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**Nuclear Information and Resource Service (NIRS)
Coalition for a Nuclear Free Great Lakes (CNFGL)
Don't Waste Michigan (DWM)
West Michigan Environmental Action Council (WMEAC)**

Comments on Decommissioning GEIS Supplement 1

To Whom It May Concern:

Pursuant to the Federal Register Notice of November 9, 2001 on the availability of the draft supplement to the Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities (NUREG-0586) for public comment, Nuclear Information and Resource Service, Coalition for a Nuclear Free Great Lakes and Don't Waste Michigan provide the following comments.

NIRS reiterates and incorporates our previous comments and fundamental disputes with regard to the decommissioning GEIS as submitted in formal comments to NRC on July 11, 13 and 14, 2000. Our organizations request that NRC include with this submission all of our organizations' previous comments on this and related rulemakings (including but not limited to the environmental procedures on BRC and those that led to the development of 10 CFR 20 section E, the License Termination Rule). Our organizations continue to assert that NRC is deferring its regulatory responsibility of radiological decommissioning to facilitate a cost driven utility self assessment through an expedited decommissioning licensing process and by restricting a duly promulgated public hearing process for affected communities as embodied under the 1988 law. We contend that decommissioning practices on nuclear facilities and its environmental impacts as major federal actions must be conducted under public review with full disclosure and documentation of the amount of radioactivity, the location of residual contamination and the types of radioactive contamination that remain on-site and off-site and are subject to site specific public hearings.

The NRC claims the agency and the industry have accumulated substantial decommissioning experience and that this is justification for hastening the generic

treatment of Environmental Impact Statements. In effect, this eliminates meaningful public involvement in site-specific reviews and prevents the necessary full disclosure of nuclear facility contamination and decommissioning practices. The fact is that decommissioning has a long and significantly checkered regulatory history. The draft supplement to NUREG-0586 does not address or acknowledge these repeated oversight failures including numerous decommissioning experiences where licensees did not adequately decontaminate their facilities. These failures include but are not limited to: the NRC does not know the types, amount and location of buried radioactive waste at some of its decommissioned facilities;

- many licensee decommissioning records are nonexistent or incomplete;
- ground water contamination is higher than federal drinking water standards allow and
- the long standing failure of the responsible federal regulatory agencies to prevent and prohibit radiation contamination that can remain after the NRC terminates a nuclear facility license. (The Environmental Protection Agency is on record requiring more protective cleanup levels than NRC, evidence that NRC's requirements are inadequate.)

These events do not warrant nor should they instill public confidence in staff conclusions that the agency and the industry can reasonably make the leap to the generic treatment of environmental impact statements for decommissioning nuclear facilities and effectively take away a community's review and the full disclosure of the extent and location of radioactive contamination both on and off site.

Our organizations are fully supportive of the permanent closure of nuclear power reactors. Our decommissioning comments are not intended to deter or delay the soonest possible shut down of nuclear reactors. Our goal is to require that nuclear facility owners and operators, to the best of their ability, function as the good neighbors and responsible corporate citizens they claim to be. That would include fully encapsulating and isolating all of the wastes and radioactively and chemically contaminated materials resulting from their operations and decommissioning. It includes doing everything possible to:

- 1) Prevent public exposures in the current and future generations to radiation and chemicals from nuclear power production, waste management, transportation, "clean up" and decommissioning;
- 2) Prevent additional environmental contamination both on-site and off-site and to remediate and minimize that which has already occurred;
- 3) Paying the full costs for long-term monitoring and isolation of radioactive wastes. Decommissioning should not end up as a new set of public subsidies for nuclear power by allowing the long term costs (economic, health, resource, etc.) to be denied, ignored or defined away by NRC with no recourse for the local community or state and federal taxpayers that will end up with the costs by default.

Inherent in the decision to operate the reactors is an acceptance on the part of the generator and the regulator of the production of long-lasting radioactive waste and radioactive and chemical contamination of large volumes of resources. Decommissioning should include responsibly managing that material, not denying its existence.

