

From: John Grobe, *ETI*
To: Doug Weaver
Date: 2/25/04 4:51PM
Subject: Final letter transmitting draft order

Doug,

Enclosed is the final letter for your use in informing the OEDO and Comission.

Thanks.

Jack

CC: Christine Lipa; James Caldwell; Jim Dyer; Randal Baker; Samuel Collins; William Ruland

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*Ex 5 this of the 12
of the pages*

EA-03-214

Mr. Lew W. Myers
Chief Operating Officer
FirstEnergy Nuclear Operating Company
Davis-Besse Nuclear Power Station
5501 North State Route 2
Oak Harbor, OH 43449-9760

**SUBJECT: DAVIS-BESSE NUCLEAR POWER STATION, UNIT 1 - CONDITIONS TO BE
CONFIRMED BY ORDER MODIFYING LICENSE (EFFECTIVE IMMEDIATELY)
(TAC NO. MC1335)**

Dear Mr. Myers:

As a result of FirstEnergy Nuclear Operating Company (FENOC) identification of extensive degradation of the reactor pressure vessel head, the Nuclear Regulatory Commission (NRC) issued Confirmatory Action Letter (CAL) No. 3-02-001 on March 13, 2002. The CAL documented commitments that FENOC was expected to fulfill prior to restart of the Davis-Besse Nuclear Power Station, Unit 1. These commitments included meeting with the NRC to obtain restart approval.

On November 23, 2003, FENOC submitted the "Integrated Report to Support Restart of the Davis-Besse Nuclear Power Station and Request for Restart Approval," and concluded that the plant, programs, and personnel were ready to support safe operation, subject to completion of a few well-defined work activities prior to restart. That letter outlined FENOC's commitments regarding post-restart continuing improvement initiatives and self and external assessments to assure lasting performance improvement and requested that the NRC schedule a meeting as stated in the CAL and then approve restart. A meeting was originally scheduled for December 18, 2003, to discuss restart. However, due to self-revealing equipment and operational problems and issues identified by NRC Restart Readiness Assessment and the Management and Human Performance inspection teams, the meeting was delayed.

During the course of the extended shutdown of Davis-Besse beginning in February 2002, FENOC conducted a number of thorough evaluations and self-assessments. Several examples include the evaluation of system design, the assessment of the completeness and accuracy of docketed information, the evaluation of operational performance deficiencies during the normal operating pressure test, and the evaluation of the failure to comply with technical specification requirements during testing of the steam and feedwater rupture control system. However, self-assessments of operational performance prior to both the normal operating pressure test in September 2003, and the NRC's Restart Readiness Assessment Team inspection in December 2003 failed to identify a number of deficiencies. Additionally, NRC inspections earlier during the shutdown discovered issues not originally identified through Davis-Besse

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self-assessments, most notably in the corrective action program, in the quality of engineering evaluations, calculations and analyses, and in safety culture. The NRC recognizes that FENOC has implemented significant corrective actions resulting in improved performance to address the CAL and the NRC Davis-Besse Oversight Panel Restart Checklist. Notwithstanding the improved performance, consistently effective FENOC self-assessments are an important factor in assuring lasting corrective actions for the deficiencies that resulted in the reactor pressure vessel head degradation.

To ensure effective assessment and sustained safe performance in the areas of operations, engineering, and corrective actions at Davis-Besse, the NRC has determined that additional measures are needed to provide the requisite assurance should restart of Davis-Besse be authorized. Therefore, the NRC will issue an Order modifying License No. NPF-3, requiring independent assessments and mid-cycle inspections to provide reasonable assurance that the long-term corrective actions remain effective.

FENOC may inform the NRC whether it will consent to the enclosed conditions by providing written response to the Regional Administrator at NRC Region III, 801 Warrenville Road, Lisle, IL 60532-4351, within five working days of the date of this letter. If you consent, I request that you sign the enclosed Consent and Hearing Waiver form and return it to the above address. By signing the enclosed form, the management of FENOC will agree to have those conditions incorporated into a Confirmatory Order that will be immediately effective upon issuance and FENOC will waive any and all rights to a hearing concerning the Order.

This letter does not imply that permission from the NRC to restart will be forthcoming. However, NRC restart authorization is contingent upon the conditions in the Order being in effect. The NRC plans to issue the Order regardless of your consent.

