed the NRC staff that the co-applicants took exception to the fee assessed for the BFS application and planned to petition for a waiver of fees. This letter also responds to the June 14, 1985 letter from the firm of Doerner, Stuart, Saunders, Daniel and Anderson, which submitted a brief in support of the request for a waiver of fees and a request for informal hearings on the matter.

Addressing the latter request first, in accordance with NRC practice (copy enclosed), a meeting with a licensee/permittee/applicant to discuss assessed fees may be requested by the NRC "at its option" to "receive further evidence or arguments supporting the debtor's contentions." In this instance, you have already provided sufficient evidence and argument for the NRC to reach a decision in this matter. Accordingly, we see no productive basis for a meeting or a "hearing."

Public Service Company of Oklahoma (PSO), on behalf of the co-owners of the Black Fox Station, argues that the assessment of fees for the withdrawn CP application "would violate the fairness, public-policy, and value-to-applicant principles of the Independent Offices Appropriation Act of 1952" (IOAA) (now codified in 31 U.S.C. 9701). PSO also contends that the assessment of fees would be a retroactive application of the November 6, 1981 amendment to 10 CFR 170 (46 F.R. 49573-577, October 7, 1981). In support of its contentions, PSO alleges that, but for the inordinate delay in NRC promulgation of its post Three Mile Island-2 (TMI-2) safety and non-safety licensing requirements, the co-owners would have made the decision to withdraw the application long before they did, thereby avoiding the withdrawn application fee requirements.

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PSO takes the position that the BFS application should have received special treatment by the NRC after the TMI-2 accident because of its unique licensing status and the extensive effort expended in construction at the site under the Limited Work Authorization (LWA). It is also stated that delays in decisions affecting NRC licensing and policy following the TMI-2 accident removed any meaningful opportunity for the co-owners to withdraw the CP application in time to avoid Part 170 withdrawal fees for the application.

As you stated in your request for the waiver, the August 1981 NRC "policy" on final safety and non-safety licensing requirements was incomplete with respect to hydrogen control. However, PSO could have considered this policy as a minimum basis for the "final" requirements, especially against the historical background of the pre-TMI-accident years. Further, you contend that because the NRC's hydrogen control requirements were not final at that time, the co-owners were unable to determine the feasibility of the project and make a decision whether or not to withdraw the application. The underlying assumption appears to be that the analyses of feasibility are so precise that the question could be settled with one additional set of data. Feasibility analysis, like the regulatory environment itself, is fraught with uncertainties related to assumptions. The issue of hydrogen control requirements could have been weighed by the co-owners, and they could have reasonably assumed implementation of hydrogen control systems. While the choice in August 1981 was a difficult one, the co-owners were not denied either a free choice or meaningful opportunity to exercise their option to continue or withdraw their CP application.

Prior to the TMI-2 accident, the regulatory environment was subject to uncertainties and evolving requirements. This was to be expected in a new industry and particularly one so complex as the nuclear industry where safety is a major concern and the Commission's top priority. At no time should the Commission's safety requirements be considered final. The TMI-2 accident resulted in a thorough reevaluation of the entire nuclear power plant licensing process and requirements. This reevaluation has been and continues to be a difficult and time-consuming process. But this process did not produce unfairness in the treatment of the BFS application. The NRC's practice was and remains to process every application in an expeditious and fair manner with the overriding concern being public safety. Obviously, the decision to apply for a permit, expend application and construction funds, and finally to withdraw the application was solely that of BFS project management. The Commission is limited to regulation of safety for the nuclear facilities to be built and/or operated by applicants.

