Reg Central

April 15, 1974

Dr. Marvin Resnikoff
174 West Avenue
Buffalo, New York 14201

In the Matter of Niagara Mohawk Power Corporation
(Nine Mile Point, Unit No. 1)
Docket No. 50-220

AND

In the Matter of Niagara Mohawk Power Corporation
(Nine Mile Point, Unit No. 2)
Docket No. 50-410

AND

In the Matter of Power Authority of the State of New York
and Niagara Mohawk Power Corporation
(James A. FitzPatrick Nuclear Power Plant, Unit 1)
Docket No. 50-333

Dear Dr. Resnikoff:

Your letters dated February 12, 1974, and April 2, 1974, addressed to Mr. Jan A. Norris have been referred to me for reply. These letters generally concern thermal discharges to Lake Ontario from the three referenced facilities. The April 2nd letter also refers to a letter from you to me dated January 27, 1974, which requested information concerning the "procedure for the submission on [your] part of a letter to the AEC Regulatory Staff as a form of limited appearance on behalf of Ecology Action with regard to the [construction permit application for Nine Mile Point, Unit 2]". Unfortunately, I have just obtained a copy of your letter. While it was received in the General Counsel's office on January 30, 1974, for unknown reasons, a copy was not made available to me at that

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time. Although the record relating to that portion of the Nine Mile Point, Unit 2, facility which you seek to address in your several letters was closed well before the first of January, I am forwarding copies of them and of this reply to the presiding Atomic Safety and Licensing Board, in whose discretion limited appearance statements are received, for such disposition as it may wish to make of your letters. For your future information, however, I am enclosing a copy of 10 CFR Part 2 which constitutes the Commission's Rules of Practice. Section 2.715(a) relates to limited appearance requests.

As you may know, the AEC Regulatory Staff (Staff) prepared Draft and Final Environmental Statements (DES-FES) in connection with each of the referenced proceedings. Pursuant to Commission regulations, notices of availability of each DES were published in the Federal Register. The notices requested comments from interested persons. In addition, each DES was sent to appropriate federal and state agencies for comment. Comments received from federal and state agencies and interested members of the public, and the Staff's responses thereto, were included in the FES for each facility. To my knowledge the Staff did not receive any timely comments from you with respect to any of the three draft statements.

While the Staff welcomes your interest, I am advised that they have already addressed the points raised by you in your letters, with one exception, in the respective final statements and/or at the evidentiary hearings held in the FitzPatrick and Nine Mile Point, Unit 2, proceedings. The one exception is, of course, the proposed Environmental Protection Agency (EPA) Regulations appearing at 39 F. R. 8294, March 4, 1974. In this regard, once these regulations are finalized by EPA, Applicants in the three proceedings will, of course, have to meet the requirements of those regulations.

For your information, it might be well to review the present status of each of the three proceedings.

Nine Mile Point, Unit 1

The applicant seeks a full term operating license. A hearing is not mandatory and there were no requests for a hearing. The Staff's environmental review is complete and the action recommended in the FES is issuance of a full term operating license appropriately conditioned to protect the environment (See pages iii-v of the NMP1 FES). Upon completion of the Staff's radiological health and safety review, if appropriate, a full term operating license, appropriately conditioned, will be issued together with environmental and radiological technical specifications.

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James A. FitzPatrick Nuclear Power Plant

The applicant seeks an operating license. An Atomic Safety and Licensing Board has authorized the Staff to issue the license with appropriate environmental and radiological health and safety conditions. The Licensing Board's decision has been affirmed by the Atomic Safety and Licensing Appeal Board with slight modifications which relate to conditions imposed, pursuant to Section 401(d) of the Federal Water Pollution Control Act Amendments, by the State of New York. Since construction at the facility is not yet totally complete, the Staff has not yet issued an operating license. Environmental and radiological technical specifications have been prepared by the Staff and will be a part of any operating license issued.

Nine Mile Point, Unit 2

The applicant seeks a construction permit. Lengthy hearings have been conducted and the record is closed. The parties to this proceeding are awaiting an initial decision from the Atomic Safety and Licensing Board.

Pursuant to the request contained in your letter of January 27, 1974, I enclose copies of Sections 2.5, 2.6, 3.1 through 3.4, and 10 of Applicant's Environmental Report for Nine Mile Point, Unit 2, and of accompanying tables.

Finally, you have requested copies of two documents (page 2 of your letter dated February 12, 1974). I do not have copies of these documents. However, they should be available for your review either at the Commission's Public Document Room in Washington, D. C., or in the local Public Document Room at the Oswego, New York, Public Library. In the alternative, I suggest that you contact either counsel for the Applicant or counsel for Ecology Action.

Sincerely,

Bernard M. Bordenick
Counsel for AEC Regulatory Staff

Enclosures:
10 CFR Part 2
Sections 2.5, 2.6, 3.1 - 3.4,
and 10 of ER for NMP2
and tables

OFFICE➤						
SURNAME➤	CC: (See page 4)					
DATE➤						

cc w/o enclosures
Daniel M. Head, Esq., Chairman
Dr. Marvin M. Mann
Dr. William E. Martin
Joseph F. Tubridy, Esq.
Gustave A. Linenberger
J. Bruce MacDonald
Arvin E. Upton, Esq.
Eugene B. Thomas, Jr., Esq.
James P. McGranery, Jr., Esq.
Edward Berlin, Esq.
Ecology Action
c/o Richard Goldsmith
Ms. Suzanne Weber
Atomic Safety and Licensing Board Panel
Atomic Safety and Licensing Appeal Board
Mr. Frank W. Karas

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SURNAME➤	Massar LW	NORRIS-EP Verbal OK Bournia				
DATE➤	4/12/74	4-15-74				

April 8, 1974

Mr. Daniel M. Head
Atomic Safety & Licensing Board Panel
U. S. Atomic Energy Commission
Washington, D. C. 20545

Mr. Frederick J. Shon
Atomic Safety & Licensing Board Panel
U. S. Atomic Energy Commission
Washington, D. C. 20545

Mr. Sidney G. Kingsley
Atomic Safety & Licensing Board Panel
U. S. Atomic Energy Commission
Washington, D. C. 20545

In the Matter of
Niagara Mohawk Power Corporation
Nine Mile Point, Unit No. 1
Docket No. 50-220

Gentlemen:

Enclosed herewith is the letter from the New York State Atomic Energy Council confirming the Staff's understanding, as reflected in its March 27 response to the Council's Petition for Leave to Intervene in the above-captioned proceeding, that the State wishes to participate in this proceeding only if the Commission orders a hearing and that the Petition is not intended to be a request for a hearing.

Sincerely,

Roy E. Kinsey, Jr.
Counsel for AEC Regulatory Staff

Enclosure:
As stated

cc: Mr. C. J. Clemente
To Those of Service List

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