

Docket Number 50-346

License Number NPF-3

Serial Number 2788

May 16, 2002

Mr. Samuel Collins, Director  
Office of Nuclear Reactor Regulation  
United States Nuclear Regulatory Commission  
Washington, DC 20555-0001

**Subject: Response to Petition by Union of Concerned Scientists (UCS) under  
10CFR2.206 regarding Davis-Besse Nuclear Power Station, Unit 1**

Dear Mr. Collins:

On April 24, 2002, UCS submitted a petition under 10 CFR 2.206 requesting that the NRC issue an order requiring a "verification by an independent party" of various issues related to the degradation of the reactor vessel head at Davis-Besse Nuclear Power Station, Unit 1. The enclosure to this letter provides the response of the FirstEnergy Nuclear Operating Company (FENOC) to the UCS petition.

The FENOC is already taking appropriate action to provide for independent oversight of actions related to the reactor vessel head degradation and to address the issues raised in the UCS petition. These actions are described in the enclosed document. In summary,

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the petition does not provide a sufficient basis for taking the actions requested by UCS.  
Therefore, the request by UCS for issuance of an order should be denied.

Very truly yours,

A handwritten signature in black ink, appearing to read "L.W. Myers", with a stylized flourish at the end.

L.W. Myers  
Chief Operating Officer

Enclosure and Attachment

cc: USNRC Document Control Desk  
J.E. Dyer, Regional Administrator, NRC Region III  
D.V. Pickett, DB-1 NRC/NRR Project Manager  
S.P. Sands, DB-1 NRC/NRR Back-up Project Manager  
C.S. Thomas, DB-1 Senior Resident Inspector  
Utility Radiological Safety Board

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**FIRSTENERGY NUCLEAR OPERATING COMPANY'S RESPONSE TO  
"PETITION PURSUANT TO 10 CFR 2.206 REGARDING SAFETY  
AT DAVIS-BESSE NUCLEAR POWER PLANT"**

**(18 Pages Follow)**

**FIRSTENERGY NUCLEAR OPERATING COMPANY'S RESPONSE TO  
"PETITION PURSUANT TO 10 CFR 2.206 REGARDING SAFETY  
AT DAVIS-BESSE NUCLEAR POWER PLANT"**

On April 24, 2002, the Union of Concerned Scientists, on behalf of several organizations, filed a "Petition Pursuant To 10 CFR 2.206 Regarding Safety At Davis-Besse Nuclear Power Plant" (Petition). The Petition requests that the Nuclear Regulatory Commission (NRC) issue an order to FirstEnergy Nuclear Operating Corporation (FENOC), the owner of the Davis-Besse nuclear power plant, requiring a "Verification by an Independent Party" (VIP) for six issues related to the reactor vessel head degradation at Davis-Besse.

The Petition calls for an extraordinary action. The NRC has historically imposed an independent oversight group only in the situations when there have been longstanding, repetitive, and widespread breakdowns in a licensee's performance. None of those conditions is present in this case.

While Davis-Besse did not timely detect the issue related to degradation of the reactor vessel head, there is no history of longstanding, repetitive, or widespread performance problems at Davis-Besse. Moreover, once the degradation was identified by Davis-Besse personnel, FENOC took aggressive and comprehensive actions to identify the causes and corrective and preventive actions. FENOC has a proven ability to take adequate corrective action with respect to the reactor vessel head degradation, or of the NRC to oversee such corrective action. Additionally, Petitioners fail to identify any weaknesses in the ability or independence of the NRC justifying such an action. The NRC has decided to

rely upon the comprehensive, multi-faceted process described in Inspection Manual Chapter (IMC) 0350 to oversee Davis-Besse's return to service, which includes periodic public meetings with the licensee to discuss progress on restart issues. Accordingly, there is no need to create another layer of oversight in this case.

FENOC is already taking action to provide for a suitable level of independent verification for restart activities. The scope of the licensee-initiated actions includes each of the six issues identified by the Petitioners. The NRC will have complete access to the results of this independent verification as it proceeds through the IMC 0350 process. The establishment of the requested VIP is an unwarranted and an unnecessary regulatory burden.