The Commission's Definition of Decommissioning is Fundamentally Flawed and Limited in Scope

Our organizations have a fundamental dispute with the Commission's definition of decommissioning. The NRC currently defines decommissioning as "to remove a facility or site safely from service and reduce residual radioactivity to a level that permits (1) Release of the property for unrestricted use and termination of the license; or (2) Release of the property under restricted conditions and termination of the license."

Decommissioning should not permit the release of radioactive contamination from regulatory control and the control of some identified responsible party. At public meetings (in 1993 and in 2001) across the country on the issue of "clean-up," the public consistently called for continued regulatory control over any and all wastes, materials, properties and sites with contamination from nuclear power and weapons fuel chain activities. Rather than requiring the identification, capture and isolation of the remains of nuclear power operations, NRC is legalizing the release of contaminated sites, properties, materials and natural resources. By segmenting the portions of the decommissioning process into separate Environmental Impact Statements and supplements, the public is prevented from addressing the amount and method of identifying residual contamination of the environment, natural resources, the community and downstream and downwind ecosystems. The public is prevented from addressing and preventing the concept of allowable doses to the public from nuclear power operation, wastes and decommissioning activities. We protest the designation of issues related to allowable contamination levels and doses being deemed "out of the scope" of this document.

NRC ignores "offsite" radiation exposure

This agency's definition of "decommissioning" is fundamentally flawed in limiting its scope of "property" to the site boundaries. The NRC scope needs to be broadened to encompass the decontamination or mitigation of "property" in addition to structures, systems and components of the nuclear power station that exist beyond the fence line that have been contaminated none the less as a direct result of station operation.

1) Radiological effluent pathways from nuclear facilities (water and air) must be included in the decommissioning analysis and mitigation plan.

Nuclear facility operation results in significant offsite radiological contamination that is ignored under the current definition. For example, one known pathway occurs over the course of reactor operation as the direct result of fuel rod degradation giving way to pin-hole leaks, cracks and loss of rod integrity with radioactive contamination to the reactor coolant system. Primary and secondary coolant piping leakage results in radioactive contamination releases being deposited and accumulated as sediment on river

and lakebeds and coastal receiving waters from deteriorated reactor coolant discharge systems. This is of particularly more concern for utilities that operated once-through cooling systems and/or boiling water reactor technology though not exclusively so. Some of our organizations are aware that reactor operators, as in one case of the Big Rock Point nuclear generating station, have argued that offsite radioactive sediment areas should not be disturbed by removal/decontamination efforts and are better left alone than decontaminated. The decommissioning definition does not require the utility to analyze the scope of this offsite contamination, consider its cleanup nor effectively regulate the enforcement of decontamination of residual radioactivity that has migrated from the reactor site and accumulated off site in affected communities resources such as fresh water supplies. These advertent releases of radioactivity as the result of station operation need be covered within the scope and disclosure as environmental impacts within the decommissioning process.

NRC in its evaluation of the environmental impacts acknowledges “Levels of radionuclide emissions from facilities undergoing decommissioning decreased, because the major sources generating emissions in gaseous and liquid effluents are absent in facilities that have been shut down.” Consequently, the NRC currently only considers radiological effluent impacts as a result of decommissioning operations while ignoring the potential need for mitigation of cumulative and persistent toxic radioactive materials deposited downstream over the decades of operation of a reactor.

2) The contamination of soil, land and property beyond the station boundary line must be included in the decommissioning analysis and plan.

Offsite migration of radioactive materials has occurred through both deliberate and inadvertent removal of materials originally contaminated onsite (tools, concrete construction blocks, etc.) For example, concrete cinderblocks used to construct a shield wall at the Connecticut Yankee’s Haddam Neck nuclear power station were inappropriately distributed to affected communities as construction materials for buildings including a children’s daycare facility. We believe the Connecticut Yankee incident is not an isolated case. The scope of the current definition does not provide for the investigation, analysis and mitigation of radioactive materials, equipment and components originating from a nuclear facility that have been deliberately or inadvertently released to affected communities.