The Commission does not agree that the November 6, 1981 amendment to 10 CFR Part 170 was applied retroactively. On November 10, 1980, the Commission published a notice of its intent to charge a fee to recover its review costs when the review of an application is completed, whether by issuance of a permit, license or other approval, or by denial or withdrawal of an application, or by any other event that brings an active Commission review of the application to an end (45 Fed. Reg. 74493, 1980). The Commission proposed to charge the fee for any withdrawal dating back to March 23, 1978. Thus, applicants were informed of the Commission's intent to recover its costs for withdrawn applications a year before the effective date of the rule. This was sixteen months before a preliminary notice of withdrawal was filed for BFS. (Formal notice of withdrawal was not filed with the ASLBP until April 6, 1982, five months after the effective date of the rule.) In New England Power v. NRC, 683 F.2d 12 (1st Cir. 1982), the court held that the Commission may charge for the review of withdrawn applications prior to issuance of a permit, license or approval, under the promulgated regulation, but only for review of applications withdrawn after November 6, 1981 (effective date of the rule). An understanding that owners of BFS might not have been liable for the fee if the application had been withdrawn prior to November 6, 1981, was not possible until the issuance of the court's opinion in New England Power on July 19, 1982. Thus, the Commission's licensing actions could not have deprived you of an opportunity to avoid the fee by withdrawal before November 6, 1981, since that opportunity was not apparent until July 19, 1982. The rule as published gave no lead time to withdraw without a fee.

With respect to the question regarding the value of NRC services associated with the processing and review of applications, it was held in Mississippi Power and Light v. U.S. Nuclear Regulatory Commission, 601 F.2d 223 (5th Cir. 1979), that review work performed by the NRC at the request of an applicant constitutes substantial and particularized benefit to the applicant and justifies the imposition of fees under IOAA. The review work performed in this instance was clearly attributable to the application filed by the co-owners of BFS.

The Commission does not consider the BFS construction permit application as a unique situation meriting special treatment. The co-owners of BFS freely chose to apply for the permit and LWA. The extensive investment made by the co-owners in construction at the site prior to the issuance of a construction permit was a BFS management decision. Likewise, the decision and timing to withdraw the application was a decision of management.

For the reasons stated above, your request for a waiver of fees is denied.

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SURNAME ▶							
DATE ▶							

As you know, PSO was billed by the NRC on May 8, 1984, for $884,275 (after a prior notification on May 3 that the bill would be forthcoming). This amount, plus the $125,000 application fee (previously paid by BFS) covers the NRC costs incurred in the review of the construction permit application for the Black Fox Station. There followed additional correspondence wherein your Company asked for waiver of interest (denied), a meeting (granted), a letter (February 1, 1985) informing the NRC that your Company would apply to the Chairman of NRC for a waiver of fees, etc., and the letter and brief to which this letter responds. (It is further noted that you were specifically advised by letter dated February 6, 1985, that "there have been no waivers (exemptions) from the fee requirements of Part 170 granted applicants for Part 50 construction permits or operating licenses.") It has now been over one year since your Company was first billed and the fee has not been paid. As described in the enclosed NRC procedures, the NRC assesses and collects fees under a statutory mandate, duly implemented. It is of singular importance that any fee assessed becomes a debt immediately due and payable to the United States when billed. The statute entitled "Interest and penalty on claims," 31 U.S.C. 3717, does permit non collection of interest fees for the first 30 days, which period may be extended by the NRC. As indicated above, the original 30-day period was not extended by the NRC in this case. Accordingly, when your Company did not pay the debt by June 8, 1984, interest began accruing, retroactive to the original billing date. With the failure to pay the bill within 90 days after June 8, 1984, a statutorily mandated penalty charge for the delinquent bill accrued, calculated from the date that the debt became delinquent. In sum, the United States is owed the balance of the applicable fee in the amount of $884,275, interest charges of $108,148.04, and penalty charges in the amount of $67,737.89, for a total of $1,060,160.93, through September 15, 1985. The interest and penalty charges continue to accrue at the rate of $363.40 per day until payment is received. Enclosed is a revised bill. Full payment should be made within 15 days from the date of this letter. You should consider this letter the final agency action with respect to review of the debt owed the United States. However, if you still wish to meet with the staff, please contact William O. Miller, LFMB. Any such meeting should not delay payment of the debt owed the United States.

Sincerely,

Original Signed by
Patricia Norry

Patricia G. Norry, Director
Office of Administration

Enclosures:
As stated

*See previous concurrences attached.

