

January 4, 2010

Ronald M. Spritzer, Chair
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Michael F. Kennedy
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Randall J. Charbeneau
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

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

Dear Administrative Judges:

Pursuant to the Board's Order dated September 11, 2009, the Staff herein provides to the Board and the parties as an enclosure to this letter an index identifying additions to the Hearing File, as required to be disclosed by the Staff in accordance with 10 C.F.R. § 2.336(d). The index contains the ADAMS accession number, date, and title of each item so as to make the item readily retrievable from the agency's website, www.nrc.gov, using the ADAMS "Find" function. Additionally, the Staff will add the indexed documents to the folder in the agency's Electronic Hearing Docket ("EHD") associated with this proceeding, entitled "Fermi Hearing File." Also attached, as required by 10 C.F.R. § 2.336(c), is the Affidavit of Mark E. Tonacci.

In accordance with the Licensing Board's September 11, 2009, Order, relieving all parties from the obligation of producing privilege logs, as required by 10 C.F.R. §§ 2.336(a)(3) and 2.336(b)(5), the Staff herein produces a log of the documents withheld as containing proprietary information. As directed by the Licensing Board, the Staff shall preserve and maintain all privileged and/or otherwise protected documents during the pendency of this proceeding.

Respectfully submitted,

/signed (electronically) by/
Marcia Carpentier
Counsel for the NRC Staff

Enclosures: Attachment 1: Hearing File Index
Attachment 2: Privilege Log
Affidavit of Mark E. Tonacci

Attachment 1

**Fermi COL Hearing File and Mandatory Disclosures
Hearing File Index
Update 2 – January 4, 2010**

	Accession Number	Document Date	Title
2-1	ML0933350028	09/30/2009	Fermi 3, Detroit Edison Company Response to NRC Requests for Additional Information Related to the Environmental Review.
2-2	ML093490533	10/28/2009	2009/10/28 Fermi COL - DRAFT RAIs Chapter 2
2-3	ML093090165	10/30/2009	Fermi 3, Detroit Edison Company Response to NRC Requests for Additional Information Related to the Environmental Review.
2-4	ML0933380411	10/31/2009	Water Quality Survey, Detroit Company, Fermi 3 Project, Final Report, Cover through Figure 2.
2-5	ML0933380412	10/31/2009	Water Quality Survey, Detroit Company, Fermi 3 Project, Final Report, Attachment A through End.
2-6	ML093450277	11/02/2009	2009/11/02 Fermi COL - DRAFT RAIs Chapter 2
2-7	ML093130117	11/04/2009	Fermi 3 - Response to NRC Request for Additional Information Letter No. 13, Related to SRP Sections 2.3.4, 2.3.5, 9.5.1, 13.1.1, 13.1.2, 13.1.2-3 and 13.2.1.
2-8	ML092790452	11/06/2009	Letter to Peter Smith (RAI Cover Letter) - Requests for Additional Information Letter No. 2 Related to the Environmental Review for the Combined License Application for Fermi Nuclear Power Plant, Unit 3.
2-9	ML093060299	11/06/2009	Supplementary Requests for Additional Information (RAIs) for the Fermi 3 Combined License Application Environmental Review.
2-10	ML093160318	11/09/2009	Detroit Edison, Fermi, Unit 3 COL, Reply to a Notice of Violation.
2-11	ML093160322	11/09/2009	Fermi, Unit 3 Combined License Application (COLA)., Supplemental Responses to NRC Request for Additional Information Letters No. 7 & 12.
2-12	ML0933380377	11/10/2009	Traffic Study, Fermi Nuclear Plant, Unit 3 Expansion, Cover through Page 6.
2-13	ML0933380378	11/10/2009	Traffic Study Fermi Nuclear Plant, Unit 3 Expansion, Pages 7 through 22.
2-14	ML0933380381	11/10/2009	Traffic Study Fermi Nuclear Plant, Unit 3 Expansion, Pages 23 through 45.

