

From: Elizabeth Ullrich (EXU)
To: SLB
Date: Wednesday, December 22, 1993 7:49 am
Subject: Victor Bortolot/Daybreak

Hiya, Steve! Guess what --- I'm reviewing the renewal for Mr. Bortolot's License 06-17253-01, DN 030-12440. This is the messy one in which he believes he should be authorized for "irradiation of materials" and the NRC says he is doing XRF "measurement". The price difference of the two fee categories is the cause of the complaint.

Anyway, the pending folder includes a note from Sandy that the renewal application and subsequent letters were forwarded to you for SSD review. Is this true? If not, I probably need to talk to someone in your group to determine if one is necessary, and get a TAR in. No hurry for the reply --- I will be out all next week (on vacation...what a concept).

Have a good holiday!
Betsy

*At last, a response - and yes, you have got a
Jewell of a Renewal.*

*The problem started in Dec 1991 - when Daybreak
ignored change in license to read, irradiation & measurement
instead & measurement of material - in roughly 1993
As Fee Cleared.*

*all this when reply is 30.32(9) is Clean
The DA Bortolot should be pay is Clean.*

R&D -

need a certis from -

*in 1983 - got
a Clean
MR. 250 D 101-5
The an Ant Material*

Sent to Betty Ulrich
2/12/94
S.D.

Once upon a time a custom evaluation for the Daybreak device was issued to the Detroit Institute of Arts (NR-250-D-101-S, 1983). A little later several of these devices we again sold by Daybreak to broad scope licensees. Daybreak attempted to get other specific licensees to buy the device, each met with the device evaluation process as a custom and declined. On June 12, 1985 Daybreak determined that the soup was too hot when we sent him a letter explaining how to apply for an evaluation and that too many custom device requests were coming in. We got no response.

In early 1992 renewed interest was expressed in the device, in fact it appeared that the Daybreak was a distributor and manufacturer of the device and should be licensed accordingly. Tony D, RI, called Daybreak and determined that he only analyzes samples as a service. Daybreak indicated that they do not manufacture but use custom built devices. An attempt was made at that time to clarify what irradiation of materials is as compared to measurement.

A custom evaluation was deemed necessary, for two reasons the new design is not grandfathered as we did the 1981 unit and the 1987 rule change that requires it 30.32(g). We logged an action in July 1992

In March 1993 Fees sent another letter to Daybreak explained that more money was needed and that a device review was needed. Later, Fees sent the form back to me with the following note "Do Not Issue. Fees Not Collected for anything as of yet." per Sandy Kimberly, We have no action at this time.

This is not going to make your life easier but one is still needed. The way to play the fee game is to send another request for evaluation and we will get back to fees, they will try to collect. If we don't get the fee thing fixed we will need to talk to Fees about this. I called Glenda Jackson today and she will get back with me, ie what do we do with a licensee that fails to pay revoke his license is the typical response.

The real problem is that you cannot issue a license knowing they are not in compliance with all part 30 requirements ie, 30.32(g).

Hope this helped and your right it is not a happy ending.

Keep in touch, this ride is going to get bumpy.

Kim pls locat Re Daybreak 846

Feb Feb me

Frank

5 Days