

January 8, 2007

Mr. Kurt M. Haas, Manager
Big Rock Point Restoration Project
10269 US-31 North
Charlevoix, Michigan 49720

SUBJECT: BIG ROCK POINT - RELEASE OF LAND FROM PART 50 LICENSE FOR UNRESTRICTED USE

Dear Mr. Haas:

This letter is in response to your letter of November 16, 2006, (ML063260085) in which you stated that Consumers Energy (CE) had completed all radiological decommissioning and final status surveys (FSSs) of the Big Rock Point (BRP) facility and site in accordance with the NRC-approved License Termination Plan (LTP) and requested unrestricted release of all BRP land except for approximately 30 acres associated with the Independent Spent Fuel Storage Installation (ISFSI) and approximately 75 acres surrounding the ISFSI, which will remain under the Part 50 license. The November 16, 2006 letter provided the FSS Report which demonstrates the facility and site meet the criteria for decommissioning and release of the site for unrestricted use that are stipulated in the LTP and 10 CFR Part 20, Subpart E.

The requirements of 10 CFR 50.83, "Release of part of a power reactor facility or site for unrestricted use," are not applicable in cases where there is an approved LTP. In the Statements of Consideration for Section 50.83, the Commission stated that "[partial releases following LTP approval would be governed by the LTP or changes thereto]" provided that the "LTP contained a sufficient change process that describes staged release of the property prior to license termination." (69 FR 19722, April 22, 2003). The BRP LTP was approved by the NRC on March 24, 2005. Your letter indicated that the CE has reviewed and assessed the subject land area in accordance with LTP sections 1.4.2, 1.5, and 5.1.2.

The U.S. Nuclear Regulatory Commission (NRC) staff has completed the review of the FSS Reports (FSSRs) and concludes in accordance with 10 CFR 50.82 that: (i) Dismantlement and decontamination activities were performed in accordance with the approved LTP, and (ii) The FSSRs and associated documentation demonstrate that the surveyed areas of the facility and site meet the criteria for decommissioning in 10 CFR Part 20, subpart E. Therefore, except for that area necessary to support the Independent Spent Fuel Storage Installation (ISFSI), shown as Parcel A in Attachment 1 to the November 16, 2006 letter, the site is available for unrestricted use.

Following removal from the license, in the unlikely event the released area were to become radiologically contaminated as a result of later activities at the BRP site, the contamination would be considered an off-site release, and subject to 10CFR Part 20. Under the 10 CFR Part 50 license, CE maintains a quality assurance (QA) program that was previously approved by the NRC as satisfying the requirements of 10 CFR Part 50, Appendix B.

Pursuant to 10 CFR 71.101(f) and 10 CFR 72.140(d), CE applies this program to satisfy the QA requirements of 10 CFR Part 71, Subpart H, and 10 CFR Part 72, Subpart G.

As a condition of the reduction of the site to that necessary to support the ISFSI, CE is required to maintain \$44.4 million in nuclear liability insurance coverage, as described in Indemnity Agreement No. B-22, Amendment 19, or until the Commission authorizes the termination or modification of such financial protection. CE shall incorporate its commitment to maintain \$44.4 million in nuclear liability insurance coverage into the BRP ISFSI Safety Analysis Report to ensure that the liability insurance coverage level shall not be reduced below the minimum \$44.4 million amount without prior NRC approval.

The staff's review of the FSSRs is documented in the enclosed Safety Evaluation Report. In accordance with 10 CFR 2.390 of the NRC's "Rules of General Applicability," a copy of this letter will be available electronically in the NRC Public Document Room or from the Publicly Available Records (PARS) component of the NRC's Agencywide Documents and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any questions please contact James Shepherd at (301) 415-6712.

Sincerely,

/RA/

Keith I. McConnell, Deputy Director
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Docket No.: 50-155
License No.: DPR-6

Enclosure: Safety Evaluation Report

cc: BRP distribution list

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