OFFICE	LFMB:ADM*	OELD*	RM*	ADM	NRR*	ADM	EDO
SURNAME	WOMiller:jp	RSmith	GJohnson	MSpringer	HDenton	PGNorry	WDircks
DATE	9/17/85	9/ /85	9/ /85	9/13/85	9/ /85	9/16/85	9-16-85

NRC FORM 318 (10-80) NRCM 0240

OFFICIAL RECORD COPY

NRC Form 359
(11-83)

BILL FOR COLLECTION

BILL NUMBER (Note on remittance)
REVISED 9/15/85
C0203

MAKE CHECKS PAYABLE TO THE U.S. NUCLEAR REGULATORY COMMISSION AND MAIL TO:

U.S. NUCLEAR REGULATORY COMMISSION
OFFICE OF RESOURCE MANAGEMENT
DIVISION OF ACCOUNTING AND FINANCE
WASHINGTON, DC 20555

OCT 4 1984

FINAL NOTICE

BILL DATE
5/8/84

PAYMENT DUE DATE
6/8/84

LICENSE NUMBER (If applicable)

REFERENCE NUMBER (If applicable)

TO:

Public Service Company of Oklahoma
Attn: Mr. John B. West, Manager
Black Fox Sta. Nuc. Project
P.O. Box 201
Tulsa, OK 74102

AUG 9 1984

SECOND NOTICE

CONTACT:
NAME
Janet M. Rodriguez
TELEPHONE
AREA CODE 301
NUMBER 492-4200

DESCRIPTION	AMOUNT
FEES FOR THE REVIEW OF THE BLACK FOX 1 & 2 CONSTRUCTION PERMIT APPLICATION	
Unit 1	
Docket: 50-556 Fee Code: AA903 CON Fee: $978,600 Total (125,000) Paid	
Balance Due $853,600	
Unit 2	
Docket: 50-557 Fee Code: AA903 CON Fee: $30,675 Due	
Total due for Two Units:	$884,275.00
Interest accrued through 9/15/85 (496 days)	108,148.04
Penalty on delinquent debt through 9/15/85 (466 days)	67,737.89
	$1,060,160.93
Interest originally charged according to provisions of Debt Collection Procedures in 10 CFR Part 15.21(a)(2). The bill is properly subject to the Federal Claims Collection Standards' interest accural provisions in 4 CFR 102.13(b) and penalty charges on delinquent debts in 4 CFR 102.13(e).	
AMOUNT DUE (See Terms)	$1,060,160.93

TERMS. Interest will accrue from the bill date at the annual rate of 9.00 %, except that no interest will be charged if the amount due is paid in full by the payment due date.

NOTE. The NRC debt collection regulations are found in 10 CFR 15 and are based on the Federal Claims Collection Act as amended by the Debt Collection Act of 1982. If there are any questions about the existence or amount of the debt, refer to these regulations and statutes, or contact the individual named above. The revocation of a license does not waive or affect any debt then due the NRC from the licensee.

PRESENT AND SEPARATED EMPLOYEES: The attached Notice of Due Process Rights applies to both current and former employees.

NRC PROCEDURES FOR EXTENDING PAYMENT DATES OF LICENSE FEE BILLINGS

Fees are billed in accordance with the schedules and staff hour rates contained in 10 CFR Part 170. Interest on the amount billed accrues from the date on which notice of the debt is mailed, but may not be charged if the amount due is paid within 30 days after said date. 31 U.S.C. §3717. If the 30 day period is extended, interest will be waived provided the debt is paid before the expiration of the extended period. The 30 day period may be extended, at NRC's discretion, in accordance with the following procedures.

1. The Division of Accounting and Finance, Office of Resource Management, Nuclear Regulatory Commission, before expiration of the 30 day period, must receive the debtor's written request for an extension of the period. The request must explain why the debt is incorrect in fact or in law. 10 C.F.R. §15.31. If the request is not received within the 30 day period, it will automatically be denied.

2. The debtor's explanation must have merit for the NRC to extend the 30 day period. A request is deemed to have merit if it causes the NRC to question whether the amount originally billed is correct.

A. If the explanation has merit, the NRC will notify the debtor in writing that the request is granted and that the 30 day period will be extended to a date certain, which shall be stated on a revised bill and shall be approximately 15 days after the date the revised bill is mailed. The amount on the revised bill shall constitute a final determination of the existence or amount of the debt. A final determination by NRC for this purpose need not await the outcome of litigation or further administrative review. Further extensions of the date stated on the revised bill will not be granted. If the amount on the revised bill is not paid on or before the date stated on the bill, interest from the date of mailing the original bill will become due and payable.