## **I. BACKGROUND**

In August 2001, the NRC issued a Bulletin informing licensees of the possibility of cracking in pressurized water reactor control rod drive mechanisms ("CRDM") and other vessel head penetration nozzles fabricated from Alloy 600. FENOC conducted inspections of these nozzles at Davis-Besse during the next refueling outage, beginning in February 2002. These inspections revealed indications of axial cracking in three CRDM nozzles and significant corrosion of the reactor pressure vessel (RPV) head. FENOC promptly reported these conditions to the NRC, and began a comprehensive investigation of the RPV head degradation issues, including performance of a root cause analysis and an extent of condition determination. FENOC submitted its root cause analysis and plan for determining the extent of condition to the NRC on April 18, 2002, in a report entitled "Root Cause Analysis Report." Additionally, as discussed in the Root Cause Analysis Report, FENOC has

developed a preliminary set of corrective and preventive actions related to the degradation of the RPV head and its causal factors.

The NRC Staff, both regional and headquarters, has also been very active with respect to the degradation of the reactor vessel head at Davis-Besse. For example, the NRC promptly established an Augmented Inspection Team (AIT) to better understand the facts and circumstances related to the degradation of the reactor vessel head pressure boundary material, and to identify any precursor indications of this condition so that appropriate followup actions can be taken. The NRC also issued a Confirmatory Action Letter (CAL) to Davis-Besse on March 13, 2002, requiring FENOC to obtain NRC's prior written approval before restart and to meet with the NRC to discuss the root cause, extent of condition, and corrective and preventive actions. The NRC, at a public meeting on May 7, 2002, reviewed out root cause of the reactor vessel head degradation and found it to be a credible effort. More recently, the NRC decided to impose IMC 0350 on restart of Davis-Besse, the purpose of which is "to provide focused and coordinated regulatory oversight" and "to enhance NRC monitoring" of the Davis-Besse as a result of the reactor pressure vessel head degradation.<sup>1</sup>

## **II. THE PROPOSED VIP IS UNNECESSARY AND UNWARRANTED**

Petitioners ask that a VIP be established in order to "verify the accuracy of plant owner performance and to reassure the public that all reasonable safety measures have been taken."<sup>2</sup> There is, however, no reason to doubt the ability of the NRC and the licensee to

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<sup>1</sup> Letter dated April 29, 2002, from J.E. Dyer (NRC) to Howard Bergendahl (FENOC).

<sup>2</sup> Petition, p 1.

provide such verification and reassurance in this matter. This is a single incident of degradation, and FENOC has committed replace or repair the reactor vessel head. There is no widespread degradation affecting public safety. FENOC is developing a comprehensive set of corrective actions to address RPV head degradation and assure a safe and reliable return to service for Davis-Besse. Moreover, as discussed below, the NRC has been especially vigilant in its oversight of the actions taken with respect to the reactor vessel head degradation at Davis-Besse. Furthermore, as Petitioners concede, FENOC, the industry, and the NRC have communicated frequently and openly with the public from the start about their findings, actions and plans to address this matter.<sup>3</sup>

Although the RPV head degradation was not timely detected, it does not follow that FENOC cannot implement appropriate and effective corrective actions for the identified degradation or that the corrective action program in general is ineffective. FENOC's corrective action program has been greatly strengthened in the past several years. Personnel have been trained on problem identification and root cause techniques. Personnel are rewarded for problem identification. Backlogs are in order and longstanding problems have been reduced. Recent NRC inspections have looked at the corrective action program and endorsed FENOC's ability to implement appropriate corrective action.<sup>4</sup> Indeed, NRC found that FENOC's corrective action program "effectively identified, evaluated and corrected plant problems" and that "[c]orrective actions...appropriately matched the identified causes

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<sup>3</sup> *Id.*, p. 10.

