

November 9, 2009

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
Before the Atomic Safety and Licensing Board**

In the Matter of:) Docket No. 52-033
The Detroit Edison Company)
(Fermi Nuclear Power Plant,)
Unit 3))

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Intervening Petitioners' Initial Disclosures

Pursuant to 10 C.F.R. § 2.336, the Joint Motion on Mandatory Disclosures dated August 19, 2009, and the Licensing Board's Order, dated September 11, 2009, the intervening Petitioners in this case - Beyond Nuclear, Citizens for Alternatives to Chemical Contamination, Citizens Environmental Alliance of Southwestern Ontario, Don't Waste Michigan, Sierra Club, Keith Gunter, Edward McArdle, Henry Newman, Derek Coronado, Sandra Bihn, Harold L. Stokes, Michael J. Keegan, Richard Coronado, George Steinman, Marilyn R. Timmer, Leonard Mandeville, Frank Mantei, Marcee Meyers, and Shirley Steinman ("Petitioners") - make the following initial disclosures with respect to the admitted contentions:

1. Testifying Witnesses

Petitioners have not yet identified the persons whom they propose to have testify as witnesses with respect to the admitted contentions. As required by 10 C.F.R. § 2.336(b), Petitioners will supplement this disclosure once testifying witnesses are identified.

2. Documents and Data Collections

A description by category of all relevant, non-privileged documents and data compilations in the possession, custody, or control of Petitioners that are relevant to the admitted contentions and subject to disclosure under the parties' disclosure agreement are provided as Exhibit A hereto. A copy of any document is available upon request. No claims of proprietary items are being asserted by Petitioners.

3. Tangible Things

Other than documents provided or listed, no relevant tangible things have been identified.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Intervening Petitioners' Initial Disclosures" and the "Certification of Initial Disclosures" in this matter have been served on the following persons via Electronic Information Exchange this 9th day of November, 2009:

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CERTIFICATION OF INITIAL DISCLOSURES

I , Terry J. Lodge, do hereby aver as follows:

1) I am employed as trial counsel for the intervening Petitioners in this proceeding and have been responsible for managing the searches, collection, and compilation of documents, data compilations, and tangible things to comply with the mandatory disclosure requirements of 10 C.F.R. § 2.336.

2) A search was conducted of documents, data compilations, and tangible things under the custody and control of the Petitioners for the types of information specified in 10 C.F.R. § 2.336(a). The search was based on information and documents reasonably available to the Petitioners. The searches encompassed both electronic and paper documents.

3) I hereby certify that to the best of my knowledge, information, and belief all relevant materials required to be disclosed pursuant to 10 C.F.R. § 2.336(a) in the captioned proceeding have been disclosed, and that the disclosures are accurate and complete as of November 2, 2009.

4) I hereby certify under penalty of perjury that the foregoing is true and complete to the best of my knowledge, information, and belief.

Executed in accord with 10 C.F.R. § 2.304(d).

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Intervening Petitioners' Fermi 3 COLA
Mandatory Initial Disclosures

Resnikoff, Marvin et al., Living Without Landfills: Confronting the "Low-Level" Radioactive Waste Crisis, A Special Report by the Radioactive Waste Campaign, Radioactive Waste Campaign, Inc. NY, NY, September 1, 1987, isbn 0-9619078-0-0.

Makhijani, Arjun and Scott Saleska, High-Level Dollars, Low-Level Sense: A Critique of Present Policy for the Management of Long-Lived Radioactive Wastes and Discussion of an Alternative Approach, A Report of the Institute of Energy and Environmental Research, Apex Press, NY, NY 1992, isbn 0-945257-42-2; <http://www.ieer.org/pubs/highlvl1.html>

Lipschutz, Ronnie D., Radioactive Waste: Politics, Technology and Risk, Union of Concerned Scientists, Ballinger Publishing Company, Cambridge, MA, a subsidiary of Harper and Row, Publishers, Inc., 1980. isbn 0-88410-621-7

