



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

June 25, 1997

KCE Structural Engineers, P.C.
ATTN: Allyn E. Kilsheimer, PE
President
1818 Jefferson Place, N.W.
Washington, D.C. 20036

Dear Mr. Kilsheimer:

I am responding to your December 13, 1996, letter addressed to Ms. Cheryl Buracker of NRC's Region I office in King of Prussia, Pennsylvania. The letter contains various statements concerning License No. 08-30006-01. The issues you raised and our responses are as follows:

1. You stated that: You purchased a Troxler Nuclear Testing Device on December 14, 1992. You controlled the device until November 1993 when the device was temporarily stolen. You appeared at the NRC on January 25, 1994, for a hearing. The hearing findings were published and things were back on track. You decided the responsibility and liability for dealing with a device you seldom used was too great.

On December 1, 1993, you followed instructions from NRC and the State of Maryland and transferred the device control to Ambric Testing and Inspection Services (License No. 45-15234-02). You asked for your license to be terminated and operating rights to the Troxler transferred in December 1993. In 1994 you received NRC confirmation of the transfer.

Response: You submitted as Exhibit D1 a December 15, 1993, letter requesting termination of your license. The NRC has no record of having received the original December 15, 1993, letter. However, NRC received your December 6, 1993, letter which states, "...We in fact, have transferred our device to Ambric Testing & Engineering Associates of Va., Inc. under their license..." "Note when the work that requires the portable density testing device at NASA is completed, the device will be returned to this office, locked at our office until NRC approves the resumed use of the gauge and RSO."

NRC also received your January 26, 1994, letter which states, "... we have not used the device since the Thanksgiving fiasco, and have not yet determined if we will transfer the device back to our use once the necessary documentation has been processed."

In addition, in your February 18, 1994, letter to the NRC, you stated that, "We are now deciding if we wish to continue with the device or appropriately selling it," and "KCE, after the completion of the certified course, will have a new radiation safety officer identified to NRC," and "... we will, when and if we have the device in our possession have the leak tests performed as required."

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In summary, the NRC did not receive a request to terminate License 08-30006-01 until receipt of your January 10, 1997, letter, and in fact your December 6, 1993, January 26, 1994, and February 18, 1994, letters indicated that your Company was considering future use of the device under your license.

2. You stated that: Over the last three years, you have received numerous bills, letters, demands, etc., for continuing charges of the license fee, and you have sent numerous correspondence regarding this. In a 1995 telephone conversation you were advised that to stop the process you should fill out and forward a certification for small entities, which you did.

You paid \$540.80 which you believed would settle all accounts whether due or not, yet you continued to receive letters, phone calls and payment demands.

Response: By letter dated October 22, 1996, copy enclosed, the NRC responded to your June 13, 1996, letter and fully explained the fee requirements. You were advised that the outstanding inspection fee and annual fees assessed for the subject license were due and payable, that the license was suspended effective March 22, 1996, due to the nonpayment of fees, and that we had authorized the Department of the Treasury to refer your delinquent debts to the Department of Justice for litigation.

3. You stated that: On December 6, 1996, you received a phone call from Ms. Buracker who pointed out for the first time that you needed to execute a Form 314 which you did and forwarded to Ms. Buracker by certified mail and by fax. Ms. Buracker advised you she could terminate the license and that you needed to write the letter to her to have your past bills canceled as you were incorrectly billed.

Response: Contrary to your statements, Region I's February 18, 1994, letter to you states, "If you determine that licensed activities will be discontinued, then you must complete the enclosed Form NRC-314 and submit it as a request for termination of your license to the Region I office."

Annual fees are assessed based on whether a licensee holds a valid NRC license that authorizes possession and use of radioactive material. Whether or not a licensee is actually conducting operations using the material is a matter of licensee discretion. The NRC cannot control whether a licensee elects to possess and use radioactive material once it receives a license from the NRC.

You held a valid NRC license and your various letters to the NRC indicated that you wished to maintain the license for future activities.

Footnote 1 of 10 CFR 171.16 provides that the annual fee is waived where a license is terminated prior to October 1 of each fiscal year. The NRC has exempted from the FY 1995 annual fee those 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, 1994, and were capable of

June 25, 1997

permanently ceasing licensed activities entirely by September 30, 1994. For FY 1996, the annual fees were waived for licenses for which a termination request was filed and licensed activities permanently ceased prior to October 1, 1995.

