NRC FORM 195 (2-76)

U.S. NUCLEAR REGULATORY COMMISSION

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DOCKET NUMBER: 50-220 — 333

FILE NUMBER: ENVIRO

TO: Mr. Edson G. Case

FROM: LeBoeuf, Lamb, Leiby & MacRae
Washington, D. C.
Eugene B. Thomas, Jr.

DATE OF DOCUMENT: 7/20/77

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DESCRIPTION

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ENCLOSURE

Consists of a letter concerning the Aquatic Advisory Committee at the Nine Mile Point site with attached stipulation referred to in the second paragraph of letter.....

(9-P)

DO NOT REMOVE

ACKNOWLEDGED

PLANT NAME:
Nine Mile Point 1 /Fitzpatrick 1
RJL 7/26/77

1 cy Encl Rec'd

FOR ACTION/INFORMATION

SAFETY		ENVIRONMENTAL
ASSIGNED AD:		ASSIGNED AD: V. MOORE (LTR)
X BRANCH CHIEF:	LEAR	BRANCH CHIEF:
X PROJECT MANAGER:	NOWICKI	PROJECT MANAGER:
X LICENSING ASSISTANT:	PARRISH (7)	LICENSING ASSISTANT:
		B. HARLESS

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CASE	SIHWELL	OPERATING REACTORS	BALLARD
BOYD	PAWLICKI	X STELLO	YOUNGBLOOD
		X EISENHUT	
PROJECT MANAGEMENT	REACTOR SAFETY	X SHAO	~~SITE TECH.~~
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July 20, 1977

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U.S. NUCLEAR REGULATORY COMMISSION
Mail Section

Mr. Edson G. Case
Acting Director
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: NRC Docket Nos. 50-220 and 50-333

Dear Mr. Case:

As counsel for the licensees in the above-captioned dockets I hereby transmit a letter concerning the Aquatic Advisory Committee at the Nine Mile Point site.

For your convenience I also enclose a copy of the stipulation referred to in the second paragraph of that letter.

Sincerely yours,

Eugene B. Thomas, Jr.

Eugene B. Thomas, Jr.

Enclosures

cc: Ms. Suzanne Weber
Bernard Bordenick, Esq.
Harry Glasspiegel, Esq.

NIAGARA MOHAWK POWER CORPORATION

NIAGARA MOHAWK

300 ERIE BOULEVARD WEST
SYRACUSE, N.Y. 13202

GERALD K. RHODE
VICE PRESIDENT

July 14, 1977

Mr. Edson G. Case
Acting Director
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: NRC Docket Nos. 50-220 and 50-333

Dear Mr. Case:

We have received a copy of a letter from Suzanne Weber dated June 10, 1977 addressed to the Director of the Office of Nuclear Reactor Regulation. In her letter Ms. Weber complains of the fact that recently proposed changes in the environmental technical specifications for the James A. FitzPatrick Nuclear Power Plant and Nine Mile Point Nuclear Unit No. 1 were not submitted to the Aquatic Advisory Committee for its review and recommendations prior to being submitted to the NRC. Ms. Weber then requests that the NRC defer consideration of the proposed environmental technical specification changes until the Aquatic Advisory Committee can "thoroughly review and make recommendations to NMPC and PASNY, and to your office, concerning these changes."

Ms. Weber has completely misconstrued the function and legal status of the Aquatic Advisory Committee. That Committee was created by stipulation among NMPC, PASNY and Ecology Action in April, 1973. Under the terms of the stipulation neither the Committee nor its recommendations have any role with respect to compliance with NRC license conditions or other NRC requirements. The function of the Committee is to review the results of aquatic environmental programs being carried out at the Nine Mile Point site, in order to evaluate (1) the adequacy of those programs and their implementation, and (2) the impact of Plant operations on the aquatic environment. Based on that review, the Committee may make recommendations to NMPC and PASNY, including recommendations as to the need for expansion, modification or elimination of existing aquatic monitoring programs. NMPC and PASNY would, of course, give consideration to any Committee recommendations in this regard.

However, neither NMPC nor PASNY is required under the stipulation to solicit the views of the Committee before submitting any particular document or taking action before either the NRC or any other body.

