

A CMS Energy Company

Big Rock Point Restoration Project  
10269 US-31 North  
Charlevoix, MI 49720

**Kurt M. Haas**  
General Manager

February 16, 2006

Scott C. Flanders  
Deputy Director, Environmental and Performance Assessment, DWMEP/NMSS  
U.S. Nuclear Regulatory Commission  
Two White Flint North, Mail Stop 7 J8  
11545 Rockville Pike  
Rockville, MD 20852-2738

**Subject: Memorandum of Agreement between the U.S. Nuclear Regulatory Commission and the Michigan State Historic Preservation Officer Regarding the Decommissioning of the Big Rock Point Nuclear Plant Facility**

Attached is the signed Memorandum of Agreement (MOA) between the United States Nuclear Regulatory Commission and the Michigan SHPO, with Consumers Energy Company as a cosignatory, for your records. This agreement facilitates mitigation of the adverse affect to the nuclear plant facility as a result of the decommissioning project and ensures preservation of identified historical and cultural resources that may be affected by the restoration of the Big Rock Point site.

If you have any questions regarding this document, please contact Tracy Goble, Big Rock Point Environmental Services Superintendent, at 231-547-8389 or [tmgoble@cmsenergy.com](mailto:tmgoble@cmsenergy.com).

Sincerely,



Kenneth E. Pallagi  
Radiation Protection & Environmental Services Manager  
Big Rock Point Restoration Project

cc Martha MacFarlane-Faes, Michigan State Historic Preservation Office  
JC Shepherd, U.S. Nuclear Regulatory Commission  
MF Parker, Consumers Energy Environmental Department  
KM Haas, Big Rock Point Site General Manager  
LL Castiglione, Big Rock Point

**MEMORANDUM OF AGREEMENT  
BETWEEN  
THE UNITED STATES NUCLEAR REGULATORY COMMISSION  
AND THE MICHIGAN STATE HISTORIC PRESERVATION OFFICER  
REGARDING THE DECOMMISSIONING OF THE  
BIG ROCK POINT NUCLEAR PLANT FACILITY,  
HAYES TOWNSHIP, CHARLEVOIX COUNTY, MICHIGAN  
SUBMITTED TO THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
PURSUANT TO 36 CFR PART 800.6(b)(1)**

**WHEREAS**, the United States Nuclear Regulatory Commission (NRC), through its review of the Big Rock Point License Termination Plan pursuant to 10 CFR 50.82(a)(9)i, has determined that the decommissioning and dismantlement of the Big Rock Point Nuclear Plant Facility (Project) will have an adverse effect upon the Big Rock Point Nuclear Plant (Plant) which appears to meet the criteria for listing in the National Register of Historic Places (NRHP); and

**WHEREAS**, the NRC has consulted with the Michigan State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 USC 470f); and

**WHEREAS**, archeological site 20CX170 in Hayes Township, located on the Big Rock Point property owned by Consumers Energy Company, appears to be eligible for listing in the NRHP and may be affected by the future release of Big Rock Point property for unrestricted use; and

**WHEREAS**, archeological site 20CX177 in Hayes Township, adjacent to the Lake Michigan shoreline and also known as the "Big Rock," appears to be eligible for listing in the NRHP as a Traditional Cultural Property and may be affected by the future release of Big Rock Point property for unrestricted use; and

**WHEREAS**, the NRC and SHPO have participated in the consultations and have invited Consumers Energy Company as owner of the Big Rock Point property and NRC general licensee pursuant to 10 CFR Part 50, to concur in this Memorandum of Agreement (MOA); and

**NOW, THEREFORE**, the NRC and the SHPO agree that the Project shall be implemented in accordance with the following stipulations in order to take into account the effects of the Project on historic properties.

## **STIPULATIONS**

The NRC shall ensure that the following measures are completed. Consumers Energy Company shall notify the NRC and the Michigan SHPO of completion of Stipulations I through III prior to sale or transfer of any of the Big Rock Point site property.

### **I. RECORDATION**

- A. Consumers Energy Company shall document the Big Rock Point Nuclear Plant to the professional standards of the National Park Service's Historic American Engineering Record (HAER) to ensure that there is a permanent record of the Plant. The documentation shall include a historical narrative concerning the design and operational significance of the Big Rock Point Nuclear Plant.
- B. The completed Big Rock Point Nuclear Plant documentation package shall be submitted to the SHPO for review within **one (1) year** of the date of this agreement. The approved original documentation package shall be submitted to the SHPO for deposit in the State Archives of Michigan and another original copy of the documentation shall be submitted to the Charlevoix Public Library.

