

March 20, 2007

Mr. Terry J. Lodge
Counsel for Petitioners
316 N. Michigan Street, Suite 520
Toledo, Ohio 43624-1627

SUBJECT: ISSUANCE OF DIRECTOR'S DECISION UNDER 10 CFR 2.206 - PALISADES
NUCLEAR PLANT

Dear Mr. Lodge:

This letter responds to the petition you filed, on behalf of five organizations and other members of the public, with Mr. Luis A. Reyes, Executive Director for Operations, of the U.S. Nuclear Regulatory Commission (NRC or Commission), pursuant to Section 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR 2.206) on April 4, 2006. In your petition, you requested that NRC take enforcement action against the licensee for the Palisades Nuclear Plant, Nuclear Management Company, LLC (NMC), by condemning and stopping the use of the two independent spent fuel storage installation (ISFSI) concrete pads holding dry spent fuel storage casks on the plant site. As the basis for your request, you stated that the concrete cask storage pads do not conform with NRC regulations for earthquake stability, specifically, that they do not meet the requirements of 10 CFR 72.212(b)(2)(i)(B) and 72.212(b)(3) and therefore pose a hazard in the event of an earthquake.

Your representatives spoke with our Petition Review Board on April 26, 2006, to discuss your petition. You were sent a transcription of the teleconference on May 3, 2006. By letter dated May 4, 2006, the staff acknowledged receipt of your petition and enclosed a copy of NRC publications regarding the 10 CFR 2.206 process, Management Directive 8.11, "Review Process for 10 CFR 2.206 Petitions," and NUREG/BR-0200, "Public Petition Process."

On June 27, 2006, you were informed by letter that NRC accepted your petition for review in part, specifically with respect to slope stability of the newer concrete ISFSI pad constructed in 2003. However, those portions of your petition concerning the older concrete pad constructed in 1992, and concerning soil amplification, related to the newer pad, were not accepted for review, because those issues had already been evaluated and resolved by the NRC staff. The staff concluded in a September 1994 assessment that the location of the older ISFSI storage pad at the Palisades site was acceptable to support the concrete storage casks against all effects of the design basis earthquake for the site. NRC Inspection Report 05000255/2006002, dated May 11, 2006, documented the staff's findings concerning potential amplification effects of earthquakes on the newer pad. In that inspection report, the staff concluded that the potential soil-structure interaction and soil liquefaction due to earthquakes were correctly factored into the licensee's seismic analysis of the newer pad.

We also informed you, in the June 27, 2006, letter, that the NRC staff had determined that your request to condemn and stop the use of the two ISFSI concrete pads at Palisades did not require immediate action.

The staff accepted for review your concern about the adequacy of the slope/subsurface stability evaluation for the newer ISFSI pad at Palisades. This issue was already under NRC review as an unresolved item, as documented in a September 2004 NRC inspection report. In October 2006, NMC documented a revised slope stability evaluation for the newer ISFSI pad, which the NRC staff has reviewed and found acceptable. Therefore, the NRC staff concludes that the concerns about the stability of the newer ISFSI pad during an earthquake have been adequately resolved and no further action by the licensee is needed.

The NRC staff sent copies of the proposed Director's Decision to you and to NMC for comment, by letters dated November 28, 2006. You requested 2 extensions of time to provide comments, by emails dated January 4 and January 18, 2007, and subsequently provided comments by email dated February 2, 2007. The NRC staff has reviewed your comments and the staff's responses are documented in Enclosure 2. NMC did not provide any comments. In general, we found that the comments did not warrant any significant revisions to the proposed Director's Decision. Several of the comments were not related to the requested actions, or were otherwise considered outside the scope of the staff's review of the petition, as defined in the NRC staff's letter to you, dated June 27, 2006.

Based on our review of your petition and other relevant information, the NRC staff concludes that NMC performed written evaluations which establish that the newer cask storage pad at the Palisades ISFSI has been designed to adequately support the static and dynamic loads of the stored casks. Further, the NMC evaluations consider potential effects of earthquakes, specifically with respect to slope/subsurface stability, and are in compliance with 10 CFR 72.212(b)(2)(i)(B) and 72.212(b)(3). Therefore, the requested action, to condemn and stop the use of the two ISFSI concrete pads holding dry spent fuel storage casks at the Palisades site, is denied.