Consistent with the function of the Committee described above, the stipulation requires NMPC and PASNY to distribute to the Committee for its review the reports of the monitoring organizations. Such reports have over the last four years consistently been made available to the Committee. However, those are the only documents required to be distributed to the Committee. Proposed changes to environmental technical specifications are not required to be distributed, as suggested by Ms. Weber.

By no stretch of the imagination does the stipulation require Committee review of proposed technical specification changes prior to NRC consideration of or action on such changes. Further, the Committee does not have the function under the stipulation of making recommendations to NRC. Deferral by NRC of its consideration of the recently proposed changes to environmental technical specifications, as suggested by Ms. Weber, would be improper and inconsistent with the NRC's obligation to process applications expeditiously.

Very truly yours,

Dated: July 14, 1977

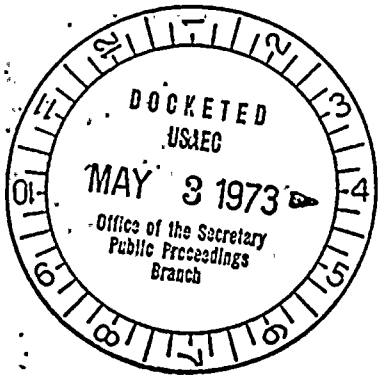
Gerald K. Rhode
Vice President - Engineering
Niagara Mohawk Power Corporation

Dated: July 19, 1977

George T. Berry
General Manager and Chief Engineer
Power Authority of the State
of New York

cc: Ms. Suzanne Weber
Bernard Bordenick, Esq.
Harry Glasspiegel, Esq.

4/30 NMPC Nine Mile P.2 Official



BEFORE THE UNITED STATES

ATOMIC ENERGY COMMISSION

In the Matter of	)	
	)	
POWER AUTHORITY OF THE STATE OF NEW YORK and NIAGARA MOHAWK POWER CORPORATION (James A. FitzPatrick Nuclear Power Plant)	)	Docket No. 50-333
NIAGARA MOHAWK POWER CORPORATION (Nine Mile Point Unit 2)	)	Docket No. 50-410

STIPULATION

Power Authority of the State of New York ("PASNY"), Niagara Mohawk Power Corporation ("NMPC") and Ecology Action and Suzanne Weber ("Intervenors") hereby stipulate as follows:

(1) Intervenors, being parties to the AEC licensing proceeding on the James A. FitzPatrick Nuclear Power Plant (Docket No. 50-333), hereby withdraw all portions not previously withdrawn of contention 7 in the Affidavit accompanying their Petition to Intervene dated November 2, 1972, as later supplemented.

(2) Intervenors, being parties to the AEC proceeding on Niagara Mohawk Power Corporation's application for a construction permit for Nine Mile Point Unit 2 (Docket No. 50-410), hereby withdraw contention 4(d) in the Affidavit accompanying their Petition to

Intervene dated October 24, 1972, as later supplemented. Such withdrawal shall not affect the right of Intervenors to raise appropriate issues at the operating license stage of this proceeding.

(3) PASNY and NMPC will perform the following monitoring as a part of their aquatic monitoring program for the Nine Mile Point Site:

(a) Sampling for plankton at fixed stations will be carried out by PASNY and NMPC. Sampling of ichthyoplankton will be done at the surface and bottom at five stations along three semi-circular transects of 1, 3 and 5 mile radii emanating from the plant site. Sampling of phytoplankton and zooplankton will be done at the plant site and at east and west controls, at at least four different water depths at each location.

In addition, mobile sampling for plankton will be carried out through the coordinated use of aerial observations and boat collection. The sampling area will be the area within eight kilometer radii of the discharges from the respective nuclear facilities. The number of samples collected at each time will be no less than three for each distinct "plankton

pulse." Vertical sampling as well as horizontal sampling will be carried out. If no distinct "plankton pulse" is apparent, "grab selection" from a boat will be made. Both net and nannoplankton populations will be collected by mobile sampling.

Samples from both fixed and mobile monitoring will be analyzed both quantitatively and qualitatively by microscopic techniques. Total radioactivity (gross beta) determinations for representative samples of plankton will be made for each collection.

(b) Periphyton Studies - Periphyton investigations will be attempted along transects off Nine Mile Point and at east and west controls. At stations located in 5, 10, 20, 30 and 40 ft. of water along the transects, multiple slides will be placed near the bottom. The slides will be examined both quantitatively and qualitatively by microscopic techniques.