B. NRC may, at its option, request a meeting with the debtor's representatives to receive further evidence or arguments supporting the debtor's contentions.

C. A request for an extension may be granted either with respect to the entire amount originally billed or with respect to a portion of the amount originally billed. In the latter case the remainder of such amount remains due and payable as originally billed. If not paid on or before that date, interest from the date of mailing the original bill will become due and payable.

D. If the debtor's explanation does not have merit and does not cause the NRC to question whether the amount originally billed is correct, the request will be denied. Failure of NRC to notify a debtor before the end of the 30 day period that a request for an extension has been denied will not constitute grounds for a waiver of interest.

E. The assertion that the bill is unsupported by a sufficiently detailed breakdown of dates, hours, rates, and other data does not constitute an explanation of why the amount billed is incorrect in fact or in law. If the debtor views information furnished with the bill as insufficient for the purpose of a request for an extension, the debtor should seek the necessary information as soon as possible in order that a request for extension can be submitted within the 30 day period.

3. If an extension of the 30 day period is granted and the amount originally billed remains unchanged, such extension shall be stated on the revised bill as provided in 2A above.

4. NRC records in support of billed fees are not subject to audit by non-Governmental entities. However, copies of records desired by a debtor can be made available to the debtor if they are reproduced at the debtor's expense. See 10 C.F.R. §9.14 entitled Charges for Production of Records.

5. The rate of interest assessed shall be the rate of the current value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate), as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins annually or quarterly, in accordance with 31 U.S.C. §3717. See 4 C.F.R. §102.13(c).

6. NRC is required to assess a penalty charge, not to exceed 6 percent a year, on any portion of a debt that is delinquent for more than 90 days, 4 C.F.R. §102.13(e). The NRC has determined that it shall assess penalty charges at the rate of 6 percent a year. This charge shall be calculated on or after the 91st day of delinquency, but shall accrue from the date that the debt became delinquent. A debt is considered "delinquent" if it has not been paid by the date specified in NRC's initial bill or by the date stated in the revised bill. 4 C.F.R. §101.2(b)

7. NRC will promptly refund to a debtor any amount which is later determined to be an overpayment, including interest, if any, which was paid by the debtor on such amount. NRC is not authorized to pay interest on any part of a license fee which was paid to NRC and is later refunded.

8. Requests for extensions of the 30 day period should be submitted to the Division of Accounting and Finance, Office of Resource Management, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests for extensions will not be considered. Payment should be made as indicated on the original or revised bills.

DISTRIBUTION:
EDO
EDO R/F (#000738)
JRoe, EDO
TRehm, EDO
VStello, EDO
HDenton, NRR
GCunningham, ELD
PGNorry, ADM
MSpringer, ADM
GJohnson, RM/A
RSmith, ELD
LFMB R/F (#85-21)
WOMiller, LFMB
Regulatory Docket File
Actual Manpower - Black Fox
Reactor File
CJHolloway, LFMB
RMDiggs, LFMB
SECY

OFFICE ▶							
URNAME ▶							
DATE ▶							

NRC FORM 318 (10-80) NRCM 0240

OFFICIAL RECORD COPY

As you know, PSO was billed by the NRC on May 8, 1984, for $884,275 (after a prior notification on May 3 that the bill would be forthcoming). This amount, plus the $125,000 application fee (previously paid by BFS) covers the NRC costs incurred in the review of the construction permit application for the Black Fox Station. There followed additional correspondence wherein your Company asked for waiver of interest (denied), a meeting (granted), a letter (February 1, 1985) informing the NRC that your Company would apply to the Chairman of NRC for a waiver of fees, etc., and the letter and brief to which this letter responds. (It is further noted that you were specifically advised by letter dated February 6, 1985, that "there have been no waivers (exemptions) from the fee requirements of Part 170 granted applicants for Part 50 construction permits or operating licenses.") It has now been over one year since your Company was first billed and the fee has not been paid. As described in the enclosed NRC procedures, the NRC assesses and collects fees under a statutory mandate, duly implemented. It is of singular importance that any fee assessed becomes a debt immediately due and payable to the United States when billed. The statute entitled "Interest and penalty on claims," 31 U.S.C. 3717, does permit non collection of interest fees for the first 30 days, which period may be extended by the NRC. As indicated above, the original 30-day period was not extended by the NRC in this case. Accordingly, when your Company did not pay the debt by June 8, 1984, interest began accruing, retroactive to the original billing date. With the failure to pay the bill within 90 days after June 8, 1984, a statutorily mandated penalty charge for the delinquent bill attached, also retroactive to the date of delinquency. In sum, the United States is owed the balance of the applicable fee in the amount of $884,275, interest charges of $108,147.84, and penalty charges in the amount of $59,016.16, for a total of $1,051,439, through September 15, 1985. The interest and penalty charges continue to accrue at the rate of $363.40 per day until payment is received. Enclosed is a revised bill. Full payment should be made within 15 days from the date of this letter. You should consider this letter the final agency action with respect to review of the debt owed the United States. However, if you still wish to meet with the staff, please contact William O. Miller, LFMB. Any such meeting should not delay payment of the debt owed the United States.

