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FINAL REPLY:

Representative James C. Greenwood

TO:

Chairman Diaz

FOR SIGNATURE OF :

** PRI **

CRC NO: 03-0282

Chairman Diaz

DESC:

ROUTING:

Davis-Besse Lessons Learned

Travers
Paperiello
Kane
Norry
Dean
Burns/Cyr
Dyer, RIII

DATE: 05/08/03

ASSIGNED TO:

CONTACT:

NRR

Collins

SPECIAL INSTRUCTIONS OR REMARKS:

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

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AUTHOR: James Greenwood
AFFILIATION: REP
ADDRESSEE: Nils Diaz
SUBJECT: Davis Besse nuclear power plant

ACTION: Signature of Chairman
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LETTER DATE: 05/07/2003

ACKNOWLEDGED: No

SPECIAL HANDLING: Response requested by
May 21, 2003

NOTES: Commission Correspondence

FILE LOCATION: Adams

DATE DUE: 05/16/2003 DATE SIGNED:

EDO --G20030231

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U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

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May 7, 2003

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The Honorable Nils J. Diaz
Chairman
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Dear Chairman Diaz:

As you know, the circumferential cracking of the control rod drive mechanism nozzles, the buildup of extensive boric acid deposits over a period of years, and the recent discovery of significant corrosion on the reactor vessel head at the Davis-Besse nuclear power plant represent the most significant safety matters the Nuclear Regulatory Commission (NRC) has encountered in the past two decades. In the months since the problems at Davis-Besse were discovered, NRC has reflected on its many failures to identify these extensive safety deficiencies at an earlier stage, and has attempted to apply lessons learned.

I am concerned, however, that the Commission itself and NRC staff may not have completely identified all internal weaknesses that prevented NRC from identifying the severe safety deficiencies at Davis-Besse, and therefore have not completely developed and applied lessons learned from the Davis-Besse experience. It would be unfortunate if the Commission and NRC staff were to overlook any management and procedural weaknesses it uses for identifying and resolving complicated and in some cases subjective regulatory safety decisions.

Specifically, I have reviewed a February 20, 2003 memo from Steven Long of the NRC to each Commissioner. In his memo, Mr. Long described a questionable "voting" process utilized by an NRC manager to determine whether to issue an order requiring shutdown of the Davis-Besse reactor by December 31, 2001, and a second "vote" to determine the likelihood that Davis-Besse would eject a nozzle if allowed to operate until February 16, 2002. I am concerned that NRC staff would employ a "voting" process for determining significant safety matters, and I expect you can provide me with a clear understanding of the rules and documented procedure for administering "votes" on significant regulatory safety matters. I am particularly interested in Mr. Long's account of the first "vote" on whether to issue the order. According to the memorandum, the breakdown on the first vote split with all managers voting against issuing the shutdown order, and an outnumbered technical staff voting in favor of issuing the order.

The Honorable Nils J. Diaz

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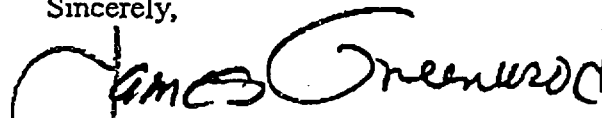
I also am concerned with the NRC's decision on December 4, 2001 -- without any documented safety rationale -- to accept FirstEnergy's proposal to operate Davis-Besse beyond December 31, 2001. The safety rationale, intended to describe the process used by NRC in the Fall of 2001 to support its December 4, 2001 decision, was finally issued on December 3, 2002. It does not seem reasonable that NRC would fail to provide the required documentation to describe its rationale on such a significant safety matter before the fact.