<sup>4</sup> E.g., Davis-Besse Nuclear Power Station NRC Inspection Report No. 50-346/01-05(DRP), March 27, 2001.

and were effective in preventing recurrence of significant conditions adverse to quality.”<sup>5</sup>

The NRC inspectors also determined that “the significance of issues was properly assigned and that...root cause evaluations were thorough, used structured techniques, and identified one or more root causes. Operability and reportability determinations reviewed were properly supported with technical justification.”<sup>6</sup> Contrary to Petitioner’s assertions, the measure of an effective corrective action program is not that no problems ever occur. The measure of an effective corrective action program is the licensee’s ability to identify, understand, and address problems at the site. FENOC discovered this problem, identified the root causes, promptly notified the NRC, and is implementing effective, longstanding corrective actions.

The NRC has been actively involved in oversight of the actions at Davis-Besse to address the degradation of the RPV head. The NRC established an AIT to investigate the RPV head degradation. Pursuant to its Charter, the AIT has collected, analyzed, and documented the following: (1) plant history of reactor coolant system operational leakage indications; (2) plant history of reactor vessel head material condition issues; (3) plant history of reactor vessel head inspection; (4) characterization of all reactor vessel head wastage areas; and (5) probable causes for the vessel head wastage. Based upon these

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<sup>5</sup> Davis-Besse Nuclear Power Station NRC Inspection Report No. 50-346/01-05(DRP), March 27, 2001, p. 3.

<sup>6</sup> Davis-Besse Nuclear Power Station NRC Inspection Report No. 50-346/01-05(DRP), March 27, 2001, p. 5.



activities, the AIT issued its report on May 3, 2002, which included an identification of the probable causes of the nozzle cracking and head corrosion.<sup>7</sup>

The NRC has also provided for increased oversight of actions related to the RPV head degradation by issuing a CAL. The CAL documents the following commitments made by FENOC to evaluate and resolve the RPV head degradation issue:

- (1) Quarantine components or other material from the RPV head and CRDM nozzle penetrations that are deemed necessary to fully address the root cause of the occurrence of degradation of the leaking penetrations. Prior to implementation, plans for further inspection and data gathering to support determination of the root cause will be provided to the NRC for review and comment.
- (2) Determine the root cause of the degradation around the RPV head penetrations, and promptly meet with the NRC to discuss this information after you have reasonable confidence in your determination.
- (3) Evaluate and disposition the extent of condition throughout the reactor coolant system relative to the degradation mechanisms that occurred on the RPV head.
- (4) Obtain NRC review and approval of the repair or modification and testing plans for the RPV head, prior to implementation of those activities. Prior to restart of the reactor, obtain NRC review and approval of any modification and testing activity related to the reactor core or reactivity control systems.
- (5) Prior to the restart of the unit, meet with the NRC to obtain restart approval. During that meeting, we expect you will discuss your root cause determination, extent of condition evaluations, and corrective actions completed and planned to repair the damage and prevent recurrence.
- (6) Provide a plan and schedule to the NRC, within 15 days of the date of this letter, for completing and submitting to the NRC your ongoing assessment of the safety significance for the RPV head degradation.

The NRC is also implementing IMC 0350 to provide a proven, structured, transparent and rigorous oversight of Davis-Besse's return to service. This process, which includes

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<sup>7</sup> Letter dated May 3, 2002, from J.E. Dyer (NRC) to Howard Bergendahl (FENOC), enclosing AIT Inspection Report No. 50-346/02-03.

periodic public meetings and assures that stakeholders are adequately informed and involved, provides a demonstrably effective and comprehensive method for assuring a safe and reliable restart.

Finally, the NRC has already held numerous public meetings related to the RPV head degradation at Davis-Besse, and is planning to hold many more. For example, the NRC held a public AIT exit meeting on April 5, 2002; a meeting of a subcommittee of the Advisory Committee on Reactor Safeguards (ACRS) on April 9; a meeting on the repair plans on April 10, a meeting of the full ACRS on April 11; a meeting on the root cause on May 7; and a meeting on the IMC 0350 process on May 9. Furthermore, the NRC is planning additional meetings under the CAL and IMC 0350 process. Therefore, the NRC has established numerous means for providing the public with information and seeking public input on this matter.

As evidenced by the establishment of the AIT, the issuance of the CAL, the application of IMC 0350, and the numerous public meetings already held and planned, the NRC is actively, substantially, and very publicly overseeing the actions taken in response to the RPV degradation at Davis-Besse. As such, a VIP is unnecessary and would impose an extraordinary remedy and regulatory burden under the circumstances.

