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Mr. Muntzing	1 signed			SENT AEC PDR X SENT LOCAL PDR X

CLASS	UNCLASS	PROP INFO	INPUT	NO CYS REC'D	DOCKET NO:
.	XXX		X	1	50-410

DESCRIPTION:
Ltr submitted on behalf of the Niagara Mohawk Power Corporation, trans the following:

ENCLOSURES:
Niagara Mohawk Power Corporation ltr dtd 12-4-73 requesting an exemption to clear the site for its proposed nuclear facility & to perform rock & earth excavation for the reactor & other buildings.

(1 signed & 9 cys rec'd)

ACKNOWLEDGED
Do Not Remove

PLANT NAME: Nine Mile Point Unit # 2

FOR ACTION/INFORMATION 12-5-73 AB

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1 - ASLB(YORE/SAYRE/	1-W. PENNINGTON, Rm E-201 GT	BROOKHAVEN NAT. LAB
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December 5, 1973

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Mr. L. Manning Muntzing
Director of Regulation
U. S. Atomic Energy Commission
Washington, D. C. 20545

Re: Niagara Mohawk Power Corporation
Nine Mile Point Nuclear Station - Unit 2
AEC Docket No. 50-410

Dear Mr. Muntzing:

As counsel for Niagara Mohawk Power Corporation, we hereby transmit an original and nine copies of a request for an exemption order. Such request is filed pursuant to Section 50.12 of the Commission's Regulations.

As noted in Niagara Mohawk's letter, copies of this request have been sent to the parties in the above-captioned proceeding. In addition, for their information, copies have also been sent to the members of the hearing board and to the counsel for the Environmental Defense Fund, which group has filed a petition for leave to intervene in the above-numbered docket.

RECEIVED DEC 5 1973 U.S. ATOMIC ENERGY COMMISSION Department Mail Section

Very truly yours,

LEBOEUF, LAMB, LEIBY & MACRAE

By Eugene B. Thomas Jr.
Eugene B. Thomas, Jr.
Partner

Attorneys for Niagara Mohawk Power Corporation

Enclosure

cc: See page 2

8662

cc: Daniel M. Head, Esq.
Dr. Marvin M. Mann
Dr. William E. Martin
Bernard M. Bordenick, Esq.
Carmine J. Clemente, Esq.
Richard I. Goldsmith, Esq.
Anthony Z. Roisman, Esq.

Regulatory File Cy.

NIAGARA MOHAWK POWER CORPORATION

NIAGARA MOHAWK

300 ERIE BOULEVARD WEST
SYRACUSE, N.Y. 13202

December 4, 1973

Mr. L. Manning Muntzing
Director of Regulation
U. S. Atomic Energy Commission
Washington, D. C. 20545

Re: Niagara Mohawk Power Corporation
Nine Mile Point Nuclear Station - Unit 2
AEC Docket No. 50-410

Dear Mr. Muntzing:

Niagara Mohawk hereby requests, pursuant to Section 50.12 of the Commission's Regulations, an exemption to clear the site for its proposed nuclear facility and to perform rock and earth excavation for the reactor and other buildings, as indicated on attached Figure 1. If Niagara Mohawk is to maintain its schedule for an in-service date (Fall, 1978), thereby meeting its projected power requirements and also achieving consistency with the announced national policy for completing nuclear plants within approximately six years, it is necessary that this exemption be granted at this time and that construction proceed without delay.

When the activity requested in this exemption nears completion and if the anticipated construction permit has not then been

granted, Niagara Mohawk will request a future exemption order to continue excavation for the remaining Unit structures and to place the reactor building mat.

Niagara Mohawk is of the opinion that the exemption requested herein is authorized by law and will not endanger life or property or the common defense and security. It is also of the opinion that the request sought here is in the public interest.

