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April 30, 1993

By Hand Delivery

U.S. Nuclear Regulatory Commission
Att'n: Mr. Samuel J. Chilk, Secretary
Washington, D.C. 20555

Re: Director's Decision 93-05
Cleveland Electric Illuminating Company
(Perry Nuclear Power Plant)
Docket No. 50-440 (2.206)

Dear Commissioners:

On March 28, 1993, the Director of Nuclear Reactor Regulation issued a decision denying a petition of the Lake County Board of Commissioners pursuant to 10 C.F.R. § 2.206. Lake County's petition had sought suspension of and hearings on The Cleveland Electric Illuminating Company's (CEI) construction of an on-site low level waste storage facility at the Perry Nuclear Power Plant. The Director's Decision followed an NRC Staff review of CEI's 10 C.F.R. § 50.59 evaluation for the facility; two public meetings, one held by CEI in August 1992 and the other by the NRC in October 1992; and consideration of Lake County's petition and CEI's response. The decision addressed each of the issues raised by Lake County, properly applied NRC regulations and policy, and provided a well-reasoned explanation of the denial.

In a letter dated April 21, 1993, Lake County now requests that the Commission review and reverse the Director's Decision. This request should be denied because Lake County's letter provides no basis for review or reversal. Lake County refers to the recently promulgated regulations regarding storage of low level waste, but the Director's Decision addressed and is completely consistent with those proposed regulations. Lake County also suggests that the 10 CFR § 50.59 evaluation only considered the effect of the low level waste storage facility on existing safety-related equipment in the plant, but Lake County is incorrect. Reviewing CEI's 10 C.F.R. § 50.59 evaluation, the Director

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specifically found that facility design and controls will ensure that the radiological impact of normal operation and potential accidents will be kept within the guidelines specified in Generic Letter 81-38, and that these guidelines are bounded by the potential impacts due to plant operation previously evaluated by the Staff. DD-93-05 at 9. The Director therefore correctly concluded that the possibility for an accident or malfunction of a different type than any previously evaluated in the safety analysis has not been created. Id. at 9-10.

Lake County also asserts that it only seeks a public forum. As noted above, two public meetings have been held. These meetings provided ample opportunity for Lake County to present its views.

In sum, Lake County has not identified any issue not properly addressed by the Director, or any error in the reasoning or conclusions of the Director's decision. CEI further notes that the NRC's rules of practice allow no petition or other request for Commission review of a Director's Decision. 10 C.F.R. § 2.206(c). For all these reasons, Lake County's request should not be entertained.

Sincerely,



Jay E. Silberg, P.C.
David R. Lewis

Counsel for The Cleveland
Electric Illuminating Company

cc: S. LaTourette
Lake County Prosecuting Attorney
James R. Hall
NRC Senior Project Manager
Regional Administrator, NRC Region III
Resident Inspector's Officer, PNPP