

**UNITED STATES OF AMERICA  
BEFORE THE NUCLEAR REGULATORY COMMISSION**

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In the Matter of	)	Docket No. 50-255-LR
NUCLEAR MANAGEMENT COMPANY	)	
PALISADES NUCLEAR GENERATING	)	
STATION	)	
	)	
Regarding the Renewal of Facility Operating	)	
License No. DPR-20 for a 20-Year Period	)	June 22, 2006
_____	)	
	)	

**NOTICE OF PERTINENT NEW CASE LAW  
AFFECTING PROCEEDING; REQUEST FOR REDRAFT OF EIS,  
ADDITIONAL COMMENT PERIOD, AND FOR NEW PERIOD  
FOR RECEIPT OF CONTENTIONS ON TERRORISM**

Now come Don't Waste Michigan, West Michigan Environmental Action Council (WMEAC), the Citizens Action Coalition of Indiana; Canadian Coalition for Nuclear Responsibility/Regroupement pour la surveillance du nucléaire; Citizens for Alternatives to Chemical Contamination; Citizens Resistance at Fermi Two (CRAFT); Citizens for Renewable Energy; Huron Environmental Activist League; Clean Water Action; Home for Peace and Justice; Great Lakes United; Nuclear Information and Resource Service (NIRS), IHM Justice, Peace and Sustainability Office; Indigenous Environmental Network (IEN); International Institute of Concern for Public Health; Lone Tree Council; Kalamazoo River Protection Association; Michigan Citizens for Water Conservation; Michigan Land Trustees; Michigan Environmental Council; Michigan Interfaith Climate and Energy Campaign/Voices for Earth Justice; National Environmental Trust; Nuclear Energy Information Service (NEIS); Nuclear-Free Great Lakes Campaign; Nuclear Policy Research Institute; Nukewatch; Radiological Evaluation & Action Project, Great Lakes; Sierra Club, Mackinac (Michigan) Chapter; and Van

Buren County Greens, all public interest participants in either the adjudicatory or environmental impact statement components of this license extension proceeding, by and through counsel, and bring to the Commission's attention the recently-decided case of *San Luis Obispo Mothers for Peace v. Nuclear Regulatory Commission* (Ninth Circuit, No. 03-74628, June 2, 2006) (copy attached).

The aforementioned participants submitted extensive formal draft EIS commentary statements on May 18, 2006 to the NRC as part of the proceedings for the renewal of the operating license for Palisades Nuclear Power Plant. Moreover, some of these same participants were formal petitioner-intervenors in the license extension adjudication previously convened in this case who submitted, on August 8, 2005, a contention on terrorism and Palisades<sup>1</sup> in the license adjudicatory phase<sup>2</sup> which was abandoned due to insufficient resources and because of the NRC's formal policy of refusing to consider the environmental effects of terrorism activity at regulated facilities such as Palisades..

However, now the only court to scrutinize the NRC's policy prohibiting consideration of terrorism potential at regulated facilities has struck it down. The Ninth Circuit in *San Luis Obispo Mothers, supra*. ruled that the National Environmental Policy Act ("NEPA") requires the

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<sup>1</sup>From "Request for Hearing and Petition to Intervene" submitted by Nuclear Information and Resource Service (hereinafter "NIRS"), West Michigan Environmental Action Council (hereinafter "WMEAC"), Don't Waste Michigan (hereinafter "DWM"), the Green Party of Van Buren County (hereinafter "Green Party"), the Michigan Land Trustees and numerous individual intervenors, Contention 11, p. 9:

**11. Threats of terrorist attack and sabotage against the Palisades nuclear power plant.**

Located on the shoreline of Lake Michigan, the source of drinking water, fish, recreation, and other economic value to tens of millions of people downstream, Palisades represents a target for potentially catastrophic terrorist attack or sabotage intended to release large amounts of radioactivity into the Great Lakes basin. Palisades represents a radioactive bull's eye on the shore of 20% of the planet's surface fresh water, the Great Lakes. The operating reactor (containing many billions of curies of radioactivity) and high-level waste storage pool (containing tens to hundreds of millions of curies) are vulnerable to such attack, as are the outdoor dry storage casks, so highly visible stored in plain sight.

<sup>2</sup>ASLBP No. 05-842-03-LR

Nuclear Regulatory Commission (“NRC”) to consider such effects at individual facilities and, at least, to accept comments and information from the public on the issue. The opinion concludes that “it is unreasonable for the NRC to categorically dismiss the possibility of terrorist attack”.

Despite the NRC prohibition on consideration of terrorism concerns in NEPA proceedings, the aforementioned Intervenor did submit, as part of their May 18 filing, extensive critiques of preparedness at Palisades, see section entitled “Inadequate Security at Palisades is an Unacceptable Risk” in previously-submitted comments document.

The aforementioned participants respectfully request that the NRC consider *San Luis Obispo Mothers* as controlling precedent and that the decision be applied directly to all aspects of this license extension proceeding. Specifically, the Intervenor request that the Commission fulfill its legal obligation, pursuant to *San Luis Obispo Mothers*, to complete a NEPA analysis of the potential environmental effects of various terrorist attack scenarios upon the Palisades Nuclear Power Plant, that such analysis be included in a revised draft EIS (“DEIS”), and that the revised DEIS be obligatorily exposed to public comment in an extended or re-opened public comment period. Further, they request that a new prospective deadline be established for receipt and adjudication of proposed contentions related to the issue of terrorism and Palisades in the licensing extension proceeding so that they may re-submit their former contention #11 and any other contentions pertinent to this issue.

Respectfully submitted for the aforementioned parties,

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
 )  
NUCLEAR MANAGEMENT ) Docket No. 50-255-LR  
COMPANY, LLC )  
 )  
(Palisades Nuclear Plant) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the "NOTICE OF PERTINENT NEW CASE LAW AFFECTING PROCEEDING; REQUEST FOR REDRAFT OF EIS, ADDITIONAL COMMENT PERIOD, AND FOR NEW PERIOD FOR RECEIPT OF CONTENTIONS ON TERRORISM" in the above-captioned proceeding have been served on the following through deposit in the U.S. mail, first class with copies by electronic mail, as indicated by an asterisk, or otherwise by electronic mail alone on this 22nd day of June, 2006:

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McGaffigan, Jaczko, and Lyons  
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