Background

On June 15, 1972, Niagara Mohawk filed with the Commission its Application for Licenses to construct a 1100 MWe nuclear facility (Unit 2) at its Nine Mile Point site near Scriba, New York. The Commission has completed its review of the Preliminary Safety Analysis Report ("PSAR") and its supplements and the Environmental Report ("ER") and its supplements. The AEC Regulatory Staff has issued its Safety Evaluation Report ("SER") and its supplement and the Final Environmental Statement ("FES"). The Staff has concluded that the Unit can be constructed without undue risk to the health and safety of the public and that any adverse impact of the construction of the facility will be offset by the benefits to be derived from the power generated from the plant (Staff Ex. 6A, pp. 21-1 thru 21-2; Ex. 2, p. 10-6). In addition, the Advisory Committee on Reactor Safeguards in a letter to the Chairman of the Commission dated July 17, 1973 also concluded that the facility could be constructed and operated without undue risk to the health and safety of the public (see Staff Ex. 6B, Appendix B). The public hearing

on the issuance of the construction permit is now in progress before an atomic safety and licensing board ("Board"). The evidentiary hearing commenced on October 10, 1973 and is still in progress.

Prior to the Commission's order of November 6, 1973, there was a reasonable chance that the Board might issue its Initial Decision authorizing a construction permit by mid-December (Tr. 687-688).* However, this order, which reinstated in this proceeding an issue previously rejected by the Board, now makes the issuance of a construction permit my mid-December impossible. In this order the Commission reinstated in the proceeding the Intervenors' contention that the Board should consider means of conserving electricity as an alternative to this Unit. At this time the hearing on this newly reinstated issue is tentatively scheduled for the week of January 14, 1974 (Tr. 1653). In view of the necessary post-hearing procedures which must be followed, it is doubtful that, even on an expedited basis, Niagara Mohawk can obtain a construction permit before March, 1974.

The critical path of the present schedule for this project is the reactor building schedule. The activities of this path are the earth and rock excavation for the reactor building, the placement of concrete for the base mat, the erection of the primary containment liner, concrete encasement and the walls, and ultimately the setting of the reactor pressure vessel by November 15, 1976 (Tr. 688). Design plans, procurement

*Transcript of the Public Hearing now in progress.

and delivery of equipment and material are now based upon this schedule. If started on October 1, 1973, this schedule indicated 37 months from start of construction to placement of the reactor vessel. It is believed that this schedule can be compressed two and one-half months by implementing overtime and extended work weeks on the reactor building excavation in order to meet the placement of the reactor pressure vessel by November 15, 1976. The lifting of the reactor pressure vessel is limited by the nil ductility transition temperature of the steel equipment to be used to put the vessel in place (Tr. 677). The latest possible date for this activity in upper New York State has been established as November 15, 1976. Thus, if the lift were not accomplished by then, the next earliest lift date would be four months later (March 15, 1977) (Tr. 677-678).

The consequence of setting the vessel on March 15, 1977 would ultimately be a four month postponement of the commercial operation date. This delay alone would cost Niagara Mohawk approximately $20,000,000 (Tr. 678).

The entire planning for this project including the financing, preparation of design plans, procurement and delivery of equipment, materials, and nuclear fuel and the construction schedule, are based on the availability of commercial electric power from this plant by the Fall of 1978 (Tr. 282).

The power to be generated by Unit 2 at that time will be essential to maintain an adequate and safe power supply to Niagara Mohawk's customers and to the New York Power Pool. In view of the severe gas

and oil crisis which this country now faces, and will continue to face for the foreseeable future, it is vital to the public interest that construction of this project, which uses domestic nuclear fuel, proceed without delay.

