

April 6, 1995

EA 94-203

Mr. Frank J. Vumbaco
Vice President, Health and Safety
Nuclear Metals, Inc.
2229 Main Street
Concord, MA 01742

SUBJECT: REQUEST FOR WITHHOLDING ENFORCEMENT CONFERENCE INFORMATION

Dear Mr. Vumbaco:

On December 8, 1994 we met with you and other representatives of Nuclear Metals, Inc. (NMI) in an enforcement conference at our office in King of Prussia, Pennsylvania to discuss the adequacy of the financial assurance for decommissioning of your facility in Concord, Massachusetts, and the status of NMI's compliance with 10 CFR 40.36. During the enforcement conference, NMI provided copies of the current facilities and production contracts with the U.S. Army and its prime contractor and the NMI November 22, 1994, Presentation Binder (PB) regarding the holding basin. NMI also requested that NRC withhold from public disclosure the production contract and the PB pending receipt of NMI's application and affidavit required by 10 CFR 2.790.

Your letter dated January 11, 1995, enclosed an application, an affidavit dated December 31, 1994, identified proprietary information in the PB dated November 22, 1994, and requested that the marked and bracketed information be withheld from public disclosure pursuant to 10 CFR 2.790.

NMI's application enclosed with your letter dated January 11, 1995, states that the proprietary information identified in the PB should be considered exempt from public disclosure for the following reasons:

- (a) NMI had held the information in the PB in confidence, clearly marked pages and bracketed sections as Confidential, and has shared the information with only the Army and NRC in confidence, and is not aware of any public source from which a third party can obtain the proprietary information in the PB.
- (b) The information contains trade secrets and confidential commercial information, which, if disclosed, may harm NMI with respect to its competitive position with the other only other manufacturer of a certain product and NMI's negotiations with the Army regarding decommissioning.

We have reviewed your application and the material based on the requirements and criteria of 10 CFR 2.790 and have determined that the bracketed proprietary information sought to be withheld contains "trade secrets, or privileged or confidential commercial or financial information." Therefore, we will withhold the bracketed sections of pages 864, 868, 878, and 881 883 of the PB from public disclosure.

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F. J. Yumbaco

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Withholding from public inspection does 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 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 notify the NRC promptly. You also should understand that the NRC may have cause to review this determination in the future, such as, 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.

As discussed between you and Ms. Miller of my staff on April 6 1995, I understand that you continue to request that NRC withhold from public disclosure the prime contractor's production contract and that you plan to promptly submit an application and affidavit.

Sincerely,

Original Signed By:

John D. Kinneman, Chief
Site Decommissioning Section
Facilities Radiological Safety and
Safeguards Branch
Division of Radiation Safety
and Safeguards

License Nos. SMB-179
 SUB-1452

Docket Nos. 040-00672
 040-08866

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cc:

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