### **III. THE CIRCUMSTANCES PRESENT AT MILLSTONE IN 1996 ARE NOT COMPARABLE TO THE CURRENT SITUATION AT DAVIS-BESSE**

As precedent for the requested action, the Petition refers to the NRC's 1996 Order to "bring in an independent team of consultants to verify that [Northeast Nuclear Energy

Company (NNECO)] had adequately fixed a number of problems at Millstone.”<sup>8</sup> However, Petitioners’ reliance upon the Millstone precedent is misplaced; the extraordinary circumstances which warranted the establishment of an Independent Corrective Action Verification Program (ICAVP) at Millstone are significantly different from the current situation at Davis-Besse.

The recent operational and regulatory performance at Davis-Besse stands in marked contrast to the conditions NRC faced at Millstone in 1996. With the exception of the boric acid degradation in the reactor pressure vessel, Davis-Besse has had no significant events during the past four years, has not had a civil penalty since FY 1997-98, and has had all “Green” ratings under the NRC Reactor Oversight Process. When measured by the objective indicators of operational and regulatory performance, Davis-Besse bears no resemblance to Millstone.

In 1996, the NRC concluded that Millstone was experiencing numerous and long-standing physical, technical, programmatic, leadership, and cultural issues. As Petitioners note, in establishing the ICAVP, the NRC found that inspections and NNECO internal audits since 1991 had identified “numerous configuration (design) control failures, failures to implement corrective actions for known problems, failures to implement quality assurance requirements and failures to comply with the terms and conditions of the operating licenses for all three Millstone plants.”<sup>2</sup>

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<sup>8</sup> Petition, p. 2.

<sup>2</sup> Letter from William T. Russell to Ted C. Feigenbaum, dated August 14, 1996, regarding Confirmatory Order Establishing Independent Corrective Action Verification Program (Effective Immediately) – Millstone Nuclear Power Station, Units 1, 2 and 3.

The last published systematic assessment of licensee performance (SALP) report prior to establishment of the ICAVP<sup>10</sup> documented several performance weaknesses at Millstone, including continuing problems with procedure quality and implementation, the informality in several maintenance and engineering programs (contributing to instances of poor performance), and the failure to resolve several longstanding problems at the site.<sup>11</sup> In January 1996, the NRC designated the three Millstone units as “Category 2” on the NRC’s Watch List. By June 1996, this designation was downgraded to “Category 3” for all three Millstone units. This classification indicated that the Millstone units had significant weaknesses that warranted maintaining the plants in a shutdown condition until the licensee could demonstrate to the NRC that adequate programs had been established and implemented to ensure substantial improvement. In addition, by the time the ICAVP was established, Millstone had received numerous civil penalties for multiple infractions,<sup>12</sup> and Millstone had a history of SALP “3” ratings,<sup>13</sup> the lowest possible rating in the NRC’s performance assessment system.

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<sup>10</sup> Letter from T. Martin, NRC Regional Administrator to J. Opeka, NNECO Executive Vice President, Nuclear, re: Systematic Assessment of Licensee Performance (SALP) Report Nos. 50-245/93-99, 50-336/93-99, and 50-423/93-99 (forwarding the Millstone Nuclear Power Station, Units 1, 2, and 3 SALP report for the period April 4, 1993 July 9, 1994).

<sup>11</sup> Northeast Utilities (Millstone Nuclear Power Station, Units 1, 2, and 3, and Haddam Neck Plant), Partial Director’s Decision Pursuant to 10 CFR 2.206, September 12, 1997, p. 4.

<sup>12</sup> For example, between 1991 and 1996, the three Millstone Units received civil penalties totaling over \$1.1 million.

<sup>13</sup> In particular, Millstone Unit 2 received SALP 3 ratings in the categories of Plant Operations and Maintenance (Maintenance / Surveillance) in 1993-1994, and all three Millstone Units received SALP 3 ratings in Safety Assessment / Quality Verification in 1990-1992 and 1992-1993.