With respect to the technical content of the December 3, 2002 rationale, I believe the Long memo has identified serious weaknesses in the methods NRC has used to apply risk information and risk assessment modeling in the decision-making process on this matter. I also find it alarming that NRC would rely on reactor vessel inspection data from 1996 for calculating the likelihood of nozzle ejection in the Fall of 2001, without any clear explanation of the risk significance of why FirstEnergy was unable to obtain required inspection data during scheduled outages in 1998 and 2000. As you know, useful inspection data from 1998 and 2000 was unobtainable due to enormous deposits of boric acid that created a physical barrier that prevented any access to the top of the reactor, including the corroded areas. In its documented rationale, NRC simply notes that "the inspection conducted in 2000 was considered to be less effective." I believe a more complete and careful evaluation of the conditions that prevented inspections in 1998 and 2000 could have led to a different risk analysis and possibly a different outcome on the "vote" on whether to require a December 31, 2001 shutdown.

In order to obtain a better understanding of whether NRC has completed its lessons learned process, and to determine whether NRC can assure public health and safety in any future decision to restart of the Davis-Besse nuclear power plant, I request that, pursuant to Rules X and XI of the U.S. House of Representatives, you provide responses to the attached list of questions and requests for records by Wednesday, May 21, 2003. Please note that, for the purpose of responding to this request, the terms "records" and "relating" should be interpreted in accordance with the second attachment to this letter.

If you have any questions regarding this request, please contact me or have a member of your staff contact Mr. Dwight Cates of the Energy and Commerce Committee staff at (202) 226-2424.

Sincerely,



James C. Greenwood
Chairman
Subcommittee on Oversight and Investigations

Attachments

Attachment 1

1. Please provide all records relating to the consideration and final decision by NRC not to issue a shutdown order at Davis-Besse.
2. Please review the February 20, 2003 memorandum from Steven M. Long to the Commission and provide me with a full explanation on each point raised in that memo.
3. Please describe the administrative procedures or other guidelines for NRC staff adopted by the Commission and used for developing final recommendations or determinations on significant safety matters including shutdown orders and other significant risk determinations used in regulatory actions.
4. Please describe the voting process utilized by NRC staff and how this voting process was consistent with administrative procedures or guidelines with respect to the decisions on the proposed shutdown order for Davis-Besse and the December 4, 2001 acceptance of FirstEnergy's bulletin response.
5. Please provide a full explanation on why the absence of adequate inspection data on the reactor vessel head from the 1998 and 2000 outages was acceptable to NRC staff in the risk assessment and regulatory decision-making process, and to what degree the absence of this data was a factor in the risk assessment and regulatory-decision making process.
6. Why did NRC staff fail to complete, before December 4, 2001, the documented safety rationale to support its December 4, 2001 decision to allow Davis-Besse to operate until February 16, 2002?

Attachment 2

1. The term "records" is to be construed in the broadest sense and shall mean any written or graphic material, however produced or reproduced, of any kind or description, consisting of the original and any non-identical copy (whether different from the original because of notes made on or attached to such copy or otherwise) and drafts and both sides thereof, whether printed or recorded electronically or magnetically or stored in any type of data bank, including, but not limited to, the following: correspondence, memoranda, records, summaries of personal conversations or interviews, minutes or records of meetings or conferences, opinions or reports of consultants, projections, statistical statements, drafts, contracts, agreements, purchase orders, invoices, confirmations, telegraphs, telexes, agendas, books, notes, pamphlets, periodicals, reports, studies, evaluations, opinions, logs, diaries, desk calendars, appointment books, tape recordings, video recordings, e-mails, voice mails, computer tapes, or other computer stored matter, magnetic tapes, microfilm, microfiche, punch cards, all other records kept by electronic, photographic, or mechanical means, charts, photographs, notebooks, drawings, plans, inter-office communications, intra-office and intra-departmental communications, transcripts, checks and canceled checks, bank statements, ledgers, books, records or statements of accounts, and papers and things similar to any of the foregoing, however denominated.
2. The terms "relating," "relate," or "regarding" as to any given subject means anything that constitutes, contains, embodies, identifies, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.