If you have any questions, please call me at 630-829-9657.

Sincerely,

James L. Caldwell
Regional Administrator

Docket No. 50-346

Enclosures: 1. Consent and Hearing Waiver Form
2. Conditions to be confirmed by Order

See Attached Distribution

**Per phoncon

*Previously concurred

ADAMS Accession No.: ML033360517

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|--------|------------|------------|-------------|----------|----------|---------|
| OFFICE | PDIII-2/PM | PDIII-2/LA | PDIII-2/SC | Tech Ed | PDIII/D | DLPM/D |
| NAME | FLyon* | PCoates* | AMendiola** | PKleene* | WRuland* | LMarsh* |
| DATE | 2/6/04 | 2/6/04 | 2/11/04 | 2/6/04 | 2/18/04 | 2/17/04 |

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|--------|-------------------------|--------------------------|----------|----------|-------------------------|-----------|-----------|
| OFFICE | OE | OGC | 0350 | NRR/ADPT | NRR/D | DEDO | RIII/RA |
| NAME | DNelson* for FCongel | SBurns* for LChandler | JGrobe** | BSheron | JDyer BBorchardt for | SCollins* | JCaldwell |
| DATE | 2/18/04 | 2/18/04 | 2/11/04 | | 2/18/04 | 2/19/04 | |

OFFICIAL RECORD COPY

L. Myers

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cc w/encl: The Honorable Dennis Kucinich
G. Leidich, President - FENOC
Plant Manager
Manager - Regulatory Affairs
M. O'Reilly, Attorney, FirstEnergy
Ohio State Liaison Officer
R. Owen, Administrator, Ohio Department of Health
Public Utilities Commission of Ohio
President, Board of County Commissioners
Of Lucas County
C. Koebel, President, Ottawa County Board of Commissioners
D. Lochbaum, Union Of Concerned Scientists
J. Riccio, Greenpeace
P. Gunter, N.I.R.S.

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CONSENT AND HEARING WAIVER FORM

FirstEnergy Nuclear Operating Company (FENOC) hereby agrees to incorporation of such conditions described in the NRC's letter dated (date of transmittal letter), into a Confirmatory Order that will be immediately effective upon issuance. In signing below, I recognize that FENOC consents to the issuance of the Confirmatory Order, effective immediately, and that pursuant to 10 CFR 2.202(a)(3) and (d), FENOC waives the right to request a hearing on all or any part of the Order.

Name and Title

Executed on

Date

CONDITIONS TO BE CONFIRMED BY ORDER

Accordingly, pursuant to Sections 103, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT LICENSE NO. NPF-3 IS MODIFIED AS FOLLOWS:

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1. FENOC shall contract with independent outside organizations to conduct comprehensive assessments of the Davis-Besse operations performance, organizational safety culture, including safety conscious work environment, corrective action program implementation, and engineering program effectiveness. Ninety days prior to the assessments, FENOC shall inform the Regional Administrator, NRC Region III, in writing, of the identity of its outside assessment organizations, including the qualifications of the assessors, and the planned scope and depth of the assessments. These outside independent assessments at Davis-Besse shall be completed before the end of the 4th calendar quarter of 2004 and annually thereafter for 5 years. Within 45 days of completion of the assessments, the Licensee shall submit by letter to the Regional Administrator, NRC Region III, all assessment results and any action plans intended to address issues raised by the assessment results.

2. FENOC shall conduct a visual examination of the reactor pressure vessel upper head bare metal surface, including the head-to-penetration interfaces; the reactor pressure vessel lower head bare metal surface, including

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CONFIRMATORY ORDER**

the head-to-penetration interfaces; and the control rod drive mechanism flanges, using VT-2 qualified personnel and procedures during the Cycle 14 midcycle outage. The results and evaluation of the inspections will be reported by letter to the Regional Administrator, NRC Region III, prior to restart from the mid-cycle outage, and any evidence of reactor coolant leakage found during the inspections will be reported by telephone within 24 hours of discovery to the Regional Administrator, NRC Region III, or designee.

If the Licensee determines that submittals made in accordance with these conditions contain proprietary information as defined by 10 CFR 2.390, the Licensee shall also provide a nonproprietary version in accordance with 10 CFR 2.390(b)(1)(ii). The Regional Administrator, NRC Region III, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

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