

February 24, 2004

Mr. Peter E. Katz
Vice President Nine Mile Point
Nine Mile Point Nuclear Station, LLC
P.O. Box 63
Lycoming, NY 13093

SUBJECT: NINE MILE POINT NUCLEAR STATION, UNIT NO. 2 - REQUEST FOR
WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
(TAC NO. MC1370)

Dear Mr. Katz:

By your application dated February 5, 2004, and affidavit dated January 29, 2004, executed by Ms. Margaret E. Harding of Global Nuclear Fuel - Americas, LLC (GNF-A), you submitted "License Amendment Request: Revised Safety Limit Minimum Critical Power Ratio [SLMCPR] in Technical Specification 2.1.1.2 - Response for Request for Additional Information (TAC MC1370)" and requested that Attachment 1 be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.790. A non-proprietary copy of this document (Attachment 3) was also submitted and has been placed in the Nuclear Regulatory Commission's (NRC's) Public Document Room and added to the Agencywide Documents Access and Management System Public Electronic Reading Room.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- (i) The information discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by GNF-A's competitors without license from GNF-A constitutes a competitive economic advantage over other companies;
- (ii) The information which, if used by a competitor, would reduce his expenditure of resources or improve his competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.790, and on the basis of your statements, we have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the version of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this

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information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

If you have any questions regarding this matter, I may be reached at 301-415-1451.

Sincerely,

/RA/

Peter S. Tam, Senior Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-410

cc: See next page

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- 2 -

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Peter S. Tam, Senior Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
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Nine Mile Point Nuclear Station, Unit No. 2

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