$108,148.04

$67,737.87

$1,060,160.93

accrued, calculated from the date that the debt became delinquent.

Sincerely,

Patricia G. Norry, Director
Office of Administration

Enclosures:
As stated

subject to change noted above

*see previous concurrence attached.

OFFICE	LFMB:ADM	OELD	RM	ADM	NRR *	ADM	
SURNAME	WOMiller:jp	RSmith	GJohnson	MSpringer	HDenton	PGNorry	
DATE	9/ /85	9/ /85	9/ /85	9/ /85	9/ /85	9/ /85	

NRC FORM 318 (10-80) NRCM 0240

OFFICIAL RECORD COPY

Public Service Company of Oklahoma
ATTN: Mr. Martin E. Fate, Jr., President
P.O. Box 201
Tulsa, Oklahoma 74102

Dear Mr. Fate:

This is in response to your letter dated June 12, 1985, requesting waiver of 10 CFR 170 fees for costs incurred for the review of the withdrawn Black Fox Station (BFS) construction permit application. This letter also serves to respond to the June 14, 1985 letter from the firm of Doerner, Stuart, Saunders, Daniel and Anderson, which submitted a request for both a waiver of fees and a hearing on the matter on behalf of your Company. For the reasons stated below, your request is denied, both as to waiver of fees and a hearing.

Addressing the latter request first, in accordance with NRC practice (copy enclosed), a meeting with a licensee/permittee/applicant to discuss assessed fees may be requested by the NRC "at its option" to "receive further evidence or arguments supporting the debtor's contentions." In this instance, you have already provided sufficient evidence and argument for the NRC to reach a decision in this matter. Accordingly, we see no productive basis for a meeting or a "hearing."

Public Service Company of Oklahoma (PSO), on behalf of the co-owners of the Black Fox Station, argues that the assessment of fees for the withdrawn application for a construction permit violates the principles of the Independent Offices Appropriation Act of 1952 (IOAA) (now codified in 31 U.S.C. 9701) in that it is unfair because of the alleged unique circumstances of the Black Fox Station Project; e.g., the fees allegedly do not reflect "value" to the co-owners and the fee assessment contravenes the Commission's public policy of nuclear regulatory reform. You contend also that the assessment of fees would be a retroactive application of the November 1981 amendment to 10 CFR 170 (46 F.R. 49573-577, October 7, 1981). In support of your contentions, it is alleged, in substance, that, but for the inordinate delay in NRC promulgation of its post Three Mile Island-2 (TMI-2) safety and non-safety licensing requirements and its failure to issue a construction permit, your Company would have made the decision to withdraw its application long before it did, thereby avoiding the withdrawn application fee requirement which became effective November 6, 1981.

PSO argues that the application for the BFS project permit should have received special treatment after the TMI-2 accident because of its unique licensing status and the extensive effort expended in construction at the site under the Limited Work Authorization (LWA).

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It is also stated that delays in decisions affecting NRC licensing and policy following the TMI-2 accident removed any meaningful opportunity for the co-owners to withdraw the construction permit application in time to avoid Part 170 withdrawal fees for the application.