Niagara Mohawk is of the opinion that it has complied with the following requirements:

1. The design criteria for the requested construction have been adequately described in the application and PSAR as amended;

2. No unresolved safety questions have been identified with respect to the construction requested herein;

3. There are no safety questions likely to be identified which will require resolution affecting the requested construction;

4. The principal safety characteristics of the site are similar to those of Nine Mile Point Unit 1 for which an operating license was previously issued in 1969 (Provisional Operating License, 8/22/69, License No. DPR-17 AEC Docket No. 50-220). In addition, an atomic safety and licensing board has recently authorized the issuance of an operating license for the James A. FitzPatrick Plant located on the same site (Initial Decision 11/12/73, AEC Docket No. 50-333);

5. An adequate quality assurance program for the requested construction has been established and put into effect (Tr. 1011); and

6. The impact of the construction upon the environment has been assessed and has been found that on balance the benefits outweigh any environmental costs which might be incurred (Staff's Ex. 2, p. 10-6).

Activities to be Conducted Under Requested Exemption

The site will be cleared and the earth and rock will be excavated for the reactor building and the primary containment, and for other buildings as diagramed in detail on Figure 1. Our best estimate is that the activities diagramed in Figure 1 will take about six and one-half months on the expedited basis Niagara Mohawk intends to follow. However, this request for exemption is based on the quantum of work described below, rather than being constrained by the time frame depicted in Figure 1. The following is a summary description of the major activities which would be performed each month. In addition, permission is also requested to erect temporary construction facilities, potable water supplies, sewage facilities, fire fighting facilities and the concrete batch plant, all of which would be required for an orderly construction program.

First Month:

(a) Start site clearing of 80 acres: Of the total acreage reserved for this Unit, approximately 80 acres will be cleared under this application for an exemption order. Approximately 40 of the 80 acres cleared will be covered with excavated earth, graded, and seeded. The total acreage of the site owned by Niagara Mohawk and the Power Authority of the State of New York is 1600 acres. Accordingly, the land where these activities have been requested comprise about five percent of the total site. Part of the 80 acres is reserved for parking and outdoor storage during construction. This site clearing will consist of the removal

of surface vegetation, earth and extraneous material. In view of the proximity of this land to Unit 1 (about 300 feet) and in view of the fact that the land was previously cleared and graded (Applicant's Ex. 2, Section 4.1), there are no large trees or substantial wildlife on this portion of the site.

(b) Removal of stock-piled rock from Nine Mile Point Unit 1: The present radwaste building addition to Unit 1 has resulted in the stockpiling of 6000 cubic yards of rock near that Unit. This rock must be relocated to provide for site excavation of Unit 2.

(c) Stripping of 80 acres: The stripping involved here consists of the removal of approximately the first 12 inches of earth.

(d) Removal of existing foundations: During the construction of Unit 1, the area involved here was used for the temporary buildings necessary for construction. When the Unit was completed, the foundations for these buildings were left. They now need to be removed.

(e) Earth excavation - 40,000 cubic yards.

Second Month:

During the second month, the items in (a) through (e) above will continue. An additional 60,000 cubic yards of earth excavation will be accomplished and 30,000 cubic yards of rock will also be excavated. In order to excavate the rock it will be necessary to drill and blast in a twelve-acre area.

Blasting will be done under controlled and monitored conditions. The monitoring program for this blasting has been

established by Niagara Mohawk in conjunction with Stone & Webster and Dames and Moore. This program will encompass measurements of peak particle velocities and frequencies. The program is further designed not to interfere with the safe operation of either Unit 1 or the FitzPatrick facilities. It also is designed to minimize any offsite effect.

Third through Sixth Month:

The activities of the following four and one-half months (assuming work on an expedited basis) will consist of continued rock excavation for the reactor building pit and the reactor building electrical tunnels. During the latter stages of excavation for the reactor building, excavation will start for the turbine building and control room building and will proceed until such time as the reactor building excavation is completed. During the entire six and one-half months, a total of 300,000 cubic yards of earth and 112,050 cubic yards of rock will be removed. Should a construction permit not have been granted by this time, Niagara Mohawk will request further exemption to complete the excavation for the turbine building and certain other activities diagramed in Figure 2.

