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December 3, 2012

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

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

Dear Administrative Judges:

On behalf of Intervenors, I'm writing to the Board and parties in response to the Board's November 21, 2012 order scheduling a conference call on December 4, 2012, and directing the parties to submit their views on certain questions beforehand.

The parties conferred on November 29, but did not achieve agreement on scheduling. Thus Intervenors respond separately.

As a preliminary matter, Intervenors object to treatment of the anticipated early-2013 Environmental Impact Statement as "final," because it will not contain the reconsidered treatment of what was formerly called the "waste confidence decision" as ordered by the U.S. Circuit Court for the District of Columbia. Because the Fermi 3 FEIS will of necessity contain a different consideration than presently exists of high-level radioactive waste disposal, and at the very earliest that new analysis will not be completed before late 2014, Intervenors believe the ASLB cannot proceed to adjudication on any NEPA-related matters.

If the Board does not find this objection well-taken, Intervenors conditionally request that Contention 8, a NEPA contention related to the Eastern Fox Snake, proceed to adjudication ninety (90) days later than the 2009 timetable keyed to publication of the 2013 version of the FEIS. This request is based upon the anticipated 2013 trial calendar of Intervenors' counsel.

Intervenors state that they are preparing a proposed amendment to the quality assurance contention based upon a delay for completion of a soil structure analysis by approximately March 2014. The QA contention is FSER-related, and Intervenors' expert has informally expressed to Intervenors that quality assurance concerns permeate all aspects of advance planning for Fermi 3, including this expected analysis. The FSER will not be considered complete until the soil structure aspects of plant construction are fully resolved, nor necessarily the possible range of issues of quality assurance. Accordingly, Intervenors request that the QA contention adjudication be scheduled for a period at least 180 days beyond the final publication of the FSER.

Finally, until the waste confidence issues are published in draft or final EIS form, Intervenors cannot state whether they will be initiating any modifications to their pending contention.

The parties did agree in phone conference last week their common understanding that the adjudications would take place in the vicinity of Monroe, Michigan.

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**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD**

In the Matter of: )  
 ) Docket No. 52-033-COL  
THE DETROIT EDISON COMPANY )  
(Fermi Nuclear Power Plant, Unit 3) ) December 3, 2012  
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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing “Intervenors’ letter to the Atomic Safety and Licensing Board” was served on the following persons via Electronic Information Exchange this 3<sup>rd</sup> of December, 2012:

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