Although the August 1981 Commission "policy" on final safety and non-safety licensing requirements was incomplete with respect to hydrogen control, it could have been considered as a minimum basis for the "final" requirements, especially against the historical background of the pre-TMI-accident years. More specifically, you contend that because the hydrogen control requirements were not final, the co-owners could not determine the feasibility of the project and make a decision whether or not to withdraw the application. The underlying assumption here seems to be that the analyses of feasibility are so precise that the question could be settled with one additional set of data. Feasibility analysis, like the regulatory environment itself, is fraught with uncertainties related to assumptions. The issue of hydrogen control requirements could have been weighed by the co-owners, and they could have assumed implementation of hydrogen control systems. While the NRC can agree that the choice before the co-owners in August 1981 was a difficult one, the co-owners were not denied either a free choice or a meaningful opportunity to exercise their option to continue or withdraw their CP application.

Prior to the TMI-2 accident, the regulatory environment was subject to uncertainties related to evolving requirements. This was to be expected in a new industry and particularly one as complex as the nuclear industry where safety is a major concern and the Commission's top priority. At no time should the Commission's safety requirements be considered final. The TMI-2 accident resulted in a thorough reevaluation of the entire power plant licensing process and requirements. This has been and continues to be a difficult and time-consuming process. There was no unfairness in the treatment of the BFS application. The NRC's practice was and remains to process every application in an expeditious and fair manner with the overriding concern the protection of the public safety. The decision to apply for a permit, expend the funds, and withdraw the application was solely that of BFS project management. The Commission is limited to regulation of safety for the nuclear facilities built and/or operated by applicants.

On November 10, 1980, the Commission published a notice of its intent to charge a fee to recover its costs when the review of an application is completed, whether by issuance of a permit, license or other approval, or by denial or withdrawal of an application, or by any other event that brings an active Commission review of the application to an end (45 Fed. Reg. 74493, 1980). The Commission proposed to charge the fee for any

withdrawal dating back to March 23, 1978. The co-owners of BFS knew, or should have known, of the Commission's intent to recover its costs for withdrawn applications a year before the effective date of the rule and sixteen months before filing a preliminary notice of withdrawal. (Formal notice of withdrawal was not filed with the ASLBP until April 6, 1982, five months after the effective date of the rule.) In New England Power v. NRC, 683 F.2d 12 (1st Cir. 1982), the court held that the Commission may charge for the review of withdrawn applications prior to issuance of a permit, license or approval, under the promulgated regulation, but only for review of applications withdrawn after November 6, 1981 (effective date of the rule). An understanding that owners of BFS might not have been liable for the fee if the application had been withdrawn prior to November 6, 1981, was not possible until the issuance of the court's opinion in New England Power on July 19, 1982. Thus, contrary to the assertion in your letter of June 12, 1985, and the brief of your attorneys, the Commission's licensing actions could not have deprived you of an opportunity to avoid the fee by withdrawal before November 6, 1981, since that opportunity was not apparent until July 19, 1982. The rule as published gave no lead time to withdraw without a fee.

With respect to the question raised as to value of NRC services, it was held in Mississippi Power and Light v. U.S. Nuclear Regulatory Commission, 601 F.2d 223 (5th Cir. 1979), that review work performed by the NRC at the request of an applicant constitutes substantial and particularized benefit to the applicant to justify the imposition of fees under IOAA. The work performed was clearly attributable to the applicant co-owners of BFS. Accordingly, the Commission finds no basis to exempt the co-owners of the Black Fox Station from payment of fees or to waive the fees which cover the costs incurred in the review of the withdrawn construction permit application. Therefore, request for waiver of fees is denied.

The Commission does not consider the BFS construction permit application as a unique situation meriting special treatment. The co-owners of BFS freely chose to apply for the permit and LWA. The extensive investment made by the co-owners in construction at the site prior to the issuance of a construction permit was a BFS management decision. Likewise, the decision and timing to withdraw the application was a decision of management.

