

April 5, 1995

EA 94-203

Mr. Robert Quinn
President
Nuclear Metals, Inc.
2229 Main Street
Concord, MA 01742

SUBJECT: ENFORCEMENT CONFERENCE ON FINANCIAL ASSURANCE

Dear Mr. Quinn:

On December 8, 1994, the NRC conducted a transcribed enforcement conference to discuss the adequacy of Nuclear Metals, Inc. (NMI) financial assurance for remediation and decommissioning of your facility in Concord, Massachusetts and compliance with the requirements set forth in your licenses and 10 CFR 40.36. The transcript of the conference was provided to you with our letter dated February 24, 1995. During the enforcement conference your representatives explained that in NMI's interpretation of contracts between NMI and the U.S. Army (Army) the Army is responsible for providing funding for the rehabilitation and restoration of NMI facilities and for remediation of the Holding Basin. In addition, your staff indicated their opinion that such contracts are more suitable for financial assurance than a Statement of Intent.

The NRC has determined that reliance on contract provisions subject to differing legal interpretations does not provide financial assurance equivalent to one of the mechanisms described in 10 CFR 40.36. Specifically, you have not obtained unambiguous written verification from the Army that they agree with your interpretation of the contracts.

In order to support your request to renew your licenses, you must provide financial assurance using one of the instruments described in 10 CFR 40.36. If you continue to be unable to provide such an instrument, we will consider a formal request for a partial exemption from 10 CFR 40.36. However, we are unlikely to grant an exemption on the basis of the opinion of your staff and consultants. In order to support such an exemption, we need written confirmation that the Army agrees with your interpretation of the Army's contract responsibilities, or a formal written Statement of Intent from the Army for the NMI facilities. Any written material from the Army must cover the points in Item 1.b and the enclosure to J. Kinneman's letter to NMI dated March 2, 1994. In the absence of a specific dollar amount for the Army's obligations, the written confirmation or agreement from the Army must clearly describe what activities the Army will undertake to allow the NRC staff to determine the level of financial assurance needed for decommissioning activities that remain your responsibility. This is in recognition of your representations that, due to procurement regulations, the Army may be able to accept responsibility for future specified actions, but may be legally prohibited from committing to a specific dollar figure at this time.

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We understand that, since the enforcement conference, you have applied to the Army for funding to remediate the Holding Basin. Funding of the remediation by the Army would be a basis to consider an exception to the regulations requiring financial assurance for that part of the decommissioning liability

By May 15, 1995, describe your interactions with the Army on these matters, including any response to your November 1994 presentation and letter, and your March 17, 1995 meeting with the Army regarding remediation of the Holding Basin. Any revisions to your plans for achieving compliance should also be described.

We strongly recommend you promptly obtain the necessary documents from the Army. You should request an exemption, or otherwise comply with 10 CFR 40.36, as soon as possible. Failure to obtain a financial assurance equivalent to the financial mechanisms permitted by 10 CFR 40.36 may result in NRC denying your license renewal applications.

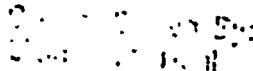
In order to continue our review of your renewal requests, we also need by May 15, 1995, your response to our December 7, 1994 letter regarding your Decommissioning Cost Estimate.

If you have any questions regarding these matters, please contact John Kinneman, Chief, Site Decommissioning Section (SDS), or Marie Miller, Project Manager for NMI, SDS, at (610) 337-5252 or 5205, respectively.

In your response, please refer to Control Nos. 110636 and 112129.

Thank you for your cooperation in this matter.

Sincerely,



Charles W. Hehl, Director
Division of Radiation Safety
and Safeguards

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| License Nos. | SMB-179 |
| | SUB-1452 |
| Docket Nos. | 040-00672 |
| | 040-08866 |

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| NAME | M Miller | | JDKinnegan | | J Joyner | | S Sharkman | | W Weber | |
| DATE | 3/27/95 | | 3/27/95 | | 3/31/95 | | 3/31/95 | | 4/4/95 | |

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