NRC Commissioners' Briefing on Low-Level Radioactive Waste, Parts 1 and 2, 4/17/09 U.S. Nuclear Regulatory Commission, www.nrc.gov at <http://www.nrc.gov/reading-rm/doc-collections/commission/slides/2009/20090417/index.html>; <http://video.nrc.gov/Player.aspx?Event=408> and <http://video.nrc.gov/Player.aspx?Event=409>

Department of Energy National Low Level Waste Management Program Documents DOE/LLW, including:

> State by State Assessment[s] of LLRW Received at Commercial Disposal Facilities, Annual Reports 1985 -1999, DOE/LLW-59T, 66T, 69T, 87, 107, 132, 152, 181, 205, 224, 237, 243, 247, 252.

Conference of Radiation Control Program Directors CRCPD reports on "Low-Level" Radioactive Waste, including:

> DOE/LLW-241, Environmental Monitoring Report for Commercial Low-Level Radioactive Waste Disposal Sites (1960's through 1980's), Conference of Radiation Control Program Directors, Inc. (E5 Committee on Radioactive Waste Management and Board of Directors), published by the DOE National Low-Level Waste Management Program for the Department of Energy Contract DE AC07-94ID13223 and NRC Grant No. NRC-04-88-149, November 1996.

DOE MIMS Database of radioactive waste received at commercial low-level radioactive waste disposal facilities.
<http://mims.apps.em.doe.gov/>

DOE, Integrated Database Report 1996. U.S. Spent Nuclear Fuel and Radioactive Waste Inventories, Projections, and Characteristics. Revision 13. DOE/RW-0006. <http://www.em.doe.gov/idb97/pdfcont.html>

DOE WIMS Database of radioactive waste inventories.
<http://wims.arc.fiu.edu/wims/>

DOE Central Internet Database.
<http://cid.em.doe.gov/Pages/CIDHome.aspx>

DOE, NYSDERDA, Revised DEIS for Decommissioning and/or Long Term Stewardship at the West Valley Demonstration Project and WNY Nuclear Service Center DOE/EIS-0226-D, November 2008.

DOE DEIS for Completion of the West Valley Demonstration Project and Closure or Long-Term Management of Facilities at the WNY Nuclear Service Center, January 1996 DOE/EIS-0226D

Napoleon, A., et al, "The Real Costs of Cleaning Up Nuclear Waste: A Full Cost Accounting of Cleanup Options for the West Valley Nuclear Waste Site," November 2008.

Ryan, M.T., M.P. Lee and H.J. Larson, Advisory Committee on Nuclear Waste, History and Framework of Commercial Low-Level Radioactive Waste Management in the United States NUREG 1853, ACNW White Paper, January 2007, U.S. Nuclear Regulatory Commission Washington, DC 20555-0001

Ward Valley Studies by NAS, State of California, USGS, Committee to Bridge the Gap

National Academy of Sciences Studies on "Low-Level" Nuclear Waste Congressional Research Service "low-level" radioactive waste reports Low Level Radioactive Waste Forum publically available documents www.llwforum.org

GAO "low-level" radioactive waste reports, including:
> GAO-08-813T Low-Level Radioactive Waste: Status of Disposal Availability in the United States and Other Countries, May 20, 2008

GAO-07-221 Low-Level Radioactive Waste Management: Approaches Used by Foreign Countries May Provide Useful Lessons for Managing U.S. Radioactive Waste, March 21, 2007

GAO-06-427 Environmental Liabilities: Long-Term Fiscal Planning Hindered by Control Weaknesses and Uncertainties in the Federal Government's Estimates, March 31, 2006

GAO-06-94 Department of Energy: Improved Guidance, Oversight, and Planning Are Needed to Better Identify Cost-Saving Alternatives for Managing Low-Level Radioactive Waste, October 31, 2005

GAO-04-1097T Low-Level Radioactive Waste: Future Waste Volumes and Disposal Options Are Uncertain, September 30, 2004