3) The historic undocumented burial of nuclear waste onsite at nuclear power stations must be investigated, surveyed and mitigated by station owners under the decommissioning plan.

As the United States General Accounting Office (GAO) May 1989 “NRC’s Decommissioning Procedures and Criteria Need to Be Strengthened” (GAO/RCED-89-119) reports in its Executive Summary:

“For almost 25 years, NRC allowed licensees to bury radioactive waste on-site without prior NRC approval. NRC required the licensees to retain records on the amounts and substance buried rather than provide them to NRC. In five of the eight cases GAO reviewed, licensees buried waste onsite, but four licensees either did not keep disposal

data or the data are incomplete. In one case, NRC terminated a license and 10 years later learned that radioactive material had been buried on the site. Also, NRC generally does not require licensees to monitor for groundwater or soil contamination from buried waste. All five licensees have found ground water contaminated with radioactive substances. At four sites, some of the contamination appears to have resulted from the buried waste—the contamination at one site was 400 times higher than EPA’s drinking water standards allow. At another site, the contamination was 730 times higher, but the source was not known.”

4) An inventory of all the radioactivity, radioactive wastes and materials from reactor operation and decommissioning, and independently verified reporting of its disposition (whether onsite or offsite, whether in licensed or unlicensed facilities and specifics of its storage condition) should be a required part of the environmental review and reports. This information must be part of the site-specific Environmental Impact Statement process and fully disclosed at each reactor as site-specific issues, with the opportunity for formal local hearings and legally- binding input. The corporations responsible for the radioactive wastes from nuclear power reactor operations should be required, by NRC, to keep balance sheets of the radioactivity generated by their reactors and the decommissioning process, and track the disposition of that radioactivity whether it is kept onsite, allowed to leak out into the air and water, or shipped to licensed or unlicensed facilities for disposal or processing, and for possible release into household items.

We oppose any unlicensed disposition of long-lasting radioactivity from the nuclear fuel chain activities. As long as radioactive materials remain, someone should retain a license for those materials, and responsibility for them. That burden should not be shifted to the states and local communities without clear acknowledgement of the stewardship responsibility for that material.

NRC AND INDUSTRY FAILURE TO RELIABLY ESTIMATE THE REAL COST OF DECOMMISSIONING AND REASONABLY ASSURE THE AVAILABILITY OF ADEQUATE DECOMMISSIONING FUNDS DOES NOT JUSTIFY OR SUPPORT GENERIC TREATMENT OF ENVIRONMENTAL IMPACT STATEMENTS

The NRC GEIS does not adequately address the historic inability by the NRC and industry to accurately assess the final and actual costs associated with decommissioning and the associated underestimation of the rate of accrual for funds set-aside by electrical utilities. The final cost for decommissioning remains highly speculative and therefore likely to continue to be significantly underestimated. As NRC has stated in the DGEIS Supplement the unavailability of adequate decommissioning funds potentially can result in delays and /or unsafe and improper decommissioning. Therefore, our organizations contend that site specific reviews are necessary for public review and disclosure of the availability of adequate decommissioning funds assigned to an adopted decommissioning plan

While the Executive Summary of NUREG-0586 Supplement 1 claims that the NRC and the industry have over 300 years of decommissioning experience with 22 nuclear reactor facilities permanently shut down, the fact remains that the process is still relatively new and NRC has yet to complete a single radiological decommissioning operation to a license termination plan for a typical large U.S. commercial reactor that operated for any significant length of time. As stated by Mr. Michael Masnick with the NRC at the Public Scoping Meeting on Intent to Prepare Draft Supplement To Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities in Boston, Massachusetts, May 17, 2000 with regard to a question on how many license termination plans have been accepted by NRC, he responded, “none have resulted in a license termination.” It therefore appears that 300 years of decommissioning experience without a single license termination plan approval does not suggest that NRC is prepared to treat the issue of cost to adequately decommission generically.