Your January 10, 1997, request for termination was not timely filed for purposes of avoiding the FY 1995 and FY 1996 annual fees, and your previous correspondence as described above indicated that you did not intend to permanently cease licensed activities. Therefore, the annual fees assessed under invoices Nos. AM2390-95 and AM1157-96, and the inspection fee assessed under Invoice No. MM1532-93, are correct. Invoice AM1157-96 reflects a 50 percent proration as explained in our October 22, 1996, letter.

Based on your failure to pay Invoices MM1532-93, AM2390-95, and AM1157-96, the delinquent debts were referred to the Department of the Treasury for collection, who in turn referred them to the Department of Justice. Payment must be made to the U.S. Attorney's office, who is entitled to add a collection fee to the outstanding balance.

Sincerely,

*Original Signed By
Glenda Jackson*

Glenda Jackson, Chief
License Fee Section
License Fee Accounts Receivable Branch
Division of Accounting and Finance
Office of the Controller

Enclosure: October 22, 1996, letter

cc: Bruce Simpson
U.S. Department of the Treasury
Financial Management Service
Washington DC 20227

Robert N. Ford, Deputy Asst. Attorney General
Justice Department
Debt Collection Management
Justice Management Division
Claim CIF 048634/Agency #DMS NRC 97 00002
Washington, DC 20530

Distribution:

L. Tremper, OC/DAF/LFARB ARS
License File 08-30006-01 w/cy inc
Invoice Files MM1532-93, AM2390-95, AM1157-96 w/cy inc
NUDOCS (ML-61) w/cy inc
PDR w/cy inc
OC/DAF/LFARB RF w/o cy inc
OC/DAF RF (DAF-7-000) w/o cy inc
OC/DAF SF (LF-3.2.2) w/orig inc
LF-97-9

DOCUMENT NAME: G:\LF97-9

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NAME <i>mc</i>	SLKimberley <i>4</i>		GCJackson	<i>8</i>	LPTremper <i>4</i>		DBDandois <i>on</i>			
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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

October 24, 1996

KCE Structural Engineers, P.C.
ATTN: Allyn E. Kilsheimer, PE
President
1818 Jefferson Place, N.W.
Washington, D.C. 20036

Dear Mr. Kilsheimer:

I am responding to your June 13, 1996, letter regarding the FY 1996 annual fee for License No. 08-30006-01, Invoice No. AM1157-96. You stated that the license is no longer in effect, therefore, the invoice should not have been issued and should now be cancelled. You also state that you did not, nor do you, owe this money.

On February 6, 1996, an Order Suspending License was issued to KCE Structural Engineers, P.C., for nonpayment of fees for License No. 08-30006-01, Invoice Nos. MM1532-93 and AM02390-95. Because payment of the delinquent debts was not received within 30 days from the date of the Order, the license was suspended for nonpayment of fees, effective March 6, 1996. On April 25, 1996, these delinquent debts were referred to the Department of the Treasury for collection. These debts are still due and payable. The Department of the Treasury is entitled to an 18 percent collection fee. We have authorized the Department of the Treasury to refer your delinquent debts to the Department of Justice for litigation.

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 1996 annual fee is waived for those 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, 1995, and permanently ceased licensed activities by September 30, 1995.

As provided in 10 CFR 171.17, licenses for which termination requests or requests for a possession only license are filed during the period October 1 through March 31 of the fiscal year are assessed one-half of the annual fee.

Since License No. 08-30006-01 was suspended effective March 6, 1996, the FY 1996 annual fee was prorated 50 percent. Invoice AM1157-96 reflects the proration, thus the bill is due and payable. Based on the amount of time it has taken to respond to your letter, I will waive the late charges that have

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October 22, 1996

A. Kilsheimer

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accrued if payment of the \$800 for Invoice AM1157-96 is received within 30 days from the date of this letter. If payment is not received in 30 days, all late charges will be assessed. Payment of AM1157-96 is to be made to NRC and sent to the address on the invoice. Payment of MM1532-93 and AM02390-95 is to be made to the Department of the Treasury as they have the delinquent debts for collection.

Sincerely,

/s/ Ronald M. Scroggins

Ronald M. Scroggins
Deputy Chief Financial
Officer/Controller