All soil and rock extracted from this excavation will be relocated for future use or retention on site. Among the uses envisaged are, for example, use of some of this rock for the proposed dike. There will, therefore, be no offsite impact upon the surrounding areas either by the movement of heavy equipment offsite or the visual

impact of storage of rock and soil in an offsite area.

The Nine Mile Point site has been dedicated to power generating purposes since 1965 when construction of Niagara Mohawk's Unit 1 began. During the period when work under this application for an exemption order, if authorized, is proceeding, it is estimated that only approximately 100 workers will be at the construction site. It is Niagara Mohawk's opinion that the traffic to and from the site will have a minimum incremental effect upon traffic in the area.

When work under this exemption order commences, necessary construction equipment must be brought to the site. This equipment is listed in the attached Table 1. Operation of this equipment will not have a significant, adverse impact on the area's air quality (Applicant's Ex. 2, p. 4.2-1). The entire construction program has been designed to have a minimum impact on the aquatic environment in the Nine Mile Point vicinity (Applicant's Ex. 2, Section 4.4).

Both the blasting and the use of heavy equipment will produce noise which will be audible in areas beyond the site. Since the blasting will be done in a controlled manner, it will most often be done during daylight hours and should not be disruptive to the nearby residents. The area is sparsely populated, having within a one-mile radius a population of only three people. Within five miles there are approximately 4,400 people (Applicant's Ex. 1, PSAR, Fig. 2.1-5). The effect of the onsite noise caused by the operation of heavy machinery will be minimal. There may be some temporary dis-

placement of wildlife caused by the noise, but such dislocation is expected to be small and only temporary.

The total present day field costs associated with these activities under this exemption (excluding escalation and interest during construction) is $4,930,000.

If a construction permit is not obtained, the environmental impact of the activities described above is reversible in that the land can be reclaimed to its original appearance, for an approximate cost of $930,000.

The need for the power to be generated by this facility is a contested issue before the Board in this docket. The Intervenors are of the opinion that this facility will not be needed until the mid 1980's and at the earliest in 1981 (Tr. 1808). It is the opinion of the Federal Power Commission, the Public Service Commission of the State of New York and the Company that the power to be generated by this facility is needed by 1978-79 (Tr. 742). Based upon the opinion of these two expert authorities -- all expressed before the magnitude of the present energy crisis was publicly recognized -- Niagara Mohawk believes that there is a genuine need for the power to be generated by this facility.

As the AEC Regulatory Staff concluded:

> "Projected generating capacity, peak demand and reserve margins for the winter periods 1978-79 through 1980-81, with and without Unit 2, are compared in Table 8.6. If the projections prove accurate, the Applicant's schedule could slip one year without the risk of not meeting the

NYPP reserve criterion. The Staff considers the Applicant's demand projections to be reasonable by comparison with the historical trend. However, as may be seen in Fig. 8.2, actual demand values fluctuate substantially about their trendline. Also, the Applicant's schedule allows five years from issuance of a Construction Permit to commercial operation of Unit 2 while the typical time required according to current experience is 5-1/2 to 6 years. Considering both the possibilities that peak demand may exceed the projected value and that operation of Unit 2 may come as much as a year late, the Staff concludes that the Applicant's schedule is prudent." (Staff's Ex. 2, p. 8-10)

Accordingly, Niagara Mohawk is of the opinion that:

(1) The conduct of the activities requested will not give rise to a significant impact on the environment;

(2) The redress of any adverse environmental impact from conduct of the activities requested can reasonably be effected;

(3) The conduct of the activities would not foreclose subsequent adoption of alternatives; and

(4) The effect of delay in conducting the activities requested is not in the public interest.

Subsequent Activities Beyond this Exemption Request

Niagara Mohawk anticipates that if the decisional process proceeds on its present schedule it will obtain the construction permit prior to the completion of the activities under the exemption requested at this time. However, if there should be unexpected and further delays, Niagara Mohawk will request authority to continue with the activities diagramed in Figure 2 and described below.