As an example of Millstone's performance prior to issuance of the ICAVP order, during eight NRC inspections conducted between October 1995 and August 1996, more than 60 apparent violations of NRC requirements were identified at the Millstone site.<sup>14</sup> With respect to these violations, the licensee acknowledged that management had failed to provide clear direction and oversight, performance standards were low, management expectations were weak, and station priorities were inappropriate.<sup>15</sup> Further, a NRC review group in 1995-1996 identified substantial problems in dealing with employee concerns involving safety issues at the site.<sup>16</sup>

Accordingly, based upon the "[l]icensee's history of poor performance, coupled with the magnitude and scope of its failure to maintain and control conformance of Millstone Units 1, 2 and 3 to their design bases," the NRC established an ICAVP at Millstone.<sup>17</sup> In so doing, the NRC referenced the "[l]icensee's history of poor performance in ensuring complete implementation of corrective action for both known degraded and non-conforming conditions and past violations of NRC requirements. In addition, the magnitude and scope of the design and configuration deficiencies currently being identified indicate multiple significant failures to comply with NRC regulations."<sup>18</sup> Further, the NRC found that the

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<sup>14</sup> Northeast Utilities (Millstone Nuclear Power Station, Units 1, 2, and 3, and Haddam Neck Plant), Partial Director's Decision Pursuant to 10 CFR 2.206, September 12, 1997, p. 6.

<sup>15</sup> *Id.*, p. 7.

<sup>16</sup> Northeast Utilities (Millstone Nuclear Power Station, Units 1, 2, and 3, and Haddam Neck Plant), Partial Director's Decision Pursuant to 10 CFR 2.206, September 12, 1997, pp. 4 and 7.

<sup>17</sup> Confirmatory Order Establishing Independent Corrective Action Verification Program, August 14, 1996, p. 10.

<sup>18</sup> *Id.*

“[l]icensee was aware of significant weaknesses in its oversight functions as early as 1991 and took no effective actions to correct those weaknesses.”<sup>19</sup>

Additionally, as the NRC was trying to deal with Millstone’s wide-ranging programmatic weaknesses, the ability of the regional office with responsibility for Millstone was questioned.<sup>20</sup> The NRC itself removed Millstone from the scope of responsibility of Region I, and established an Office of Special Projects solely to regulate Millstone. As Chairman Jackson conceded, “[w]e haven’t always been on top of things .... the ball got dropped.”<sup>21</sup>

No similar criticisms of the NRC’s ability to regulate its licensees in general, or FENOC in particular, exist today as was raised at the time of the Millstone Order imposing the ICAVP. Since the timeframe of the Millstone order, the NRC has made great strides in restoring public confidence by further opening its regulatory process to the general public, reorienting its regulations on matters of safety significance, and – perhaps most importantly – instituting the objective, performance based Reactor Oversight Process (ROP). Under this new oversight and inspection regime, licensees and members of the public have access to clearly understandable, objective, and verifiable data about the areas of licensee performance most important to safety.

With respect to Davis-Besse, the NRC has invoked its ICM 0350 process to assure safe and reliable restart of the plant. The ICM 0350 panel will include representation from

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<sup>19</sup> *Id.*, p. 10-11.

<sup>20</sup> *E.g.*, Letter from Senator C. Dodd to Chairman S. Jackson, dated September 12, 1995 (“I write to express my serious and on-giving concern about operations at the Millstone Nuclear Power Station”).

both NRC Region III and headquarters. The AIT has developed an in-depth understanding of the RPV degradation event and its causes, and NRC will be engaged in follow-up inspection. Their inspection results are available to the public. Furthermore, both the CAL and the IMC 0350 process will include a series of public meetings, and engage the participation and input of key stakeholders. Additionally, as Petitioners concede, NRC has taken the unusual step of setting up a web page, which is regularly updated and provides documents related to its oversight of Davis-Besse.

Accordingly, unlike the circumstances at Millstone in 1996, this isolated event at Davis-Besse does not call into question the ability of either FENOC or the NRC to adequately respond to concerns. On the contrary, both FENOC and the NRC have responded effectively to the RPV degradation event. A VIP is not warranted, and would impose unnecessary regulatory burden.

