

August 30, 2005

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Dear Mike,

Good to talk with you today regarding our concerns with the Palisades nuclear power plant and the neglect of Native American cultural resources located on the power plant site and along its transmission lines.

I've enclosed a one page backgrounder spelling out some of our concerns about the danger of operating the Palisades nuclear power plant -- not till the end of its current license in 2011 -- but for 20 additional years till 2031. This backgrounder also lists all the groups that have thus far joined in our growing coalition to fight against this dangerous proposal. I've also enclosed an Associated Press article that appeared in several Michigan newspapers (several t.v. and radio stations also covered the story), a Kalamazoo Gazette editorial supporting Palisades getting a license extension, and an op/ed we wrote rebutting that view. If I can send any additional background materials -- such as our environmental scoping comments to the U.S. Nuclear Regulatory Commission (NRC) that comprehensively spell out our concerns -- just let me know.

We first became concerned that this decision-making proceeding might be violating the rights of Native Americans when we realized that -- to the best of our knowledge, anyway -- although NRC wrote to your tribe and two others (the Nottawaseppi Huron Potawatomi in Fulton, and the Little Traverse Bay Band of Odawa Indians in Harbor Springs), it did not contact several other tribes, including the Pokagon Potawatomi, the Little River Band of Odawa Indians, the Grand River Band of Ottawa, the Saginaw Chippewa, and the Grand Traverse Band of Ottawa and Chippewa Indians. (I've enclosed a copy of that NRC letter to your tribe; its date, mid July, gave you very little time to consider intervening by the August 8th deadline or even submitting environmental scoping comments by the August 22nd deadline.). I will be writing to all these tribes, as well, to express our concerns. If I have missed any tribes that should be contacted, please let me know.

But our concerns regarding Native American rights were deepened upon reading the Consumers Energy/Nuclear Management Company, LLC's (NMC) "Environmental

Report” during the preparation of our environmental scoping comments due to the NRC on August 22nd. The “Environmental Report” gave very short shrift to “Historic and Archaeological Resources.” I’ve enclosed this very brief section, section 2.10 of the “Environmental Report,” here. Consumers/NMC seem to think Native American cultural resources at the Palisades nuclear power plant site and along associated transmission lines are a non-issue in their bid for a 20 year license extension. The potential for Native American burial sites, or other Native sites such as former villages or encampments, at or near Palisades is not mentioned anywhere in the “Environmental Report.”

But contradictions and loopholes in the documents offered as proof that “no significant historical or archaeological resources were known to occur in the study area” raised alarm bells in my mind.

I’ve enclosed “Attachment C. Cultural Resources Correspondence” from the “Environmental Report,” which includes just two letters, the first from Consumers/NMC to the Michigan State Historic Preservation Office, the second from the Department of the Interior to the Atomic Energy Commission.

Several questions occurred to me as I read the letter dated February 11, 2005 from Dan Malone at NMC and Stephen Wawro at Consumers to Ms. Martha MacFarlane-Faes at the Michigan State Historic Preservation Office (MSHPO). The first paragraph reveals that MSHPO has “concern pertaining to possible unreported archaeological properties on, or within the vicinity of, the Palisades site.” Yet, NMC and Consumers fail to include any documentation spelling out these concerns from MSHPO in the companies’ “Environmental Report,” other than that brief mention that concerns exist.

In the second paragraph, Malone and Wawro state that 20 more years of nuclear activities at the site will not disturb the land, and “Therefore, NMC and Consumers do not believe a survey of the project area is necessary, as Federal and state agencies have confirmed on multiple occasions that no historic properties, archeological or architectural, are known to exist on, or in the immediate vicinity of the Palisades site.” However, our growing coalition of environmental and public interest organizations fear that 20 more years of operations at Palisades risks a large-scale radiological accident. Even if no accident were to occur, the daily operations of Palisades nuclear power plant releases “low” levels (and sometimes, not-so-low levels) of radioactivity into the air, water, and soil (See the enclosed pamphlet “Radioactive Releases from Nuclear Power Plants in the the Great Lakes Basin: What Are the Dangers?” Note that the photo of liquid discharges shows Palisades itself discharging into Lake Michigan.). It also generates high-level radioactive waste, large quantities of which have already been stored at Palisades for nearly 40 years, and ever-growing quantities of which will continue to be stored on-site for at least several decades to come, even if dumps targeted at Native American lands out West (sacred Western Shoshone Indian treaty land at Yucca Mountain, Nevada; the Skull Valley Goshute Indian Reservation in Utah) are opened. Since the opening of such dumps is ever more doubtful, this means that Palisades’ high-level radioactive waste could remain on-site indefinitely into the future. The “routine” or “accidental” radioactive contamination caused by 20 additional years of operations at Palisades would be a significant adverse impact upon Native American burial or other sites located there. It is irresponsible that NMC and Consumers would state so strongly that no “survey of the project area is necessary” when it, and federal and state agencies, appear to have done little if any such surveying in the past.

The only documentation NMC and Consumers give in their “Environmental Report” to support their claims is a letter dated April 7, 1972 from the U.S. Department of the Interior (DOI) to the U.S. Atomic Energy Commission (the predecessor to today’s NRC). In that letter (also enclosed), DOI states “It does not appear that the existing plant should directly affect any existing or proposed unit of the National Park System, nor any site eligible for registration as a national historic, natural or environmental education landmark; however, the final statement should contain evidence of consultation with the State Historic Preservation Officer concerning the effects of the power station on places on or being considered for nomination to the National Register of Historic Places.” I’m unfamiliar with their choice of terminology, but their statement seems potentially irrelevant to such issues as Native American burial sites, former village sites, etc. located on the power plant site or along the transmission line corridor. It’s interesting that consultation with the Michigan State Historic Preservation Officer is mentioned, because when I spoke with Martha MacFarlane-Faes at MSHPO by phone today, it was clear that very little consultation has taken place between her office and the companies involved, and in fact, she admitted, that the “ball may have been dropped” on these important matters. Ms. MacFarlane-Faes was going to review her files on this matter and get back to me, but it’s clear that the companies, as well as the state and federal agencies, have allowed this proceeding to progress to this advanced stage without adequately addressing the potential impacts to Native American sites, rights, and values.

