

May 23, 1995

License Nos. SMB-179
 SUB-1452

Docket Nos. 040-00672
 040-08866

Control Nos. 117006
 113010

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

SUBJECT: REQUEST FOR WITHHOLDING

Dear Mr. Vumbaco:

Your letter dated April 28, 1995, enclosed an application for withholding, your affidavit dated April 28, 1995, and a Bates numbered and marked copy of the transcript of the enforcement conference between NRC and Nuclear Metals, Inc. (NMI), dated December 8, 1994, and requested that the marked information be withheld from public disclosure pursuant to 10 CFR 2.790.

The application enclosed with NMI's letter dated April 28, 1995, states that the NMI confidential information identified in the marked copy of the transcript from the enforcement conference held on December 8, 1994, should be withheld from public disclosure for the following reasons:

- (a) NMI has held the marked information in the transcript in confidence, and has shared the information with only the U.S. Army and NRC, and is not aware of any public source from which a third party can obtain the proprietary information in the transcript.
- (b) The information contains "trade secrets or privileged or confidential commercial or financial information," which, if disclosed, may harm NMI with respect to its competitive position with the only other manufacturer of a certain product.
- (c) The information reveals aspects of future NMI plans for financial assistance in decommissioning funding that contains confidential financial projections.

We have reviewed NMI's application and the material based on the requirements and criteria of 10 CFR 2.790, and have determined that the marked information from the enforcement conference transcript, dated December 8, 1994, sought to be withheld contain trade secrets, or privileged or confidential commercial or financial information, except for two subject areas. Some marked information

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Handwritten initials: CVB

F. J. Vumbaco
Nuclear Metals, Inc.

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identified on Bates-numbered pages 11 and 63 contain information previously provided to NRC without a request that it be withheld from public disclosure pursuant to 10 CFR Part 2.720. This information is already available to the public. During a telephone conversation between you and Ms. Miller of my staff on May 9, 1995, Ms. Miller of my staff explained this determination and I understand that you reviewed the specific information on pages 11 and 63 and agreed. In addition, we have marked and withheld information on page 11, line 4 and page 98, line 24 which was requested to be withheld elsewhere in the transcript. Therefore, we will withhold the marked information from public disclosure, except for the marked information that is already available to the public on pages 11 and 63.

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 promptly notify the NRC. You should also 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 disclosure.

Sincerely,

Original Signature
John D. Kinneman

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

Enclosure:
Non-Proprietary Version of Transcript of December 8, 1994 Meeting

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cc w/e:cl:

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