GAO-04-604 Low-Level Radioactive Waste: Disposal Availability Adequate in the Short Term, but Oversight Needed to Identify Any Future Shortfalls, June 10, 2004

GAO-04-32 Nuclear Regulation: NRC Needs More Effective Analysis to

Ensure Accumulation of Funds to Decommission Nuclear Power Plants,
October 30, 2003

GAO-01-441 Nuclear Cleanup: DOE Should Reevaluate Waste Disposal
Options Before Building New Facilities, May 25, 2001

"Low Level" Radioactive Waste Compact Commission websites and updates,
publically available information on each compact (Southeast
[<http://secompact.org/>], Northwest
[<http://www.ecy.wa.gov/nwic/index.asp>], Rocky Mountain
[<http://www.rmllwb.us/>], Appalachian, Midwest
[<http://www.midwestcompact.org/>], Central [<http://www.cillrwcc.org/>],
Central Midwest, Texas[<http://www.tllrwdcc.org/>], Southwestern
[<http://www.swllrwcc.org/>], Atlantic
[<http://www.atlanticcompact.org/>])

Tennessee Dept of Environment and Conservation licenses and amendments
to licenses; <http://www.state.tn.us/environment/rad/>

BREDL comments on IMPACT proposed incinerator and incinerator
documents, www.bredl.org

Review of Fuel Failures in Water Cooled Reactors, International Atomic
Energy Commission, IAEA technical report 388, 1998.

NUREG/CR-4101, "Assay of Long-Lived Radionuclides in Low-Level Waste
from Power Reactors," April 1985.

NUREG/CR-4370, "Update of Part 61, Impacts Analysis Methodology,"
1986.

NUREG-0945, Final Environmental Impact Statement re. 10CFR Part 61,
"Licensing Requirements for Land Disposal of Radioactive Waste,"
November 1982.

Adams; J. P., M. L. Carboneau, National Low-Level Waste Management
Program Radionuclide Report Series, Volume 17: Plutonium-239. March
1.DOE/LLW-251.
[http://www.osti.gov/gpo/servlets/purl/14779-bpnxma/webviewable/14779.p
df](http://www.osti.gov/gpo/servlets/purl/14779-bpnxma/webviewable/14779.pdf)

Documents from FOIA request to Michigan Department of Natural
Resources and Michigan Department of Environmental Quality Related to
Contentions #5,6,8, including:

- > MDEQ Part 303 Wetland Jurisdictional Derermination Form
- > MDEQ Wetland Identification Program Field Notes Summary -
Property Location and Size
- > MDEQ Part 303 Wetland Data Form - Vegetation and Aquatic Life
- > MDEQ Notes on site visit - Inventory of Flora & Fauna
- > MDEQ Wetland Identification Application
- ? MDEQ Land and Water Management Division - Wetlands
Identification Program (WIP)

- > MDEQ Misc. Maps
- > MDEQ February 3, 2009 letter to Rules and Directives Branch NRC from Elizabeth M. Browne, Chief Land and Water Management Division
- > Letter from Kenneth A. Westlake (Supervisor NEPA Office of Compliance) to NRC Directives Branch NRC dated February 9, 2009
- > MDNR letter from Lori Sargent Comments on COL EIS dated February 9, 2009
- > Copy of Environmental Report Part 3 COLA
- > MDEQ Wetland Identification Report - File Number 08-58-0003-WA dated November 7, 2008 authored by Mary Vanderlann
- > MDNR letter November 28, 2007 authored by Lori G. Sargent pertaining to Endangered Species

"Nuclear plant plan generates questions" by Charles Slat, Monroe Evening News, August 21 2008

Fermi 3 Combined License Application, Part 3: Environmental Report
Revision 0, September 2008 (Contentions #3,5,6,8)

Fermi 3 Combined License Application, Part 1: General Administrative Information, Revision 0, September 2008 (Contentions #3,5,6,8)

Fermi 3 Combined License Application, Part 3: Environmental Report
4-1 Revision 0, September 2008 (Contentions #3,5,6,8)

