

April 10, 2003

Mr. Howard C. Whitcomb, III
405 Madison Avenue
Suite 1440
Toledo, OH 43604-1207

Dear Mr. Whitcomb:

I am responding on behalf of the U. S. Nuclear Regulatory Commission (NRC) to your letter of January 8, 2003, to Dr. George E. Apostolakis of the Advisory Committee on Reactor Safeguards (ACRS) concerning the Davis-Besse Nuclear Power Station. The ACRS forwarded your letter to the NRC staff because your letter raised issues and made requests that are outside of the committee's purview.

In your letter, you state that the NRC did not consider the potential safety consequences of operating Davis-Besse to February 2002. The staff's evaluation of the plant operating until February 16, 2002, considered a large amount of information, including a review of the probabilistic safety assessment calculations submitted by the licensee, inspection results from similar plants, staff analysis of crack growth rates and probabilistic risk, and licensee information regarding previous vessel head inspections. Our decision to allow the plant to continue to operate was based on an assessment that the public health and safety would be protected for that period of plant operation. A detailed discussion of the basis for allowing continued plant operation is contained in our safety evaluation issued on December 3, 2002 (Enclosure 1).

Additionally, your letter requested the removal of the chairman of the NRC's Davis-Besse Oversight Panel from any future activities involving Davis-Besse. Your request was based on your concerns that the issue of safety culture would not be addressed for Davis-Besse and that a conflict of interest existed because the Panel chairman was involved in the previous NRC review of Davis-Besse allegations.

As discussed at the monthly public meetings that the oversight panel conducts near the site, an ongoing inspection is examining organizational effectiveness and human performance as they relate to safety culture and a safety-conscious work environment at the plant. The inspection is guided by NRC regulations and the Commission's 1996 Policy Statement on safety-conscious work environment "Freedom of Employees in The Nuclear Industry to Raise Safety Concerns without Fear of Retaliation" (61 FR 24336).

With regard to the Panel chairman's previous participation in the NRC review of Davis-Besse allegations and to your statement that allegations of criminal misconduct have been suppressed by some NRC staff, my staff has reviewed your submitted information and to the best of our knowledge, believe that no new information has been provided concerning your allegations that were previously resolved by the staff. The chairman of the Oversight Panel will remain; however, I have forwarded your letter including the attachments to the Office of the Inspector General (OIG) for any action that the OIG deems appropriate regarding these two contentions.

Mr. H. Whitcomb, III

-2-

You also questioned the review performed by the NRC's Lessons Learned Task Force (LLTF). Specifically, you are concerned that the LLTF did not review the agency's Davis-Besse allegation history, thereby, missing a performance issue regarding the agency's review of allegations.

As part of its mission to evaluate the NRC staff's regulatory processes related to assuring reactor vessel head integrity, the LLTF conducted a review of the allegation history for Davis-Besse and the other FirstEnergy plants. The LLTF's review only looked for allegations related to the boric acid corrosion program or reactor vessel penetration nozzles and did not encompass all allegations received by the NRC staff. The LLTF did not identify any problems related to previous allegations that pertained to the LLTF's charter, therefore, the LLTF report dated September 30, 2002 (Enclosure 2), did not contain a discussion of the LLTF's allegation review.

Finally, you referred to the OIG 2002 Survey of NRC's Safety Culture and Climate dated December 11, 2002 (Enclosure 3), and commented that the survey results show that the NRC has an eroded safety culture and therefore cannot effectively analyze safety culture at nuclear power plants.

The OIG survey results show that the NRC's safety culture has several strengths, two of which are that the employees are dedicated to NRC's safety mission and the NRC as an agency is committed to public safety. However, we are reviewing the survey results to understand them better, so that we can continue to improve our safety culture.

Thank you for bringing your concerns to our attention.

Sincerely,

/RA by R. W. Borchardt for/

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

Enclosures: As stated

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Enclosures: As stated

Distribution: See attached list

Response: ML030580796

Incoming: ML030440272

Package: ML030620155

Encl 1: ML023300539

Encl 2: ML022740211, ML022760305, ML022760172, ML022760189, ML022760219

Encl 3: ML030030285

*see previous concurrence

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OFFICE	D:DLPM	NMSS/IMNS	ADPT/NRR	NRR/D
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DATE	4/7/03	3/10/03	4/9/03	4/9/03

Mr. H. Whitcomb, III

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DATED: April 10, 2003

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