#### **IV. FENOC HAS ALREADY TAKEN ACTION TO PROVIDE FOR INDEPENDENT VERIFICATION**

FENOC is already taking appropriate action to address each of the proposed verification areas identified in the Petition. As discussed below, these actions include top-level independent oversight of Davis-Besse's return to service, as well as actions to address each of the six specific areas mentioned in the Petition.

##### **A. Top-Level Independent Oversight Of Davis-Besse's Return To Service**

FENOC will establish a Restart Review Board, which will include independent industry experts, to verify the effectiveness of FENOC's actions in response to the RPV

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<sup>21</sup> Time, March 4, 1996, p.51.

degradation and the root cause analysis, and to ensure that any management issues are fully developed and addressed prior to startup. The Restart Review Board will provide knowledgeable and expert oversight of restart activities. The results of the review performed by this board will be documented and available for NRC review. As a result, the issuance of an order requiring a VIP would simply impose duplicative and unnecessary regulatory burden.

In addition, an Engineering Assessment Board (EAB), which will include senior industry engineering professionals, is being established to review engineering products and programs. This multi-discipline Board will provide critical review of modification packages, reviews of corrective actions, program effectiveness reviews, and system readiness reviews to ensure technical content and quality. In addition to external members, the EAB will include representatives from Davis-Besse in a developmental role with the intent that the EAB function will transition to the station staff once the function has been well established and integrated into station culture.

B. FENOC's Actions In The Six Areas Identified In The Petition

In addition to the independent reviews discussed above, FENOC is also taking actions to address each of the six issues identified in the Petition. These actions include the following:



(1) Review Of The FENOC Corrective Action Process

Petitioners have suggested that the proposed VIP “verify[] the adequacy of [FENOC’s] problem identification and resolution process.”<sup>22</sup> FENOC has already taken action to provide verification of its Corrective Action Program.

As a building block in its Restart Plan, FENOC will undertake a systematic review of plant programs, including the Corrective Action Program. The systematic review will utilize the methodology of the Latent Issues Program that FENOC has successfully applied on key systems at its Beaver Valley plant. The systematic review will determine whether program attributes comply with the applicable basis documents and commitments, the roles and responsibilities for program implementation are clearly defined, the interfaces with other programs or workgroups are controlled and effectively implemented, operating experience is appropriately incorporated, and management involvement occurs at critical points. Each review will be conducted by the applicable program owner with assistance from program engineers and outside technical expertise. The results of the review will be documented and presented to a Program Review Board chaired by the Beaver Valley Latent Issues Manager and including Davis-Besse senior management and/or management from plants outside the FENOC system.

In addition to the program review, the new FENOC oversight Vice President, who has never been involved previously with Davis-Besse, will lead a review of the circumstances involved in those Condition Reports that played a role in the pressure vessel head degradation. This review will consist of an examination the reasons underlying why

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<sup>22</sup> Petition, p. 1.

each of the Condition Reports was dispositioned without detection and resolution of the head degradation.

(2) Root Cause Analysis

Petitioners have suggested that the proposed VIP “verify[] the root cause evaluation prepared by [FENOC] for the damage to the reactor vessel head.”<sup>23</sup> In fact, FENOC’s root cause analysis team was headed by an independent manager who is not employed at Davis-Besse. Additionally, the team was composed of a number of other individuals who are not employed at Davis-Besse, including a former NRC Regional Administrator for Region III, a representative from the Institute of Nuclear Power Operations, a corrosion expert from Dominion Engineering, a metallurgical expert from Framatome ANP, and a material reliability program manager from Electric Power Research Institute (EPRI). In addition, the NRC established a special AIT to evaluate the root causes.

FENOC provided the Root Cause Analysis Report to the NRC on April 18, 2002. As required by the CAL, a public meeting will be held between NRC and FENOC on this Report.

(3) Evaluation Of Boric Acid Impacts On Equipment In Containment

Petitioners have suggested that the proposed VIP “verify[] that the long-term accumulation of boric acid within the reactor containment did not impair the function of safety-related structures, systems and components.”<sup>24</sup> FENOC is performing an evaluation of the extent of condition of boric acid degradation inside containment, via physical

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<sup>23</sup> Petition, p. 1.

