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**To:** <JAG@NRC.gov> John Grobe, RIII  
**Date:** 7/31/03 11:26AM  
**Subject:** Davis Besse Question

Dear Mr. Grobe,

Thank you for returning my phone call so promptly and taking the time to answer my questions concerning the Davis Besse restart check list. I'm encouraged by your answer.

It was unclear to me from Mr. Collins proposed denial of Congressman Kucinich's 2.206 petition whether the NRC would allow Davis Besse to restart prior to addressing the design basis issues that were supposed to have been resolved back in the 1990's. As I mentioned in our telephone conversation, the nuclear industry's lack of fidelity to the design and licensing basis has been of particular concern to me. I believe it undermines NRC's attempts to move to risk based regulation and has the potential to blind the industry and the agency to issues that contribute greatly to core damage probability. Since Davis Besse, has over its history, been unable or unwilling to ensure the adequacy of its design and licensing basis, I believe it is appropriate that the NRC not allow the reactor to restart unless and until the design basis deficiencies identified in the 1990s are resolved. I eagerly await the inspection report that closes out these long standing design basis problems and finally addresses design basis issues that evolved as a result of the Millstone debacle.

The other question that I was unable to properly characterize in our conversation arises out of the NRC's Special Inspections of the Adequacy of Safety Significant Programs dated July 7, 2003.

In the second report, NRC assesses the plant modification program at Davis Besse because, "the lack of adequate safety evaluations associated with the modification program, specifically installed modifications, had the potential to effect the facility design basis." NRC inspectors concluded that the program adequately identified deficiencies and that corrective actions were established. However, the inspectors stated that they "were unable to assess the latent impact of newly identified deficiencies relative to past modifications that were installed." The licensee and inspectors agreed that the corrective action program would address these deficiencies and closed out the modification control item on the restart checklist.

My concern is that if the NRC and the licensee rely upon the corrective action program, latent deficiencies in the 50.59 modifications will only be addressed when they become glaringly evident in the form of an incident or an accident. Given the industry's past history with 50.59 and Davis Besse's track record of near misses, waiting until these latent deficiencies become self evident may not be the most prudent approach to reactor safety. I hope you can address this concern.

Thank you for your time and your kind words regarding my testimony before the Commission. Unfortunately, the Commissioners did not view my release of the unedited version of the Davis Besse Lessons Learned Task Force report in the same light. In fact, they attempted to "shoot the messenger." If the NRC had released the versions I read, the agency would be viewed as a much stronger regulator. At least it helped me realize that there are still good people working at the NRC who actually want to regulate the nuclear industry, if only the Commission and Senior management would let them.

Thank you again for your time and consideration of my concerns.

Jim

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