	Accession Number	Document Date	Title
2-15	ML093380382	11/10/2009	Traffic Study Fermi Nuclear Plant, Unit 3 Expansion, Pages 46 through 64.
2-16	ML093380385	11/10/2009	Traffic Study Fermi Nuclear Plant, Unit 3 Expansion, Pages 65 through 77.
2-17	ML093380386	11/10/2009	Traffic Study Fermi Nuclear Plant, Unit 3 Expansion, Pages 78 through 79.
2-18	ML093380389	11/10/2009	Traffic Study Fermi Nuclear Plant, Unit 3 Expansion, Appendix A through Appendix H.
2-19	ML093000568	11/13/2009	Environmental Project Manager Change for the Combined License Environmental Review for Fermi Nuclear Power Plant, Unit 3.
2-20	ML093170259	11/13/2009	Request For Additional Information Letter No. 016 Related To SRP Sections 2.5.1, 2.5.2, 2.5.3, 2.5.4, and 2.5.5 For The Fermi 3 COL Application.
2-21	ML093290030	11/16/2009	Detroit Edison Company Submittal of Combined License Application (COLA) Changes Associated with Revised Fermi 3 Site Plan.
2-22	ML093450276	11/16/2009	2009/11/16 Fermi COL - RAI Letter #16
2-23	ML093450274	11/17/2009	2009/11/17 Fermi COL - Re: Status of 10-30-09 RAI responses as of 11-16-09
2-24	ML093450275	11/17/2009	2009/11/17 Fermi COL - Status of 10-30-09 RAI responses as of 11-16-09
2-25	ML093450253	11/18/2009	2009/11/18 Fermi COL - RE: DRAFT RAIs Chapter 2
2-26	ML093230516	11/20/2009	Acknowledgment of Disputed Violation form Detroit Edison to NRC Inspection Report 0500033-09-201.
2-27	ML093280179	11/20/2009	Fermi Unit 3 Response to NRC Request for Additional Information Letters No. 14 & 15.
2-28	ML093380331	11/23/2009	Fermi 3 - Detroit Edison Company Response to NRC Requests for Additional Information Related to the Environmental Review.
2-29	ML093450270	11/23/2009	2009/11/23 Fermi COL - Fermi RAI responses
2-30	ML093450273	11/23/2009	2009/11/23 Fermi COL - Fermi RAI responses
2-31	ML093280014	11/24/2009	Request for Additional Information Letter No. 017 Related To SRP Sections 2.5.1, 2.5.2 and 2.5.4 for the Fermi 3 COL Application.
2-32	ML093450268	11/24/2009	2009/11/24 Fermi COL - Fermi RAI letter #17
2-33	ML093450269	11/24/2009	2009/11/24 Fermi COL - RAI 2.5.4-6

	Accession Number	Document Date	Title
2-34	ML093380373	11/30/2009	Aquatic Ecology Characterization Report Detroit Edison Company Fermi 3 Project, Final Report.
2-35	ML093380394	11/30/2009	Fermi 3 Terrestrial Vegetation Survey, Final Report, Appendix A through Appendix D.
2-36	ML093380397	11/30/2009	Fermi 3 Terrestrial Vegetation Survey, Final Report. Cover through Page 48.
2-37	ML093380401	11/30/2009	Fermi 3 Terrestrial Vegetation Survey, Final Report, Appendix E-1 through E-4.
2-38	ML093380402	11/30/2009	Fermi 3 Terrestrial Vegetation Survey, Final Report, Appendix E-5 through E-7.
2-39	ML093380404	11/30/2009	Fermi 3 Terrestrial Vegetation Survey, Final Report, Appendix E-11 through E-13.
2-40	ML093380407	11/30/2009	Fermi 3 Terrestrial Vegetation Survey, Final Report, Appendix E-8 through E-10.
2-41	ML093380408	11/30/2009	Fermi 3 Terrestrial Vegetation Survey, Final Report, Appendix F through End.
2-42	ML093380415	11/30/2009	Fermi 3 Terrestrial Wildfire Survey, Final Report, Page 81 through Page 84.
2-43	ML093380416	11/30/2009	Fermi 3 Terrestrial Wildfire Survey, Final Report, Page 85 through Page 92.
2-44	ML093380418	11/30/2009	Fermi 3 Terrestrial Wildfire Survey, Final Report, Cover through Page 76.
2-45	ML093380419	11/30/2009	Fermi 3 Terrestrial Wildfire Survey, Final Report, Page 77 through Page 80.
2-46	ML093380420	11/30/2009	Fermi 3 Terrestrial Wildfire Survey, Final Report, Page 93 through Page 96.
2-47	ML093380422	11/30/2009	Fermi 3 Terrestrial Wildfire Survey, Final Report, Page 105 through Page 108.
2-48	ML093380425	11/30/2009	Fermi 3 Terrestrial Wildfire Survey, Final Report, Page 113 through End.
2-49	ML093380427	11/30/2009	Fermi 3 Terrestrial Wildfire Survey, Final Report, Page 97 through Page 100.
2-50	ML093380430	11/30/2009	Fermi 3 Terrestrial Wildfire Survey, Final Report, Page 101 through Page 104.
2-51	ML093380432	11/30/2009	Fermi 3 Terrestrial Wildfire Survey, Final Report, Page 109 through Page 112.
2-52	ML093450267	11/30/2009	2009/11/30 Fermi COL - DRAFT RAIs Chapter 2
2-53	ML093350182	12/01/2009	Request for Additional Information Letter No. 18 Related to SRP Sections 8.2, 9.2.1, 10.4.5, 11.4, 12.2, 12.3-12.4, and 14.2 for the Fermi 3 COL Application.
2-54	ML093450266	12/04/2009	2009/12/04 Fermi COL - RE: DRAFT RAIs Chapter 3
2-55	ML093440828	12/07/2009	Fermi 3 - Response to NRC Request for Additional Information Letter No. 14.
2-56	ML093450265	12/07/2009	2009/12/07 Fermi COL - draft RAIs call

