June 29, 1999

Mr. Guy G. Campbell
Vice President - Nuclear
FirstEnergy Nuclear Operating Company
5501 North State Route 2
Oak Harbor, OH 43449-9760

SUBJECT: DAVIS-BESSE NUCLEAR POWER STATION, UNIT 1 - NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING (TAC NO. MA5477)

Dear Mr. Campbell:

The Commission has forwarded the enclosed "Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing" to the Office of the Federal Register for publication.

This notice relates to your May 21, 1999, submittal to change the Technical Specifications to increase the spent fuel storage capacity by allowing the use of fuel storage racks in the cask pit, which is adjacent to the spent fuel pool.

Sincerely,
Original signed by
Stewart N. Bailey, Project Manager, Section 2
Project Directorate III
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No: 50-346

Enclosure: Notice

cc w/encl: See next page

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UNITED STATES NUCLEAR REGULATORY COMMISSION

FIRSTENERGY NUCLEAR OPERATING COMPANY

DOCKET NO. 50-346

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendment to Facility Operating License No. NPF-3 issued to FirstEnergy Nuclear Operating Company (the licensee) for operation of Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio.

The proposed amendment would change the Technical Specifications to increase the spent fuel storage capacity by allowing the use of fuel storage racks in the cask pit, which is adjacent to the spent fuel pool.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As

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required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The Davis-Besse Nuclear Power Station (DBNPS) has reviewed the proposed changes and determined that a significant hazards consideration does not exist because operation of the Davis-Besse Nuclear Power Station, Unit No. 1, in accordance with these changes would:

1a. Not involve a significant increase in the probability of an accident previously evaluated because the activities performed in and around the spent fuel pool and cask pit will not be significantly changed due to the use of spent fuel racks installed in the cask pit area.

In the analysis of the safety issues concerning the expanded spent fuel storage capacity, the following previously postulated accident scenarios have been considered:

- Misloaded or Mislocated Fuel Assembly
- Seismic Event
- Fuel Handling Accident

In addition, spent fuel cask crane travel and the effects of a loss of spent fuel pool cooling have been evaluated.

The proposed Technical Specification (TS) changes have no bearing on the probability of a seismic event or the probability of a loss of spent fuel pool cooling.

The probability of a fuel handling accident is primarily a function of fuel handling equipment reliability and fuel handling procedures. The probability of inadvertent misloading or mislocation of a fuel assembly is primarily a function of fuel handling procedures. Since the methods and procedures for handling fuel assemblies will not be significantly changed under the proposed TS changes, there will be no significant increase in the probability of these events.

1b. Not involve a significant increase in the consequences of an accident previously evaluated because evaluations for each postulated accident have shown that the consequences remain bounded by the consequences from the previously evaluated accidents.

In the analysis of the safety issues concerning the expanded spent fuel storage capacity, the following previously postulated accident scenarios have been considered:

- Misloaded or Mislocated Fuel Assembly
- Seismic Event
- Fuel Handling Accident

In addition, spent fuel cask crane travel and the effects of a loss of spent fuel pool cooling have been evaluated.

The criticality analyses for the spent fuel storage racks located in the cask pit require burnup/enrichment limitations similar to those currently in place for the spent fuel pool. These burnup/enrichment limitations are imposed by the proposed changes to TS 3/4.9.13, Refueling Operations – Spent Fuel Pool Fuel Assembly Storage. The criticality evaluation for the cask pit racks shows that if an unirradiated fuel assembly of the highest permissible enrichment is placed in an unauthorized storage cell or mislocated outside a storage rack, K_{eff} will be maintained ≤ 0.95, taking credit for soluble boron in the cask pit water. Therefore, there will be no radiological consequences.

The evaluation of a loss of spent fuel pool cooling shows that sufficient time will be available, before the onset of pool boiling, to restore cooling or to provide a source of makeup water. Therefore, the racks will remain submerged and fuel stored therein will remain sufficiently cooled, and there will be no adverse consequences due to the proposed changes.

The results of the seismic evaluation demonstrate that the cask pit racks will remain intact and that the structural capability of the pool and liner will not be exceeded. The Auxiliary Building structure will remain intact during a seismic event and will continue to adequately support and protect the fuel racks and pool water inventory, therefore, the rack geometry and cooling to the fuel will be maintained. Thus, there will be no adverse consequences due to the proposed changes.

The results of the fuel handling mechanical accident evaluation and criticality evaluation show that the minimum subcriticality margin, K_{eff} less than or equal to 0.95, will be maintained and cooling will remain adequate. In addition, the analyses show that the cask pit liner will not be pierced, and although the underlying concrete could experience local crushing, the cask pit structure will not suffer catastrophic damage. The radiological dose resulting from the release caused by a fuel handling accident will not be increased from that previously considered.

The spent fuel cask crane travel interlocking design features were evaluated. Modification of the interlocking device to further restrict crane travel from over the cask pit maintains the same restriction of movement of loads over stored fuel that currently exists for the spent fuel pool.

