

July 5, 2012

EA-12-119

Ms. Lori Fobes, Laboratory Manager
Consumers Energy Company
One Energy Plaza
Jackson, Michigan 49201-2276

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 03004868/2012001(DNMS) AND
NOTICE OF VIOLATION — CONSUMERS ENERGY COMPANY

Dear Ms. Fobes:

On May 3, 2012, with continuing in-office review through June 7, 2012, the U.S. Nuclear Regulatory Commission (NRC) conducted a routine inspection at your facility located in Jackson, Michigan. The purpose of the inspection was to determine whether activities authorized under your license were conducted safely and in accordance with NRC requirements. The in-office review included detailed evaluation of the information provided and the overall determination of the circumstances and significance of the issues identified during the inspection with NRC management. The enclosed report presents the results of this inspection.

During this inspection, the NRC staff examined activities conducted under your license as they relate to public health and safety, compliance with the Commission's rules and regulations, and compliance with the conditions of your license. Within these areas, the inspection consisted of selected examination of procedures and representative records, observations of activities, and interviews with personnel.

Based on the results of this inspection, one apparent violation was identified and is being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The apparent violation is security related and is described in the enclosed, non-public, inspection report.

The circumstances surrounding this apparent violation, the significance of the issues, and the need for lasting and effective corrective action were discussed with your staff at the inspection exit meeting on June 7, 2012. As a result, it may not be necessary to conduct a pre-decisional enforcement conference (PEC) in order to enable the NRC to make an enforcement decision. In addition, since your facility has not been the subject of escalated enforcement actions within the last two inspections, and based on our understanding of your corrective action, a civil

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penalty may not be warranted in accordance with Section 2.3.4 of the Enforcement Policy. The final decision will be based on your confirming on the license docket that the corrective actions previously described to the staff have been or are being taken.

Before the NRC makes its enforcement decision, we are providing you an opportunity to either: (1) respond to the apparent violation addressed in this inspection report within 30 days of the date of this letter; or (2) request a PEC. If a PEC is held, it will not be open for public observation due to the potential to discuss Security-Related Information. However, the NRC will issue a press release to announce the time and date of the conference. A PEC should be held within 30 days of the date of this letter.

If you choose to provide a written response, it should be clearly marked as "Response to the Apparent Violation in Inspection Report No. 03004868/2012001(DNMS); EA-12-119," and should include, for the apparent violation: (1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent violation; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken to avoid further violations; and (4) the date when full compliance will be achieved. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a PEC.

In addition, if you choose to provide a written response to the apparent violation, please mark your entire response "Security Related Information – Withhold from Public Disclosure under 10 CFR 2.390." In accordance with Title 10 of the Code of Federal Regulations (CFR), Section 2.390(b)(1)(ii), the NRC is waiving the affidavit requirements for your response to this letter. However, to the extent possible, your response should not include any personal privacy, proprietary, or safeguards information.

If you choose to request a PEC, the conference will afford you the opportunity to provide your perspective on the apparent violation and any other information that you believe the NRC should take into consideration before making an enforcement decision. The topics discussed during the conference may include the following: information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned to be taken. In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violation.

Please contact Ms. Tamara E. Bloomer at 630-829-9627 within ten days of the date of this letter to notify the NRC of your choice.

In addition, please be advised that the number and characterization of apparent violations described in the enclosed inspection report may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

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The NRC has also determined that two Severity Level IV violations of NRC requirements occurred. The first violation is a security-related violation. The second violation involved the failure to confine the possession and use of byproduct materials to the locations and purposes authorized by the license, as required by 10 CFR 30.34(c). The violations were evaluated in accordance with the NRC Enforcement Policy. The violations are cited in the enclosed Non-Public Notice of Violation (Notice) and the circumstances surrounding them are described in detail in the Non-Public inspection report. The violations are being cited because they were identified by the inspectors.

For the security-related violation, you are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

As corrective action for the violation of 10 CFR 30.34(c), your staff submitted an amendment request on June 6, 2012. The license amendment is currently being reviewed by the NRC and is pending approval. Once the license amendment is approved, you will be in compliance with NRC requirements. The NRC has concluded that information regarding the reason for this violation, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in the enclosed inspection report. Therefore, you are not required to respond to this letter concerning this violation unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be made available electronically for public inspection in the NRC's Public Document Room or from ADAMS. However, the material enclosed herein contains Security-Related Information; its disclosure to unauthorized individuals could present a security vulnerability. Therefore, the enclosures will not be made available electronically for public inspection in the NRC Public Document Room or ADAMS. Security-Related Information is also discussed in Regulatory Information Summary RIS-2005-031, "Control of Security-Related Sensitive Unclassified Non-Safeguards Information" (ML053480073), which is available on the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

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If you have any questions concerning this matter, please contact Bill Lin of my staff at 630-829-9829.

Sincerely,

/RA/

Anne T. Boland, Director
Division of Nuclear Materials Safety

Docket No. 030-04868
License No. 21-08606-03

Enclosures:

1. Notice of Violation (Non-Public)
2. Inspection Report No. 03004868/2012001(DNMS)
(Non-Public)

cc w/encls: John Merrill, Radiation Safety Officer
State of Michigan

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L. Fobes

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If you have any questions concerning this matter, please contact Bill Lin of my staff at 630-829-9829.

Sincerely,

/RA/

Anne T. Boland, Director
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State of Michigan

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Letter to Ms. Lori Fobes from Anne T. Boland, dated July 5, 2012.

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