Fermi 3 Combined License Application, Part 3: Environmental Report
Chapter 4 Environmental Impacts of Construction (Contentions #5,6,8)

Fermi 3 Combined License Application, Part 3: Environmental Report
Chapter 5 Environmental Impacts of Operation (Contentions #3,5,6)

Fermi 3 Combined License Application Part 2: Final Safety Analysis
Report Chapter 11 Radioactive Waste Management (Contentions #3)

Fermi 3 Combined License Application Part 2: Final Safety Analysis
Chapter 12 Radiation Protection (Contention #3)

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Report 2.4 Hydrology (Contentions #3,5,6,8)

Fermi 3 Combined License Application Part 2: Final Safety Analysis
Report 2-320 Revision 0 September 2008 (Contention #3,5,6)

Fermi 3 Combined License Application Part 3: Environmental Report 2.4
Ecology September 2008 (Contention #5,6)

Fermi 3 Combined License Application Part 3: Environmental Report
Chapter 3 Plant Description September 2008 (Contention #3,5,6,8)

Jack M. Davis, DTE Energy 10 CFR 52.79, February 16, 2009 NRC3-09-0001

Jack M. Davis, DTE Energy 10 CRR 52.79, February 16, 2009 NRC3-09-0002

Mr. Jack M. Davis, DTE Energy, Subject: Acceptance for Docketing of the Detroit Edison Company Application for a Combined License for Fermi 3 and Associated Federal Register Notice, January 14, 2009

Mr. Peter W Smith, DTE Energy, Subject: Request for Additional Information Letter No. 2 Related to the SRP Sections 02.04.13 for the Fermi 2 Combined License Application. (Contention #5)

PMFermiCOLPEM Resource, From Jerry Hale, January 15, 2009 to Peter W Smith, Subject: Fermi 3 RAI Letters #1 & 2 with Attachments (Contention #5)

Fermi 3 Combined License Application Part 2: Final Safety Analysis Report 2.5 Geology, Seismology, and Geotechnical Engineering (Contention #5)

Fermi 3 Combined License Application Part 2: Final Safety Analysis Report Figure 2.5.1-228 Engineering Aspects of Karst Map for the Fermi Site Region (Contention #5)

Fermi 3 Combined License Application Part 2: Final Safety Analysis Report EF3 COL 2.0-29-A2.5.4 Stability of Subsurface Materials and Foundations 2-1150 Revision 0, September 2008 (Contention #5)

Fermi 3 Combined License Application Part 2: Final Safety Analysis Report EF3 2.0-30-A 2.5.5 Stability of Slopes, Revision 0, September 2008 (Contention #5)

Fermi 3 Combined License Application Part 2: Final Safety Analysis Report Chapter 11, Radioactive Waste Management, Revision 0, September 2008

Fermi 3 Combined License Application Part 2: Final Safety Analysis Report 12-1 Revision 0, Chapter 12 Radiation Protection, September 2008 (Contention #3)

Fermi 3 Combined License Application Part 2: Final Safety Analysis Report Appendix 2.4BB Monthly Water Level Maps, September 2008 (Contention #5,6,8)

Fermi 3 Combined License Application Part 2: Final Safety Analysis Report 2.1 Geography and Demography, September 2008 (Contention #5)

Fermi 3 Combined License Application Part 1: General and Administrative Information, Revision 0 September 2008 (Contention #3,5,6,8)

Jerry Hale to Peter W Smith, January 15, 2009, Subject: Fermi 3 RAI

Letters #1&2 (Contention #5)

Fermi 3 Combined License Application Part 3: Environmental Report 2.3 Water, Revision 0, 2008 (Contention #5,6,8)

Fermi 3 Combined License Application Part 7: Departures Report, Revision 0, 2008 (Contention #3)

Memorandum to Ryan Whited from Stephen Lemont, March 3, 2009

Mr. Peter W. Smith DTE Energy, March 9, 2009, Subject: Request for Additional Information Letter NO. 4 related to the SRP Sections 11.02, 11.04, 11.05 and 12.02 for the Fermi 3 Combined License Application (Contention #3)