The facts are undisputed as to when the rule imposing fees for withdrawn applications became effective and as to when your Company withdrew its application. We also note that PSO was billed by the NRC on May 8, 1984, for $884,275 (after a prior notification on May 3 that the bill would be forthcoming). This amount, plus the $125,000 application fee (previously paid by BFS) covers the NRC costs incurred in the review of the construction permit application for the Black Fox Station. There followed additional correspondence wherein your Company asked for waiver of interest (denied), a meeting (granted), a letter (February 1, 1985)

informing the NRC that your Company would apply to the Chairman of NRC for a waiver of fees, etc., and the letter and brief to which this letter responds. (It is further noted that you were specifically advised by letter dated February 5, 1985, that "there have been no waivers (exemptions) from the fee requirements of Part 170 granted applicants for Part 50 construction permits or operating licenses.") It has now been over one year since your Company was first billed and the fee has not been paid. As should be clear from the enclosed NRC procedures, the NRC assesses and collects fees under a statutory mandate, duly implemented. It is of singular importance that any fee assessed becomes a debt immediately due and payable to the United States when billed. The statute entitled "Interest and penalty on claims," 31 U.S.C. 3717, does permit non collection of interest fees for the first 30 days, which period may be extended by the NRC. As indicated above, the original 30-day period was not extended by the NRC in this case. Accordingly, when your Company did not pay the debt by July 21, 1984, interest began accruing, retroactive to the original billing date. With the failure to pay the bill within 90 days after July 21, 1984, a statutorily mandated penalty charge for the delinquent bill attached, also retroactive to the original billing date. In sum, the United States is owed the balance of the applicable fee in the amount of $884,275, interest charges of $100,298.40, and penalty charges in the amount of $53,783.20, for a total of $1,038,356.60, through August 10, 1985. The interest and penalty charges will continue to accrue at the rate of $363.40 per day until payment is received. Enclosed is a revised bill. You should consider this letter the final agency action with respect to review of the debt owed the United States. Accordingly, we expect to receive full payment from you within 15 days from the date of this letter.

Sincerely,

Patricia G. Norry, Director
Office of Administration

Enclosures:
As stated

DISTRIBUTION:
EDO
EDO R/F (#000738)
JRoe, EDO
TRehm, EDO
VStello, EDO
HDenton, NRR
GCunningham, ELD
PGNorry, ADM
MSpringer, ADM
GJohnson, RM/A
RSmith, ELD
LFMB R/F (#85-21)
WOMiller, LFMB
Regulatory Docket File
Actual Manpower - Black Fox
Reactor File
CJHolloway, LFMB
RMDiggs, LFMB

Retyped to drop "perfidiousness" per OGC and add last sentence to letter WOM

*See previous concurrences attached.

OFFICE	LFMB:ADM	ELD*	RM/A*	ADM	NRR	ADM	
SURNAME	WOMiller:jp	RSmith	GJohnson	MSpringer	HDenton	PGNorry	
DATE	8/3/85	8/2/85	8/6/85	8/19/85	8/15/85	8/ /85	

NRC FORM 318 (10-80) NRCM 0240

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informing the NRC that your Company would apply to the Chairman of NRC for a waiver of fees, etc., and the letter and brief to which this letter responds. (It is further noted that you were specifically advised by letter dated February 6, 1985, that "there have been no waivers (exemptions) from the fee requirements of Part 170 granted applicants for Part 50 construction permits or operating licenses.) It has now been over one year since your Company was first billed and the fee has not been paid. As should be clear from the enclosed NRC procedures, the NRC assesses and collects fees under a statutory mandate, duly implemented. It is of singular importance that any fee assessed becomes a debt immediately due and payable to the United States when billed. The statute entitled "Interest and penalty on claims," 31 U.S.C. 3717, does permit non collection of interest fees for the first 30 days, which period may be extended by the NRC. As indicated above, the original 30-day period was not extended by the NRC in this case. Accordingly, when your Company did not pay the debt by July 21, 1984, interest began accruing, retroactive to the original billing date. With the failure to pay the bill within 90 days after July 21, 1984, a statutorily mandated penalty charge for the delinquent bill attached, also retroactive to the original billing date. In sum, the United States is owed the balance of the applicable fee in the amount of $884,275, interest charges of $100,298.40, and penalty charges in the amount of $53,783.20, for a total of $1,038,356.60, through August 10, 1985. The interest and penalty charges will continue to accrue at the rate of $363.40 per day until payment is received. Enclosed is a revised bill. You should consider this letter the final agency action with respect to review of the debt owed the United States.

Sincerely,

Patricia G. Norry, Director
Office of Administration

Enclosures:
As stated

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