### **II. EXHIBIT**

- A. Consumers Energy Company, in consultation with the Charlevoix Historical Society and the SHPO, shall develop a public exhibit regarding the history of the Big Rock Point Nuclear Plant. The parties shall consult to develop a mutually acceptable plan for the scope, location, design and duration of this exhibit.
- B. Upon completion of the exhibit, Consumers Energy Company shall offer exhibit items pertaining to the history of Big Rock Point to local, state and federal agencies and non-profit organizations potentially interested in permanent retention or display of these items.

### **III. PRESERVATION OF SITES 20CX170 AND 20CX177**

- A. Consumers Energy Company, in consultation with the SHPO and the Little Traverse Bay Band of Odawa Indians, shall develop resource management plans for sites 20CX170 and 20CX177.
- B. Resource management plans and the recommendations contained therein shall be implemented prior to the sale or transfer of ownership of any portion the Big Rock Point site property.

#### **IV. DEVELOPMENT OF PROJECT REVIEW GUIDELINES**

The NRC has reviewed its procedures for notifying stakeholders of licensee actions. NRC interaction with SHPOs for project review of future nuclear facility decommissioning is addressed by the addition of the appropriate SHPOs to the notification of the public meetings and availability of Post-Shutdown Decommissioning Activities Reports (PSDARs), prepared by the individual NRC commercial nuclear facility licensees, as specified in the Code of Federal Regulations (CFR) Title 10, Section 50.82(a)(4).

#### **VI. AMENDMENT**

The NRC, the SHPO or Consumers Energy Company may propose to the other parties that this MOA be amended, whereupon the parties will consult in accordance with 36 CFR Part 800.6(c)(7) to consider such an amendment.

#### **VII. DISPUTE RESOLUTION**

Should any party to this agreement object within thirty (30) days to any of the proposed actions pursuant to this agreement, the NRC shall consult with the objecting party to resolve the objection. If the NRC determines that the objection cannot be resolved pursuant to 36 CFR Part 800.7(b), the NRC shall forward all documentation relevant to the dispute to the Advisory Council on Historic Preservation (Council). Within forty-five (45) days after receipt of all pertinent documentation, the Council will either:

- A. Provide the NRC with recommendations, which the NRC will take into account in reaching a final decision regarding the dispute (36 CFR Part 800.7(b)); or
- B. Notify the NRC that it will comment pursuant to 36 CFR Part 800.7(c) and proceed to comment. Any Council comment provided in response to such a request will be taken into account by the head of the NRC in accordance with 36 CFR Part 800.7(c)(4) with reference to the subject of the dispute.

Any recommendation or comment provided by the Council will be understood to pertain only to the subject of the dispute. The NRC's responsibility to carry out all actions under this agreement that are not the subjects of the dispute will remain unchanged.

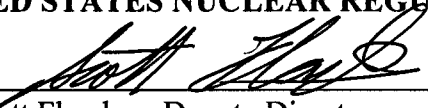
#### **VIII. TERMINATION**

- A. If the NRC determines that it cannot implement the terms of this MOA, or if the SHPO determines that the MOA is not being properly implemented, the NRC or SHPO may propose to the other parties to this MOA that it be terminated.

- B. The party proposing to terminate this MOA shall so notify the other parties to this MOA, explaining the reasons for termination and affording them at least sixty (60) days to consult and seek alternatives to termination. The parties shall then consult.
- C. Should such consultation fail, the NRC or SHPO may terminate this MOA by so notifying all parties.
- D. Should this MOA be terminated, the NRC shall either:
1. Consult in accordance with 36 CFR Part 800.6 to develop a new MOA.
  2. Request the comments of the Council pursuant to 36 CFR 800.7.

Execution of this Memorandum of Agreement by the NRC and the Michigan SHPO and implementation of its terms evidence the NRC has afforded the Council an opportunity to comment on the Project and its effects on historic properties and that the NRC has taken into account the effects of the Project on historic properties.

**UNITED STATES NUCLEAR REGULATORY COMMISSION**

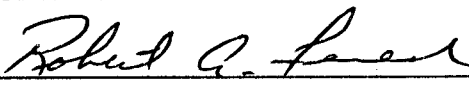
By:  Date: 11/31/04  
Scott Flanders, Deputy Director,  
Environmental and Performance Assessment DWMEP

**MICHIGAN STATE HISTORIC PRESERVATION OFFICER**

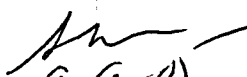
By:  Date: 10/25/05  
Brian D. Conway, State Historic Preservation Officer

**Concur:**

**CONSUMERS ENERGY COMPANY**

By:  Date: 2-13-06  
Robert A. Fenech, Sr. Vice President,  
Nuclear, Fossil and Hydro Operations

AP'D AS TO FORM

  
9-9-05