In its Feb. 2005 letter to the Michigan State Historic Preservation Office, NMC and Consumers also mention that: “A May 19, 1972 letter from the Michigan State Liaison Officer for Historic Protection to the AEC [Atomic Energy Commission] confirmed the DOI’s determination and stated that Palisades would not ‘adversely affect known historical or archaeological resources of the State of Michigan.’ “

They go on to state that a “Terrestrial Ecological Survey” conducted 26 years ago by a private contractor paid by Consumers “found no significant historical or archaeological resources were known to occur on the Palisades site” and that these findings were confirmed by the Director of the Michigan Department of State’s Michigan History Division, which verified that “no significant historical or archaeological sites had been found in the immediate area of Palisades.” I wonder how “significant” and “immediate” are defined by these profit-driven private companies, and by these state agencies? Are Native American sites such as burials or villages considered significant, especially 25 to 40 years ago, when many of these reports referred to were published? It seems imperative that an updated, comprehensive, independent site survey be conducted before Palisades is granted a license to perform nuclear and other activities on this site for another 20 years.

But it appears from the lack of supporting documentation that neither the AEC nor the DOI ever did a careful survey of the Palisades site or adjoining transmission lines. NMC and Consumers seem unconcerned about the potential for unknown Native American burial sites or other cultural resources. Yet, given the presence of creeks just north and just south of the Palisades nuclear power plant site, it seems all the more likely that Native American villages or encampments might have been located there. And given the forested, large dunes surrounding the Palisades nuclear power plant, it seems possible that even burial sites might be located there, especially considering the great beauty of the area, and the remarkable view to the west over Lake Michigan. One definition for

“palisade,” after all, is “a line of bold cliffs.” (Webster’s New Collegiate Dictionary) So I wonder if the hundred-year-old Palisades Park summer community with 200 cottages immediately south of the Palisades nuclear power plant took its name from the “cliffs,” or tall forested sand dunes, on the site? Certainly Palisades nuclear plant took its name from the Palisades Park community, much to the chagrin of the residents, many of whom have opposed the nuclear reactor since before it was built in the late 1960s.

NMC and Consumers go on in their letter to state that adequate protections are in place to safeguard cultural resources on the site. They write “Examples of activities requiring an Environmental Review include disturbance of 1 or more acres of previously undisturbed land, any earth change within 600 feet of water, wetland and waterway activities, and structural interference with landforms, lakes and streams, among others.” But, given the decades of apparent lack of concern, perhaps it should not be surprising that such “protections” actually contain huge loopholes. For example, a good deal of Palisades nuclear power plant property – including much of the forested dunes – almost certainly is more than 600 feet from Lake Michigan. Thus, even such “protections” could still allow for overlooking or ignoring burial sites during construction projects. The nuclear companies state repeatedly throughout the “Environmental Report” that “NMC does not plan to undertake any major refurbishment activities,” an admission that itself has dire implications, given the deteriorated state of the reactor and its safety systems. But then again Consumers never envisioned in the early 1970s that it would need to install dozens of 20 foot tall, 132 ton concrete and steel silos to store high-level radioactive waste just 150 yards from the waters of Lake Michigan. And yet, 20 years later, that is exactly what they did. So who knows, really, what projects the companies will need or want to perform on the site over the course of the next 20 years. In addition to the ever growing stockpile of high-level radioactive waste stored on-site, in 2008 the so-called “low” level radioactive waste dump where Palisades has sent large quantities of atomic trash for decades will no longer accept such wastes from Palisades. It is very possible that Palisades would thus expand on-site “storage” for “low” level radioactive wastes, some of which is actually intensely radioactive, despite the euphemistic name.

Lastly, NMC and Consumers state in the last paragraph that their letter, and a copy of the response to it from the Michigan Historic Preservation Office, would be included in the Environmental Report. No such response is included. This begs the question, who dropped the ball? NMC/Consumers, or MSHPO? Or both? It’s encouraging that MSHPO has expressed concerns, apparently, in the past. But it’s discouraging that deadlines such as the August 8th deadline for intervening/requesting hearings and the August 22nd deadline for environmental scoping comments have come and gone, with no action regarding the potential for Native American impacts from this proposal being adequately addressed by the companies nor by the federal or state agencies.

So what can be done about all this? You know much better than I your avenues to protect your cultural resources. But on the issue of the NRC proceeding to consider Palisades’ request for 20 additional years of operations, one alternative that occurs to us is that NRC re-open the public comment period which ended August 22nd for an additional 60 days, or longer, so that all impacted Native American tribes can submit their comments. Another idea would be, for any Native American tribe that wanted to

intervene against the 20 year license extension, that the August 8th deadline be re-opened so that the tribe could do that.

I apologize for the length of this letter, but I wanted to convey all these significant issues. I also apologize for not getting word about this to you sooner, but the NRC-imposed deadlines have caused us to scramble to keep our foot in the door (by the way, I have enclosed copies of our submissions to NRC having to do with Native American cultural resource impacts at Palisades, excerpted from much longer submissions about a wide variety of safety, environmental, environmental justice, and other concerns). Only now have I been able to return to these important matters. I look forward to speaking with you again soon. I hope that we can work together to get these important oversights addressed in the best possible way.

Sincerely,

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