These subsequent activities will consist of the completion of the excavation for the turbine building and control room building and of excavation for the radwaste building, screenwell building, heater bays, circulating water pump house, intake and discharge shafts, circulating water lines, and placing the reactor building mat.

During this period there will be approximately 60 workers at the construction site. Some 48,000 cubic yards of rock will be excavated and stored on site for future use or retention. The environmental impact of continuing the work will be approximately the same as the impact described for activities under the exemption requested at this time. The total present day field costs associated with these subsequent activities (excluding escalation and interest during construction) is approximately $3,452,000. The incremental costs of restoring the site to its present condition if a construction permit is not obtained would be $2,456,000.

Niagara Mohawk fully understands that the granting of the requested exemption will not in any way affect the subsequent granting or denial of a construction permit. Niagara Mohawk will restore to its original appearance that portion of the site which has been altered by activities conducted pursuant to this request, should the construction permit be denied. We respectfully request prompt attention to this request for an exemption order. Representatives of Niagara Mohawk and its contractors would be pleased to meet with you to discuss the contents of this

letter if you so desire. We further request that communications concerning this request be sent to me with copies to the following persons:

Mr. Philip D. Raymond, Vice President-Engineering
Niagara Mohawk Power Corporation
300 Erie Boulevard West
Syracuse, New York 13202

Mr. Arvin E. Upton, Esq.
LeBoeuf, Lamb, Leiby & MacRae
1757 N Street, N. W.
Washington, D. C. 20036

Nine additional copies of this request for an exemption order are enclosed for your convenience.

Copies of this letter have been distributed to the parties in this proceeding.