Mr. Peter W. Smith DTE Energy, March 25, 2009, Subject: Request for Additional Information Letter No. 5 related to the SRP Sections 09.05.01, 02.01.02, 14.02, 17.04, and 12.03-12.04 for the Fermi 3 Combined License Application (Contention #3)

PMFermiCOLEm Resource from Stephen Lemont to Randall D Westmoreland, February 13, 2009. Subject: Re Request for DTE Feedback on Remaining Fermi 3 Information Needs (Contention #5)

Fermi 3 Combined License Application Part 3: Environmental Report, 5-1 Revision 0 September 2008 (Contention #5,6,8)

Fermi 3 Combined License Application Part 3: Environmental Report, Chapter 5 Environmental Impacts of Operation (Contention #6)

Prof. Shakhashiri www.scifun.org General Chemistry, Phosphoric Acid, H₃PO₄, Revised 6 Feb. 2008 (Contention #6)

Fermi3CEm Resource, from Anna Miller EPA, February 9, 2009, Subject: EPA Comments on Fermi EIS scope (Contention #5 & #6)

Michigan DEQ, Stephen Chester, to NRC, February 3, 2009, Subject: Response to Request for Participation in the Scoping Process for the Environmental Review (Contention #5, #8)

Fermi3CEm Resource, Lori Sargent, February 9, 2009, Subject: Comments to Environmental Report (Contention #8)

Michigan State Energy Policy and Public Utilities Commission, March 26, 2009. The U.S. Civilian Radioactive Waste Management Program and Nuclear Waste Fund - Implications for Michigan (Contention #3)

April 8, 2009 NRC3-09-0007 NRC, Subject: Detroit Edison Company Response to NRC RAI Information Letter No. 4 (Contention #8)

Michigan Natural Features Inventory. 2007 Rare Species Explorer (Web Application). <http://web4.msue.msu.edu/mnfi/explorer>. Includes photos

of Eastern Fox Snake on Land, Fox Snake near Water (Contention #8)

Notes on Comments Made at the January 14, 2009 EIS Scoping Hearing in Monroe MI regarding Proposed Fermi 3 (Contentions #3,5,6,8)

Press Release February 11,2009, "Environmental Community Skeptical of Proposed Fermi 3 Nuclear Plant" (Contentions #3,5,6,8)

Growth Dynamics and Management of the Cyanobacterium, *Lyngbya Wollei*, in NC and FL Jennifer J. Joyner¹, Hans W. Paerl¹, William D. Frazier

Institute of Marine Sciences, University of North Carolina at Chapel Hill (Contention #6)

GE-Hitachi Nuclear Energy 26A6642BH, Revision 4 September 2007 (Contention #3)

GE-Hitachi Nuclear Energy 26A6642BJ, Revision 4 September 2007 (Contention #3)

Fermi 3 COL EIS Comments by Sandy Bihn, February 9, 2009 (Contention #6)

Letter from Kay Drey's to NRC's Director, Division of Licensing, July 16, 1980 (attached to Petitioners' Reply of April 10, 2009) (Contention #5)

Request for Additional Information (RAI) concerning the COLA FSAR section 2.4.13 (Contention #5)

Provision in 10 C.F.R. § 100.20 requiring that certain factors related to hydrological radionuclide transport "be obtained from on-site measurements." (Contention #5)

Section 5.5 of the Applicant's COLA (Contention #5)

Section 2.4.13, the Applicant COLA (Contention #5)

Radionuclide transport in groundwater presented in FSAR 2.4.13 (Rev 1) (Contention #5)

10 C.F.R. § 100.20(c)(3), hydrological radionuclide transport (Contention #5)

COLA radionuclide transport in groundwater as documented in FSAR 2.4.13 (Rev 1) (Contention #5)

10 C.F.R. Part 20 Appendix B, Table 2. (Contention #5)

10 C.F.R. § 2.309(f)(1)(vi) (Contention #5)