	Accession Number	Document Date	Title
2-57	ML093421151	12/08/2009	Request For Additional Information Letter No. 19 Related to SRP Sections 2.4.2, 2.4.3, 2.4.5, 2.4.6 and 2.4.13 For The Fermi 3 COL Application.
2-58	ML093490515	12/09/2009	2009/12/09 Fermi COL - Fermi RAI letter #19
2-59	ML093450261	12/10/2009	2009/12/10 Fermi COL - Fermi 3--Conference Call Notes from December 7, 2009
2-60	ML093450262	12/10/2009	2009/12/10 Fermi COL - Fermi 3 Conference Calls--November 23 and November 30, 2009
2-61	ML093450264	12/10/2009	2009/12/10 Fermi COL - Conformity--Conference Call--November 9, 2009
2-62	ML093480298	12/14/2009	Request for Additional Information Letter No. 20 Related to SRP Section 3.5.1.5 and 3.5.1.6 for the Fermi 3 COL Application.
2-63	ML093490348	12/14/2009	2009/12/14 Fermi COL - RE: DRAFT RAIs Section 2.3
2-64	ML093490353	12/14/2009	2009/12/14 Fermi COL - RE: DRAFT RAIs Section 2.3
2-65	ML093490365	12/14/2009	2009/12/14 Fermi COL - Re: DRAFT RAIs Section 2.3
2-66	ML093490367	12/14/2009	2009/12/14 Fermi COL - DRAFT RAIs Section 2.3
2-67	ML093490347	12/15/2009	2009/12/15 Fermi COL - Fermi RAI letter #20

Attachment 2**Fermi COL Hearing File and Mandatory Disclosures
Privilege Log – Proprietary Information
Update 2 – January 4, 2010**

Certain documents otherwise subject to inclusion in the hearing file and mandatory disclosures for this proceeding have been determined by the NRC Staff to contain trade secrets, privileged or confidential commercial or financial information subject to withholding from public disclosure pursuant to 10 C.F.R. § 2.390. Pursuant to 10 C.F.R. § 2.336(b)(5), the Staff is providing this log to identify the following documents, designated “proprietary,” and subject to protected status under Section 2.390.

	Accession Number	Author Name/ Affiliation:	Title/Description	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Pages
2-1	ML093350572	Smith P W, Detroit Edison	Detroit Edison Company Submittal of Fermi 3 Cyber Security Plan, Revision 0.	11/24/2009	Letter	NRC/NRO	Security Related Information withheld under 10 C.F.R. § 2.390	16
2-2	ML093380038	Detroit Edison	Fermi 3 Cyber Security Plan, Revision 0.	11/24/2009	Security Plan	NRC/NRO	Security Related Information withheld under 10 C.F.R. § 2.390	21

January 4, 2010

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of)
)
DETROIT EDISON CO.) Docket No. 52-033-COL
)
(Fermi Nuclear Power Plant, Unit 3))

AFFIDAVIT OF MARK E. TONACCI CONCERNING
MANDATORY DISCLOSURE REQUIREMENTS OF 10 C.F.R. § 2.336(d)

I, Mark E. Tonacci, do hereby state as follows:

1. I am employed as a Branch Chief in the ESBWR/ABWR Projects Branch 2 of the Division of New Reactor Licensing in the Nuclear Regulatory Commission's ("NRC") Office of New Reactors. I formerly served as project manager for the NRC's review of the Combined License application submitted by Detroit Edison Co., at issue in this proceeding, and I am signing in the absence of Thomas A. KeVERN.

2. I hereby certify that all relevant materials required to be disclosed pursuant to 10 C.F.R. § 2.336(d) in the captioned proceeding have been disclosed and that the disclosures are accurate and complete as of December 15th, 2009.

3. 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 CFR § 2.304(d)

Mark E. Tonacci
Branch Chief, ESBWR/ABWR Projects Branch 2
Division of New Reactor Licensing
U.S. Nuclear Regulatory Commission
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(301) 415-4045
Mark.Tonacci@nrc.gov

Executed in Rockville, MD
this 4th day of January, 2010

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
)
DETROIT EDISON CO.) Docket No. 52-033
)
)
(Fermi Nuclear Power Plant, Unit 3))

CERTIFICATE OF SERVICE

I hereby certify that copies of the NRC Staff letter dated January 4, 2010, providing notice of the availability of the hearing file created pursuant to 10 C.F.R. § 2.1203 and the initial disclosures made pursuant to 10 C.F.R. § 2.336(d), with attachments, together with the affidavit of Mark E. Tonacci, have been served upon the following persons by Electronic Information Exchange and electronic mail this 4th day of January, 2010:

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/Signed (electronically) by/

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Dated at Rockville, Maryland
this 4th day of December, 2010