

3 February 2017

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

In the Matter of	)	
	)	
DTE ELECTRIC CO.	)	Docket No. 50-341-LR
(Fermi Nuclear Reactor, Unit 2)	)	
	)	

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**CITIZENS' RESISTANCE AT FERMI 2 (CRAFT) APPEAL TO NRC COMMISSION  
DECISION SET FORTH IN LBP-17-01**

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Respectfully submitted by

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**CITIZENS' RESISTANCE AT FERMI 2 (CRAFT) APPEAL TO NRC COMMISSION  
PERTAINING TO THE ASLBP DECISION SET FORTH ON 10 JAN. 2017**

Now comes Citizens' Resistance at Fermi 2 (CRAFT) to submit this appeal pertaining to the ASLBP (Board) decision set forth in LBP-17-01 on January 10, 2017 in the matter of DTE Electric Company's License Renewal Application for the Fermi Nuclear Power Plant, Unit 2 (Fermi 2).

**INTRODUCTION**

Pursuant to 10 CFR Part 2.341, *pro se* petitioner Citizens' Resistance at Fermi 2 (CRAFT) respectfully submits this appeal to the U.S. NRC (Commission) pertaining to the ASLBP (Board) decision set forth in LBP-17-01 on January 10, 2017 in the matter of DTE Electric Company's License Renewal Application for the Fermi Nuclear Power Plant, Unit 2 (Fermi 2). CRAFT filed a Motion to Reopen the prematurely closed record of this adjudicatory proceeding for the purpose of litigating a new and timely contention proffered with good cause. Herein, CRAFT petitions the Commission to review and reverse the Board's decision to deny CRAFT's Motion.

CRAFT files this appeal in good faith with a genuine intent to hold DTE accountable for failing to adequately protect the public health concurrent with a Fermi 2 operating license

extension application. Therefore, this appeal brief is not merely a perfunctory act, but rather an ongoing attempt by citizens with legal standing to oppose a federal relicensing action which must be denied by the Commission on the statutory grounds that such action is inimical to the public health.

Chronicled and docketed, the Commission is now faced with a public dilemma. In accordance with 10 CFR Part 2.326(a)(1), a discretionary exception is available in the event that CRAFT has failed to satisfy the Commission's stringent procedural requirements for reopening a closed record. CRAFT has argued unequivocally in this motion and in related briefs and comments throughout the application review process from day one that the issue of emergency preparedness presents "an exceptionally grave issue" inseparable from a reasonable assurance determination of adequate protection in the event of a reasonably foreseeable severe accident during the period of extended operations. CRAFT maintains that carving out the vital issue of emergency preparedness from a license renewal proceeding is arbitrary and capricious, and makes for a wholly disingenuous agency review.

Regardless, in briefs associated with this motion, the record shows CRAFT has raised a genuine material dispute with DTE's license renewal application within the scope of review, and no party nor the presiding officer to date has yet refuted this basic notion. Rather, the Board's ruling denying the motion relies primarily on procedural and technical arguments to counter the validity of the premise of CRAFT's new contention. In due course, it is up to the Commission to decide whether to duly enable the full consideration of legitimate safety issues raised or whether to hide behind overwhelmingly heavy procedural barriers which serve no good cause and which effectively stifle the development of a sound record.

## **CONCLUSION**

In conclusion, the Commission should grant CRAFT's Motion to Reopen the Record and File a New Contention. CRAFT has raised an environmental justice issue and a severe accident mitigation issue within the scope of this license renewal proceeding; CRAFT has raised a genuine material dispute with the Fermi 2 License Renewal Application; CRAFT has provided sufficient specificity to support a *pro se* petition to intervene; CRAFT has shown timely good cause to consider the exceptionally grave issue of Lessons Not Learned in the wake of the ongoing Fukushima disaster in Japan. Therefore, for the above reasons consistent with 10 CFR Part 2.341(b)(4)(i-v), the Commission should grant this petition for review.

**WHEREFORE**, CRAFT respectfully urges the Nuclear Regulatory Commissioners to reverse their decision and grant CRAFT's Motion to Reopen the Hearing and submit a new contention.

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	)	

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing **APPEAL TO NRC COMMISSION PERTAINING TO THE ASLB DECISION SET FORTH ON 10 JAN. 2017** were served by me upon the parties to this proceeding via deposit into the NRC's Electronic Information Exchange system this 3rd day of February 2017. This document is also being submitted as matter of courtesy to email addresses of NRC and DTE Attorneys and to the Hearing Docket Secretary

Respectfully submitted,

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