

March 8, 1983

DESIGNATED ORIGINAL

Certified By *J. D. Payne*

United States Nuclear Regulatory
Commission
Region I
631 Park Avenue
King of Prussia, Pennsylvania 19406

Re: Investigation No. 50-22/81-22

Attn: Mr. Thomas T. Martin, Director
Division of Engineering and Technical Programs

Gentlemen:

Pursuant to Section 2.790 (b) (1) of the Regulations of the Nuclear Regulatory Commission, 10 CFR § 2.790 (b) (1), Niagara Mohawk Power Corporation hereby makes application to withhold from public disclosure certain portions of a letter dated January 31, 1983, and accompanying enclosures from Region I of the Nuclear Regulatory Commission. In support of this application, please find enclosed three copies of our affidavit detailing the reasons for our request.

The scope of this affidavit is limited for the most part to a discussion of applicable Commission Regulations. While we acknowledge that the regulations do not draw a bright line between information exempt and information not exempt from disclosure, we believe that the Freedom of Information Act must be read in conjunction with Sections 147 (a), 148 (a) and 161 (b) of the Atomic Energy Act. These sections of the Atomic Energy Act provide a mandate to the Commission to give utmost consideration to the public health and safety in determining whether information should be disclosed to the public. We believe that public safety considerations require a decision of nondisclosure in this case.

The attached affidavit contains Safeguards Information prohibited from disclosure under the provisions of 10 CFR § 73.21 and Security-related matter exempt from disclosure under the provisions

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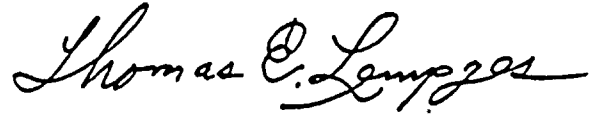
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of 10 CFR § 2.790(d) and 10 CFR § 2.790(a)(4). Exemption from disclosure for the attached affidavit is therefore requested.

Legal argument and matters of law discussed in this affidavit were prepared with the assistance of legal counsel.

Very truly yours,



Thomas E. Lempges
Vice President Nuclear Generation

TEL/GDW/gma
Attachments

~~SAFEGUARDS INFORMATION~~

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