The cost of decommissioning nuclear facilities can vary according to the size of the facility and the degree of contamination. As a result of electric utility deregulation where a competitive market has replaced regulated rates, traditional methods of amassing decommissioning funds through imbedded utility rates have been replaced with by competitive electricity rates. Additionally, ownership of nuclear facilities has changed for more than half of the nuclear power plants in the United States through mergers and transfers. This shuffling of ownership has raised much uncertainty about the availability of adequate funds for the eventual decommissioning of the nuclear facilities.

As reported by GAO December 2001 “NRC’s Assurances of Decommissioning Funding During Utility Restructuring Could Be Improved” NRC reviews of financial arrangements exchanged in these transfers and mergers “were not always rigorous enough to ensure that decommissioning funds would be adequate. Moreover, NRC did not always adequately verify the new owners’ financial qualifications to safely own and operate the plants.”

The Yankee Rowe nuclear power station is a clear example of the inability to accurately assess the final cost of decommissioning. Originally decommissioning estimates ran under \$100 million dollars while the current expenditures are estimated to be just under \$500 million for the small 170 megawatt pressurized water reactor. The Shoreham nuclear power station can not be relied upon as an accurate gauge for decommissioning costs as it never reached full power operation.

NRC SEEKS TO LIMIT PUBLIC REVIEW AND HEARINGS BY ESTABLISHING ARBITRARY “LEVELS OF SIGNIFICANCE” ON DECOMMISSIONING ENVIRONMENTAL IMPACTS

We have a fundamental dispute with the NRC effort to eliminate public review and full disclosure through public hearings on decommissioning practices and mitigating environmental impacts based on arbitrary and capricious categories for determining “generic” and “site specific” proceedings for nuclear power station decommissioning.

NRCs “Levels of Significance and Accountability of Environmental Impacts” assign values of risk to affected communities as “small,” “moderate” and “large” as thresholds for denying or conducting a public site-specific review and potentially a public adjudication for environmental mitigation. Our organizations argue that these broad categories established by NRC are largely baseless for the following reasons:

1. The biological effects of radiation are deleterious. No safe threshold for radiation exposure for the general population (including the developing fetus) has been established.
2. There is a long history of unresolved regulatory conflict over radiation protection standards assumed to determine NRC risk assessments. Both federal and state agencies have sought to provide greater protection than NRC requires. In addition, NRC
3. The NRC risk assessment inappropriately ignores the population of children in its “critical group” evaluation as the population most vulnerable to residual radioactivity exposure from decommissioning operations.
4. There is a documented history of significant lapses in effective NRC oversight of decommissioning operations as reported by The General Accounting Office in May 1989 “NRC’s Decommissioning Procedures and Criteria Need to Be Strengthened” (GAO/RCED-89-119). The GAO not only found that complete information does not exist for all licensed activities or buried wastes, but additionally that NRC was found to have terminated a license with contamination in excess of its guidelines and NRC regulations lacked a time requirement for document retention. NRC’s checkered history does not provide justification for the agency to move forward with generic treatment of decommissioning nuclear facilities where affected communities are denied public review and full disclosure of contamination, the decommissioning plan and

THE DECOMMISSIONING ALTERNATIVES DO NOT WARRANT GENERIC TREATMENT THE ENVIRONMENTAL IMPACT STATEMENT AND ARE THEREFORE SUBJECT TO SITE SPECIFIC PROCEEDINGS

Alternative methods being considered by the NRC include “entombment” and “rubblization.” These involve leaving more nuclear waste on-site in an effort to reduce industry’s short-term decommissioning costs but are likely to increase long term costs to affected communities once the sites are abandoned after license termination. The proposed alternative methods additionally raise significant technical and environmental impact issues and conflicts with the permanent emplacement of so-called “low-level” radioactive waste at nuclear facility sites not originally licensed as regulated nuclear waste management facilities. The proposed alternative methods are tantamount to creating an unlicensed radioactive waste disposal site. These alternative methods must therefore be subject to review by the affected communities with full disclosure and documentation of the amount of radioactivity, the location and condition of all residual

contamination and the types of radioactive contamination that remain on-site. On-site and off-site contamination and radioactivity and associated issues involved with extended institutional control must all be subject to site-specific public hearings.