The staff will file a copy of the Director's Decision (DD-07-02) (Enclosure 2) with the Secretary of the Commission, for the Commission to review, in accordance with 10 CFR 2.206(c). As provided for by this regulation, the decision will constitute the final action of the Commission 25 days after the date of the decision, unless the Commission, on its own motion, institutes a review of the decision within that time. The documents cited in the enclosed decision are available at the NRC Public Document Room, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically, from NRC's Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room, on the NRC Web site, <http://www.nrc.gov>.

I have also enclosed a copy of the "Notice of Issuance of Director's Decision Under 10 CFR 2.206" (Enclosure 3), which has been filed with the Office of the Federal Register for publication.

T. Lodge

-3-

Please feel free to contact Mr. James R. Hall, the NRC Petition Manager, at 301-415-1336, to discuss any questions related to this petition.

Sincerely,

/RA/

Jack R. Strosnider, Director
Office of Nuclear Material Safety
and Safeguards

Docket Nos.: 72-7, 50-255

Enclosures: 1. Staff's Response to Petitioners' Comments
2. Director's Decision DD-07-02
3 . Federal Register Notice

cc: Nuclear Management Company, LLC,
Mailing List

T. Lodge

-3-

Please feel free to contact Mr. James R. Hall, the NRC Petition Manager, at 301-415-1336, to discuss any questions related to this petition.

Sincerely,

/RA/

Jack R. Strosnider, Director
Office of Nuclear Material Safety
and Safeguards

Docket Nos.: 72-7, 50-255

- Enclosures: 1. Staff's Response to Petitioners' Comments
 2. Director's Decision DD-07-02
 3. Federal Register Notice

cc: Nuclear Management Company, LLC,
Mailing List

Distribution: (Ref. EDO Ticket G20060369, TAC LA0318)
 NMSS r/f SFST r/f RidsEDOMailCenter
 PGoldberg DStarkey MRodgers
 MPadovan, NRR

RidsNmssOd DPstrak
BWhite JCameron, RIII

ML070720752

OFC	SFST	E	SFST	Tech Ed	SFST
NAME	JRHall		MDebose	EKraus	GBjorkman
DATE	03/09/07		03/08/07	03/08/07	03/07/07

OFC	SFST	E	SFST	SFST	NMSS
NAME	RNelson		WRuland	EWBrach	JStrosnider
DATE	03/08/07		03/08/07	03/13/07	03/20/07

OFFICIAL RECORD COPY

Palisades Plant

cc:

Robert A. Fenech, Senior Vice President
Nuclear, Fossil, and Hydro Operations
Consumers Energy Company
1945 Parnall Rd.
Jackson, MI 49201

Arunas T. Udryns, Esquire
Consumers Energy Company
1 Energy Plaza
Jackson, MI 49201

Regional Administrator, Region III
U.S. Nuclear Regulatory Commission
Suite 210
2443 Warrenville Road
Lisle, IL 60532-4351

Supervisor
Covert Township
P. O. Box 35
Covert, MI 49043

Office of the Governor
P. O. Box 30013
Lansing, MI 48909

U.S. Nuclear Regulatory Commission
Resident Inspector's Office
Palisades Plant
27782 Blue Star Memorial Highway
Covert, MI 49043

Michigan Department of Environmental Quality
Waste and Hazardous Materials Division
Hazardous Waste and Radiological
Protection Section
Nuclear Facilities Unit
Constitution Hall, Lower-Level North
525 West Allegan Street
P.O. Box 30241
Lansing, MI 48909-7741

Michigan Department of Attorney General
Special Litigation Division
525 West Ottawa St.
Sixth Floor, G. Mennen Williams Building
Lansing, MI 48913

Michael B. Sellman
President and Chief Executive Officer
Nuclear Management Company, LLC
700 First Street
Hudson, MI 54016

Jonathan Rogoff, Esquire
Vice President, Counsel & Secretary
Nuclear Management Company, LLC
700 First Street
Hudson, WI 54016

Douglas E. Cooper
Senior Vice President and
Chief Nuclear Officer
Nuclear Management Company, LLC
700 First Street
Hudson, WI 54016

Stephen T. Wawro, Director
of Nuclear Assets
Consumers Energy Company
Palisades Nuclear Plant
27780 Blue Star Memorial Highway
Covert, MI 49043

Laurie A. Lahti, Manager
Regulatory Affairs
Nuclear Management Company, LLC
Palisades Nuclear Plant
27780 Blue Star Memorial Highway
Covert, MI 49043