

February 6, 2004

Ms. Donna Lueke
909 Elliott Street
Marblehead, Ohio 43440

Dear Ms. Lueke:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated November 10, 2003, concerning the Davis-Besse Nuclear Power Station, Unit 1 (Davis-Besse). Your letter offered thanks and made requests of the NRC, the Public Utility Commission of Ohio, and FirstEnergy Nuclear Operating Company (FENOC), the licensee for Davis-Besse. This response addresses the requests of the NRC. Specifically, you requested that NRC take four actions: (1) reconvene the Lessons Learned Task Force (LLTF); (2) revisit petitions for addition of a watchdog panel for Davis-Besse; (3) revoke the Davis-Besse operating license; and (4) inform the public of the significance of the reactor pressure vessel head degradation and other design-basis issues.

Your first request was to reconvene the LLTF to monitor how the recommendations made by the LLTF have been implemented, and to study problems within the NRC identified by the NRC's Office of the Inspector General (OIG). The implementation of recommendations made by the LLTF and by the OIG concerning Davis-Besse is being closely monitored by NRC senior management in accordance with established internal NRC processes and procedures. The LLTF issued its report on September 30, 2002. NRC's senior management has reviewed all recommendations made by the LLTF for safety significance, scope, schedule, and resource requirements. Work has begun on the majority of the recommendations. The first semiannual report on the implementation of the LLTF recommendations was issued on August 29, 2003. The report is available on the NRC Web site and provides the implementation schedules for all the LLTF recommendations. Additionally, the NRC's implementation of these recommendations is subject to Congressional oversight. Therefore, at this time, there is not a need to convene an oversight panel to monitor the implementation of recommendations made by the LLTF and the OIG concerning Davis-Besse.

In the case of OIG findings and recommendations, the NRC has procedures which require NRC management to take corrective actions in a timely manner to fix deficiencies that were identified. The recent OIG findings regarding Davis-Besse are currently being reviewed by the NRC's Office of Nuclear Reactor Regulation. As in the LLTF effort, the NRC will develop appropriate corrective actions to address the findings of the OIG, as well as an action plan for implementing them. Based on the fact that the implementation of the LLTF and the OIG recommendations is being closely monitored by NRC senior management in accordance with established internal NRC processes and procedures, additional oversight is unnecessary.

Your second request was for independent oversight of Davis-Besse to protect public health and safety. The NRC shares your concerns about protection of public health and safety. The NRC has carefully considered the appropriate regulatory processes to provide enhanced oversight of Davis-Besse and provide reasonable assurance of adequate protection of public

health and safety. The NRC has taken actions and has ongoing activities, in accordance with its established regulatory processes, to ensure that the licensee is adequately implementing appropriate corrective actions. The NRC's actions include issuance of a Confirmatory Action Letter to FENOC and enhanced monitoring of Davis-Besse under the process contained in NRC Inspection Manual Chapter (IMC) 0350, "Oversight of Operating Reactor Facilities in a Shutdown Condition With Performance Problems." In addition, the NRC's IMC 0350 oversight panel issued a Restart Checklist. The Confirmatory Action Letter and the Restart Checklist document a number of actions that FENOC must implement prior to restart of Davis-Besse. The NRC's inspection activities and the NRC's Restart Checklist go well beyond ensuring that the direct causes of the damage to the reactor vessel head are properly identified and corrected. The NRC has also looked broadly at safety-related plant systems and programs to ensure that the physical condition of the plant is adequate and the licensee's operations, maintenance, and engineering organizations are prepared to operate the plant safely prior to restart. The NRC's ongoing inspection activities at Davis-Besse will check the adequacy of FENOC's corrective actions and, if needed, the NRC will take additional steps to ensure that FENOC complies with NRC requirements. Thus, the NRC finds that FENOC's Return-to-Service Plan, as monitored by the NRC Davis-Besse Oversight Panel, will provide reasonable assurance of adequate protection of the public health and safety and that all restart issues will be resolved prior to a restart of Davis-Besse. Therefore, the NRC's current oversight of Davis-Besse is adequate to ensure that the plant is safe and will comply with NRC regulations if and when restart is authorized.

Your third request to revoke the Davis-Besse operating license has been the subject of similar petitions filed with the NRC in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) Part 2, Section 206, "Requests for action under this subpart." The Davis-Besse facility is currently shutdown, and will remain so until the NRC is satisfied that there is reasonable assurance of adequate protection of the public health and safety and that all restart issues have been resolved.

The NRC staff has carefully considered the petitioners arguments regarding why FENOC's operating license for Davis-Besse should be revoked, as well as the alternative request for verification by an independent party. The NRC staff shares your concerns about verifying the adequacy of safety system design and performance and ensuring that future operation of the plant is conducted safely and in compliance with NRC requirements. However, revocation of the Davis-Besse operating license is neither required nor warranted to achieve the desired safety results. The licensee's Return-to-Service Plan comprehensively addresses human factors, programmatic, and equipment issues along with the corrosion of the reactor vessel head. This includes plans for ensuring that plant safety-related systems are able to perform their design-basis functions.

Revocation of the Davis-Besse license would be considered if the licensee was either unable or unwilling to come into compliance with the Commission's rules and regulations. The NRC has not observed either an inability or unwillingness on the part of FENOC to achieve or demonstrate compliance with NRC requirements. The conclusions of the recent Director's Decisions issued by the NRC in response to 10 CFR 2.206 petitions regarding Davis-Besse were made based on a careful consideration of the NRC requirements applicable to the Davis-Besse facility, the NRC's ongoing activities related to oversight and enforcement, the licensee's ongoing corrective actions, and the guidance contained in the NRC's enforcement policy. For

the reasons stated above, we believe that the current NRC oversight of Davis-Besse and the corrective actions being taken by FENOC will achieve the intent of your requested action.

Your fourth request of the NRC is to inform the public of the significance of the reactor pressure vessel head degradation and other design-basis issues. The NRC has inspected the reactor vessel head degradation and other design-basis issues that have been discovered during the extended shutdown. The significance of these issues is determined in accordance with NRC procedures. The NRC has concluded that the FENOC performance deficiency that resulted in the degradation of the reactor coolant system was of "Red" significance, the highest of the four significance categories used by the NRC.

In addition, the NRC's Accident Sequence Precursor program (ASP) systematically evaluates operating experience to identify, document, and rank events that have the potential to cause core damage. The conditions discovered at Davis-Besse, represented a precursor to a sequence of events that could lead to core damage. The Davis-Besse ASP analysis is one of a number of ASP analyses that are performed on a routine basis. The Davis-Besse ASP analysis is scheduled to be completed this summer, the results of which will be made publicly available.

I hope the above information adequately addresses your requests. My colleagues and I at the NRC continue to strive to ensure protection of public health and safety. I am pleased that you care about this goal and I look forward to your continued input into regulatory processes. If you have further requests or questions, please contact Mr. William H. Ruland of the Office of Nuclear Reactor Regulation at 301-415-1389.

Sincerely,

/RA/

William D. Travers
Executive Director
for Operations

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