The NRC effort to approve alternate decommissioning methods constitutes significant uncertainty and an impediment to accurately estimate the real cost of decommissioning nuclear facilities. There is no real assurance that adequate funds will be available to safely and properly decommission the site and provide for remediation of all necessary cleanup. These regulatory and environmental issues do not support generic treatment of environmental impact statements. In fact because of the economic and technical and environmental uncertainties of the Rubblization and Entombment options, they should be subject to much more rigorous review than provided by this Supplement. This Supplement gives only cursory attention and unsubstantiated dismissal of potentially very serious environmental consequences of the Rubblization, Entombment and Partial site release options.

The Entombment alternative

As a decommissioning option, entombment provides for the utility to remove the irradiated fuel from the core for disposition through either on-site dry cask storage or away-from-reactor interim storage. Once the fuel is removed, the facility is allowed to radioactively decay for a specified period of time up to 300 years before demolition and site clean up is achieved.

Rubblization as an alternative to licensed radioactive waste disposal sites

Rubblization is described as the partial decontamination and demolition of radioactively contaminated buildings at nuclear power stations. The interior concrete surfaces are only partially decontaminated and the entire structure (concrete, steel reinforcement bar and other materials) is then razed to grade level into the foundation hole. The burial site is then covered over with soil cap. NRC and industry are also proposing that rubblized contaminated material can be hauled to landfills unlicensed for radioactive waste.

However, the rubblization process must account for the permeation of porous concrete structures (containment dome, basemat, and walls) with radioactivity much deeper than surface contamination that would be sand blasted during a decontamination process. Activated concrete would be rubblized and would thus constitute so-called "low level" radioactive waste. Long-lasting radioactive elements such as cesium-135 and strontium-90 are present with many other fission products and radioisotopes in the concrete and should not be ignored or defined away. No data are provided in this Supplement to justify Rubblization and on-site or off-site disposition. Thus, local communities have every right to participate legally (in adjudicatory proceedings) and be provided with information- full disclosure of such planning.

Essentially, the agency and industry are proposing that a so-called "low-level" radioactive waste dump can now be grandfathered on a reactor site without a formal permitting and licensing hearing process. The decommissioning utilities will provide an analysis that can "assure" that no ground water movement will occur through the radioactive burial site providing a potential transport mechanism and potential radioactive

exposure to the public and environment. The utilities are to provide a “dose model” to “assure” the affected communities that the radioactive site will pose no health risks to present and future public health and the environment. These “assurances” cannot be bona fide by generic treatment and therefore require the availability of site specific proceedings.

We concur with the GAO findings as reported in GAO-02-48 “NRC’s Assurances of Decommissioning Funding During Utility Restructuring Could be Improved” dated December 2001. GAO reported the following conclusions:

“Rubblization represents a departure from NRC’s past licensing practice, which emphasized shipping low-level radioactive wastes from decommissioning sites to disposal sites. Although NRC has estimated that rubblization could save a licensee from \$10 million to \$16 million in waste disposal costs during decommissioning, its Advisory Committee on Nuclear Waste has concluded that technical factors, such as the depth of radioactive contamination and the volume of rubblized waste, could significantly diminish the potential cost savings. The Advisory Committee also believes that evaluating radioactive material content and doses from rubblization, both at the site and in local groundwater, may prove difficult and expensive.”

“The NRC staff’s decision that entombment might reduce decommissioning costs is questionable.”