Very truly yours,

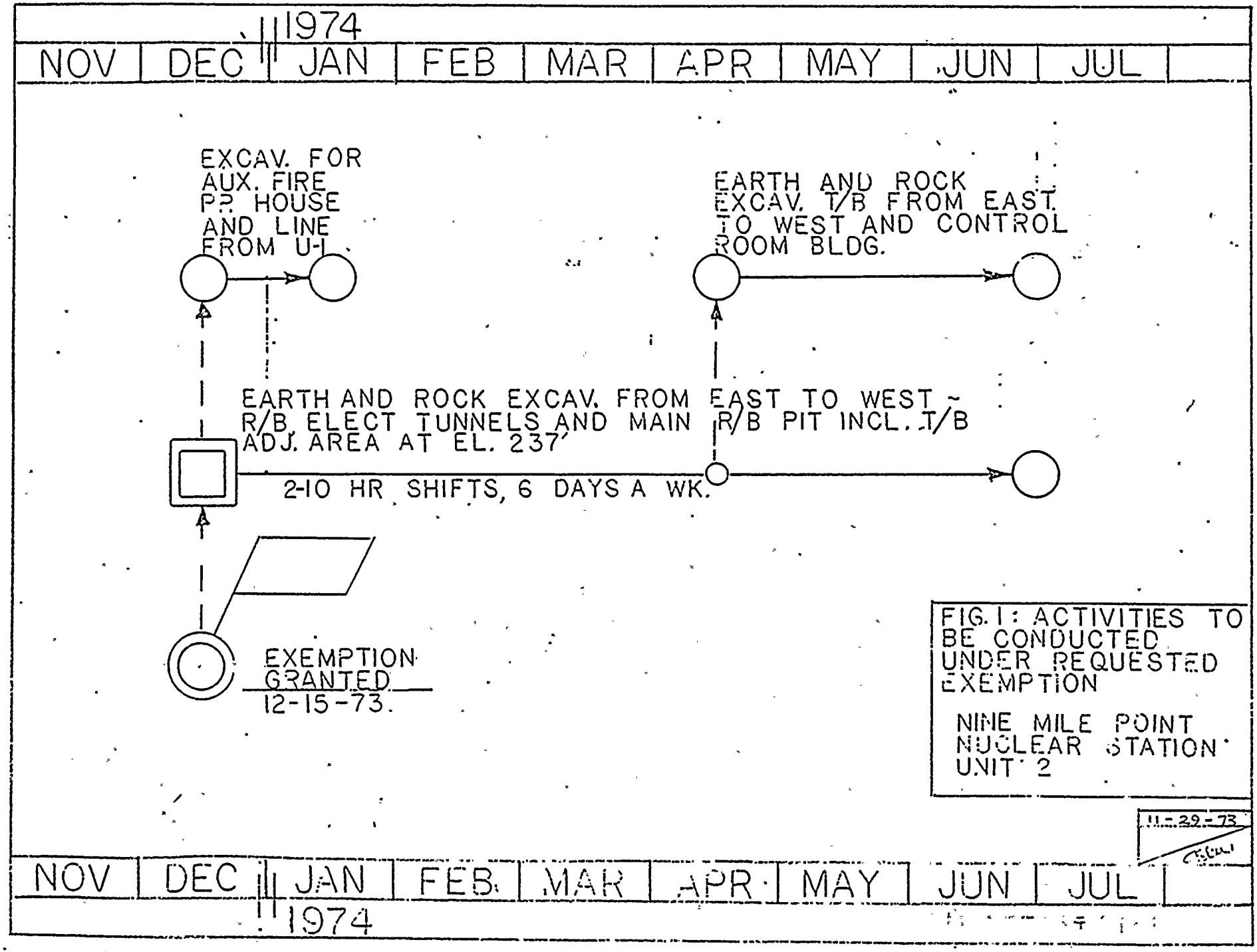
James Bartlett

James Bartlett
Executive Vice President-
Engineering, Operations and
Employee Relations

TABLE 1

CONSTRUCTION EQUIPMENT TO BE UTILIZED UNDER THIS EXEMPTION REQUEST

6	-	1200 cfm electric driven compressors
2	-	1200 cfm diesel driven compressors
6	-	Crawler mounted air driven drills
6	-	Self-loading scrapers
2	-	D-10 crawler tractors with blades
6	-	R35 euclid trucks
2	-	988 rubber tired tractor loaders
1	-	677 rubber tired tractor loader
1	-	Road grader
1	-	3 cy crawler mounted backhoe
1	-	100 ton truck crane
1	-	Water sprinkler truck
1	-	Fuel supply truck
1	-	Mechanics truck
2	-	3/4 ton pickup trucks
1	-	Stake rack truck
1	-	Blasting material storage facility
3	-	Office trailers
2	-	General storage trailers
2	-	Change trailers
		Survey equipment
		Blasting equipment
1	-	Rock crushing plant