Intervenors have proposed a system of fixed stations for the collection of periphyton samples of a type which would permit sampling to be done at different water levels (vertical sampling). A technique of installing such stations in such a way that the samples are not likely to be lost has not yet

been established to the satisfaction of PASNY and NMPC. PASNY and NMPC will, however, install three such stations on a trial basis in addition to the bottom sampling stations previously described. Each station will be equipped with a periphyton apparatus which will provide for the collection of samples for at least four different water levels. From each apparatus at each level two slides will be examined both quantitatively and qualitatively by microscopic techniques. Installation of such stations will be completed as soon as practicable and no later than July 1, 1973.

Each vertical station will also be supplied with appropriate containers in which biomass material (e.g., fish, clams, algae) will be suspended. Such material will be retrieved and analyzed for the presence of Cesium-137 and Strontium-90. The sampling described in this paragraph will be undertaken by July 1, 1973. If, in developing the methodology for the sampling described in this paragraph, an alternate method appears preferable, then PASNY, NMPC and Ecology Action may by mutual agreement substitute such alternate method.

At the end of one year the feasibility and the usefulness of such vertical stations will be evaluated by PASNY and NMPC to determine whether the technique should be adopted for the monitoring program in lieu of or in addition to bottom sampling. The technique of suspension of biomass

material and radioactivity analysis thereof will be similarly evaluated. These evaluations and determinations would be an appropriate subject for review by the Advisory Committee described in Section (4) below.

(c) Frequency of Sampling - Both the fixed and mobile sampling and analysis of plankton described in Subsection (a) above, and the fixed sampling and analysis of periphyton described in Subsection (b) above, will be performed at least once per month, weather permitting. In addition, such sampling will be performed at least twice per month for the months of May through August, except for May and June, 1973. Such sampling will be continued for a minimum of three years.

For each sampling period lake water samples will be collected at the same time and location as the biological samples. These samples will be monitored in the field for dissolved oxygen, temperature, specific conductance, carbon dioxide and pH. They will also be analyzed in the laboratory for:

1. Total and ortho-phosphorus
2. Total Kjeldahl nitrogen
3. Ammonia nitrogen
4. Nitrate nitrogen
5. BOD_5
6. COD

7. Total solids
8. Total non-filterable solids (suspended)
9. Silicon
10. Turbidity
11. Chlorophyll

(4) Monitoring Assessment

There will be created an Aquatic Environmental Studies Advisory Committee. The purpose of the Committee will be to review in an advisory capacity the results of the aquatic environmental monitoring programs being carried out by NMPC and PASNY in the vicinity of the Nine Mile Point site in order to evaluate: (1) the adequacy of the programs and their implementation and the need for their expansion, modification or elimination, and (2) the impact of plant operations at Nine Mile Point on the aquatic environment.

The Committee shall consist of technically qualified members, one appointed by PASNY, one by NMPC, and two by Ecology Action. One membership in the Committee will also be available to each governmental agency listed below, should such agency desire to participate:

U. S. Atomic Energy Commission
U. S. Environmental Protection Agency
New York State Department of Environmental Conservation
Oswego County Department of Health.

Memberships other than those listed above may be added to the Committee from time to time by mutual agreement among PASNY, NMPC and Ecology Action.

All reports of the organization(s) performing the monitoring which are submitted to PASNY and NMPC will also be distributed to other Committee members on a current basis. Such reports will be submitted at least twice per year and will comprehensively report the results of monitoring. Meetings of the Committee will be held semiannually and scheduled as deemed appropriate and convenient. The Committee will provide, at least annually and more frequently if deemed appropriate, to NMPC and PASNY a report of its conclusions and recommendations. Such reports will be available to all interested parties and to the public.

Members other than those who are employees of PASNY and NMPC will be entitled, for attendance at Committee meetings, to compensation of $150 per day plus reimbursement for out-of-pocket expenses. The cost of such compensation will be borne by PASNY and NMPC. A member entitled to receive such compensation may elect not to receive it, or may elect to receive reimbursement for out-of-pocket expenses alone.

POWER AUTHORITY OF THE STATE OF NEW YORK and
NIAGARA MOHAWK POWER CORPORATION

By Lex K. Larson

Dated: April 27, 1973

Lex K. Larson

ECOLOGY ACTION and SUZANNE WEBER

By Richard I. Goldsmith

Dated: April 30, 1973

Richard I. Goldsmith