2. Not create the possibility of a new or different kind of accident from any accident previously evaluated because the function and parameters of the components and the associated activities necessary to support safe storage of fuel assemblies in the cask pit are similar to those presently in place. The methods and procedures for handling fuel assemblies would not be significantly changed. Therefore, the list of postulated accidents remains unchanged.

Any event which would modify parameters important to safe fuel storage sufficiently to place them outside of the boundaries analyzed for normal conditions and/or outside of the boundaries previously considered for accidents would be considered a new or different accident. The fuel storage configuration and the existence of the coolant are the parameters that are important to safe fuel storage. The proposed changes do not alter the operating requirements of the plant or of the equipment credited in the mitigation of the design basis accidents, nor do they affect the important parameters required to ensure safe fuel storage. Therefore, the potential for a new or previously unanalyzed accident is not created.

3. Not involve a significant reduction in a margin of safety because for the proposed changes, appropriate evaluations have shown compliance with stipulated safety margins.

The objective of spent fuel storage is to store the fuel assemblies in a subcritical and coolable configuration through all environmental and abnormal loadings, such as a seismic event or a fuel handling accident. The design of the spent fuel racks located in the cask pit meets all applicable requirements for safe fuel storage. The seismic and structural design of the racks preserves the proper margin of safety during normal and abnormal loads. The methodology used in the criticality analysis meets the applicable regulatory guidance. The thermal-hydraulic evaluation of the pool demonstrates that the cask pit will be maintained below the specified thermal limits under the conditions of the maximum heat load and during all credible malfunction scenarios and seismic events. Upon the unlikely event of a complete loss of spent fuel pool cooling, sufficient time will be available, before the onset of pool boiling, to restore cooling or to provide a source of makeup water. Therefore, the racks will remain submerged and fuel stored therein will remain sufficiently cooled. In addition, the results of the fuel handling accident evaluation show that the minimum subcriticality margin will be maintained, cooling will remain adequate, the cask pit structure will not suffer catastrophic damage, and the radiological dose resulting from the release caused by a fuel handling accident will not be increased from that previously considered.

Thus, it is concluded that the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the FEDERAL REGISTER a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this FEDERAL REGISTER notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By August 5, 1999, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may

be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH 43606. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without

requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 134 of the NWPA, the Commission, at the request of any party to the proceeding, must use hybrid hearing procedures with respect to "any matter which the Commission determines to be in controversy among the parties."

The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules and the designation, following argument of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPA are found in 10 CFR Part 2, Subpart K, "Hybrid Hearing Procedures for Expansion of Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41662 dated October 15, 1985). Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. The presiding officer must grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application must be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time

available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding timely requests oral argument, and if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, Subpart G apply.

For further details with respect to this action, see the application for amendment dated May 21, 1999, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH 43606.

Dated at Rockville, Maryland, this 29th day of June 1999.

FOR THE NUCLEAR REGULATORY COMMISSION

Stewart N. Bailey, Project Manager, Section 2
Project Directorate 3
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

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PDIII/2 r/f
S. Bailey
E. Barnhill

June 29, 1999

MEMORANDUM TO: Rules and Directives Branch
Division of Administrative Services
Office of Administration

FROM: Office of Nuclear Reactor Regulation

SUBJECT: DAVIS-BESSE NUCLEAR POWER STATION, UNIT 1 - NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE (TAC NO. MA5477)

One signed original of the *Federal Register* Notice identified below is attached for your transmittal to the Office of the Federal Register for publication. Additional conformed copies (5) of the Notice are enclosed for your use.

- [ ] Notice of Receipt of Application for Construction Permit(s) and Operating License(s).
- [ ] Notice of Receipt of Partial Application for Construction Permit(s) and Facility License(s): Time for submission of Views on Antitrust matters.
- [x] Notice of Consideration of Issuance of Amendment to Facility Operating License. (Call with 30-day insert date).
- [ ] Notice of Receipt of Application for Facility License(s); Notice of Availability of Applicant's Environmental Report; and Notice of Consideration of Issuance of Facility License(s) and Notice of Opportunity for Hearing.
- [ ] Notice of Availability of NRC Draft/Final Environmental Statement.
- [ ] Notice of Limited Work Authorization.
- [ ] Notice of Availability of Safety Evaluation Report.
- [ ] Notice of Issuance of Construction Permit(s).
- [ ] Notice of Issuance of Facility Operating License(s) or Amendment(s).
- [ ] Order.
- [ ] Exemption.
- [ ] Notice of Granting Exemption.
- [ ] Environmental Assessment.
- [ ] Notice of Preparation of Environmental Assessment.
- [ ] Receipt of Petition for Director's Decision Under 10 CFR 2.206.
- [ ] Issuance of Final Director's Decision Under 10 CFR 2.206.
- [ ] Other: _____

DOCKET NO. 50-346

Attachment(s): As stated

Contact: E. Barnhill
Telephone: 4151379

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