1974
NOV
DEC
JAN
FEB
MAR
APR
MAY
JUN
JUL
EXCAV. FOR AUX. FIRE PP. HOUSE AND LINE FROM U-1
EARTH AND ROCK EXCAV. T/B FROM EAST TO WEST AND CONTROL ROOM BLDG.
EARTH AND ROCK EXCAV. FROM EAST TO WEST ~ R/B ELECT TUNNELS AND MAIN R/B PIT INCL. T/B ADJ. AREA AT EL. 237'
2-10 HR SHIFTS, 6 DAYS A WK.
EXEMPTION GRANTED 12-15-73.
FIG. 1: ACTIVITIES TO BE CONDUCTED UNDER REQUESTED EXEMPTION
NINE MILE POINT NUCLEAR STATION UNIT 2
11-29-73
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DEC
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FEB
MAR
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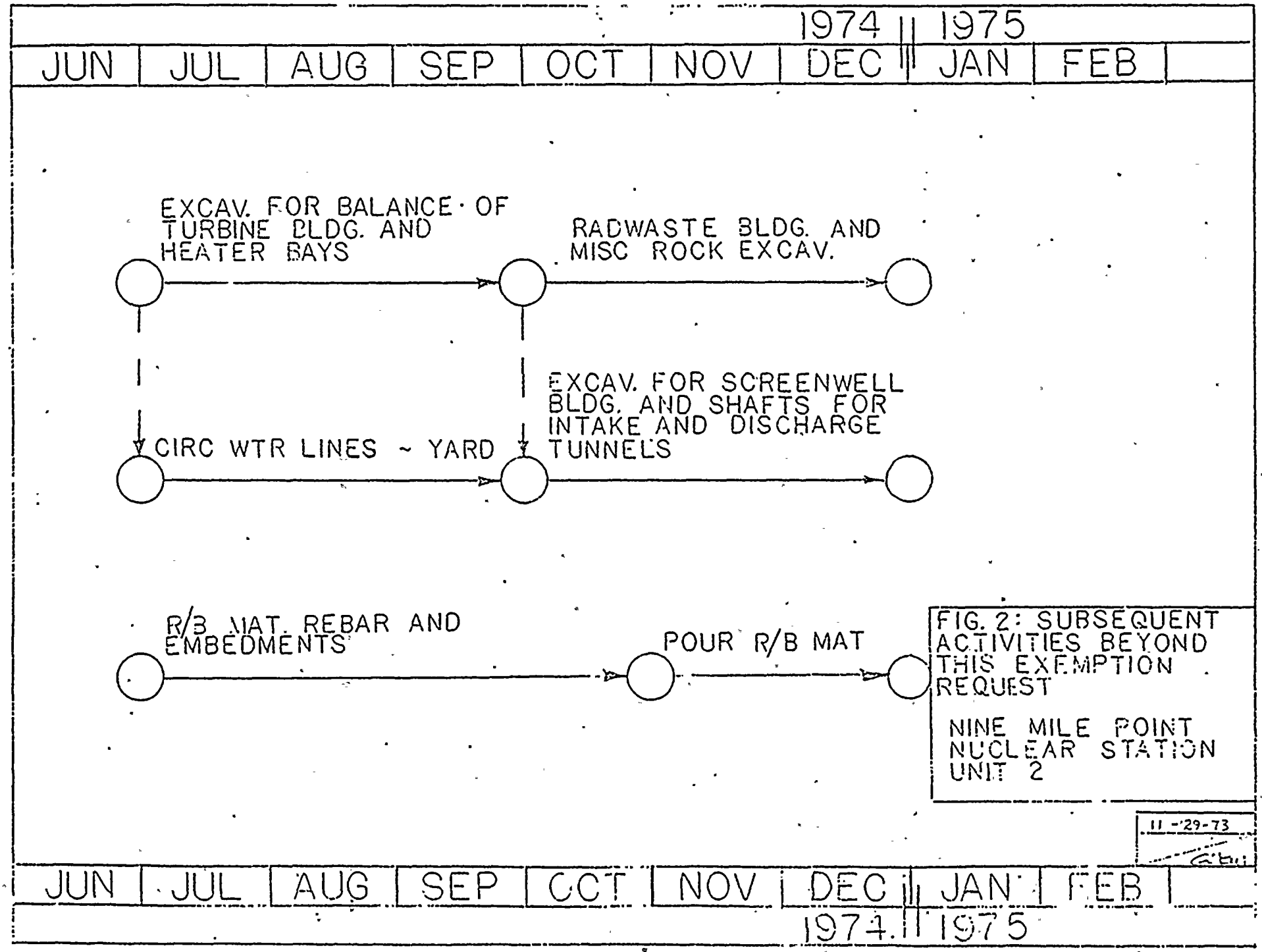

FIG. 2: SUBSEQUENT ACTIVITIES BEYOND THIS EXEMPTION REQUEST

NINE MILE POINT NUCLEAR STATION UNIT 2