<sup>24</sup> Petition, p. 1.

walkdowns of the structures, systems, and components (SSCs) within containment. In general, the containment material condition is good based on previous inspections and subsequent performance.

In determining the scope of the walkdowns, three separate criteria were developed to ensure that a bounding evaluation is performed. These three criteria are: (1) components containing borated water that are considered likely leak locations; (2) components within the reactor coolant system (RCS) pressure boundary that utilize materials susceptible to boric acid corrosion as part of the pressure boundary; and (3) safety related SSCs that utilize materials susceptible to boric acid corrosion but are not part of the RCS pressure boundary.

The results of the extent of condition review will be subject to audit and physical inspection by the NRC. Such NRC inspections (as distinct from the VIP proposed by the Petitioners) provide the most effective method for verifying the physical condition of equipment in the containment. Thus, there will be more than adequate oversight and public consideration of boric acid impacts on equipment in containment. As required by the CAL, the extent of condition results will be provided in a report to the NRC and considered in a public meeting between NRC and FENOC.

(4) Evaluation Of Prior FENOC Responses To NRC Generic Communications

Petitioners have suggested that the proposed VIP “verify[] that [FENOC] has taken appropriate action in response to NRC generic communications.”<sup>25</sup> As indicated previously, FENOC will undertake a systematic review of plant programs using its successful Latent

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<sup>25</sup> Petition, p. 1.

Issues Methodology. This will include consideration of operating experience in each specific program review, and it will specifically include plant programs that implemented responses to various NRC Notices, Generic Letters, and Bulletins. As noted above, the results of each program review will be overseen by a Board chaired by the Beaver Valley Latent Issues Manager and will include Davis-Besse and/or management from non-FENOC plants.

(5) Review Of Deferred Modifications

Petitioners have suggested that the proposed VIP “verify[] that [FENOC] has not deferred other plant modifications without appropriate justification.”<sup>26</sup> FENOC will be performing an operational confidence review prior to startup. These operation confidence reviews have been or will be undertaken by system owners for major Davis-Besse safety-related systems. The reviews include outage issues, Condition Reports, Work Orders, and modifications for each such system. Any proposed modifications that may be needed to ensure system health will be prioritized and implemented as necessary to assure safe and reliable operation. The results of the system owner reviews will be presented to a review panel chaired by the Plant Manager and made available for review by the NRC and the Restart Review Board.

(6) Review And Augmentation Of FENOC Internal Oversight Activities

Petitioners have suggested that the proposed VIP “verify[] that all the entities responsible for safety reviews are properly in the loop and functioning adequately.”<sup>27</sup> As discussed above, FENOC will be establishing an independent restart review board, and

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<sup>26</sup> Petition, p. 1.

<sup>27</sup> Petition, p. 1.

performing an operational confidence review prior to restart. Further, FENOC is increasing Quality Assurance (QA) oversight of engineering activities, and the safety focus of the Corporate Nuclear Review Board (CNRB) will be improved through additional and more frequent reviews of key technical and safety issues.

## V. CONCLUSION

Contrary to the allegations of the Petitioners, the circumstances involving Davis-Besse are not as widespread as those that led the NRC to issue an order requiring independent verification at Millstone. Furthermore, FENOC is taking thorough and appropriate corrective action with respect to the reactor vessel head degradation, and the NRC is rigorously overseeing such corrective action. This includes provisions for independent verification and actions to address each of the six issues identified in the Petition. The investigative and corrective actions of FENOC, the industry, and the NRC are being made publicly available. In light of this diligent and comprehensive response, the Petitioners have failed to set forth any basis for invoking the extraordinary remedy of a VIP in the circumstances of this case.

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COMMITMENT LIST

The following list identifies those actions committed to by the Davis-Besse Nuclear Power Station (DBNPS) in this document. Any other actions discussed in the submittal represent intended or planned actions by the DBNPS. They are described only for information and are not regulatory commitments. Please notify the Manager - Regulatory Affairs (419-321-8450) at the DBNPS of any questions regarding this document or associated regulatory commitments.

COMMITMENTS

DUE DATE

None