“According to NRC’s staff, ‘very expensive remedies’ could be required if an entombment configuration proved unable to adequately isolate radioactive contaminants over the 100-year or longer [up to 300-years by NRC projections] time period needed for radioactive decay. Given the length of time involved, states are concerned that they will have to pay remediation costs should an entombment fail.”

“Aside from questionable cost benefits, rubblization and entombment raise a number of technical issues. For instance, NRC does not intend to require that sites where rubblized radioactive materials would be buried have protection equivalent to off-site disposal facilities for low-level radioactive waste. Disposal facilities for commercial low-level radioactive waste, which are licensed and regulated by NRC or by state (under agreement with NRC), must be designed constructed, and operated according to NRC regulations (or compatible regulations issued by the host state). In addition, to obtain a license to build and operate a disposal facility, the prospective licensee must characterize the facility site and analyze how the facility will perform for thousands of years. However, according to NRC, a rubblized site is not comparable to a low-level radioactive waste disposal facility... Nevertheless, 10 CFR Part 61 does not differentiate between what does or does not qualify as a low-level waste disposal action or facility on the basis of the quantity, forms, or range of the low-level radioactive waste to be buried.”

“Water intrusion is also a major concern for rubblized or entombed sites, and the fact that most nuclear power plants are situated in shallow water table or flood plain locations may limit the viability of these options.”

The above reasons illustrate the lack of a sound basis for staff conclusions that the decommissioning alternatives of entombment and rubblization are of “minor” environment impact and can be treated generically to avoid public review and full disclosure in formal public hearings. We therefore adamantly oppose such generic treatment.

Overall concerns:

NIRS and numerous other organizations and local community groups have concerns with the following overall effects of this Supplement:

NRC allows “rubblization” (crumbling the concrete reactor building) of nuclear reactors, without opportunity for public intervention until the action is completed.

NRC allows portions of sites to be “released” from regulatory control before the whole site is released.

NRC opens up two “entombment” options.

NRC ignores radiation dangers after decommissioning is done and utility is relieved of liability.

NRC ignores radiation exposures to children and other vulnerable members of the population and creates a fictitious highest exposed “critical group” based on unsubstantiated assumptions.

NRC ignores radiation offsite and permits utilities to ignore it in decommissioning planning. NIRS calls on the NRC to incorporate offsite contamination into all evaluations of environmental impacts.

NRC prevents the National Environmental Policy Act from applying to most of the decommissioning process. (The claim appears to be that this proposed Supplement 1 satisfies the Environmental Policy Act for most of the decommissioning issues.)

NRC cleverly makes most aspects of decommissioning “generic” rather than site-specific, so they cannot be legally reviewed or challenged at individual sites.

NRC redefines terms to avoid local, site specific opportunity to question, challenge and prevent unsafe decommissioning decisions.

NRC sets arbitrary and unsubstantiated (low, medium and high) environmental impact categories for each of the steps in decommissioning, to give the appearance that they have minimal effects, to justify not fully addressing them now and to prevent their inclusion in site-specific analysis.

NRC is removing the requirement for a license amendment when changing from a nuclear power operating license to a nuclear materials possession-only license. (With no license amendment, there is no opportunity for public challenge or adjudicatory processes.)

NRC is attempting, with this supplement, to legally justify the removal of the existing opportunities for community involvement and for legal public intervention until after the bulk of the decommissioning has been completed. This includes such activities as flushing, cutting, hauling and possibly rubbleizing of the reactor.

NRC states that the portion of the decommissioning regulations (10 CFR 20 section E and its Environmental Impact Statement, NUREG 1496) that set the 25, 100 and 500 millirems per year allowable public dose levels from closed, decommissioned nuclear power sites, are not part of the scope of this Supplement

NRC defines decommissioning, in part, to include the “release of property for unrestricted use...” and the “release of property under restricted conditions...” NIRS stands firmly against the “release” of radioactively contaminated materials into daily consumer use and commerce or unregulated disposal.

Respectfully submitted,

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