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From: Sara Brock <sup>1062</sup>  
To: Nolan, Chris; Phillips, Monte; Starkey, Doug  
Date: 3/29/05 2:55PM  
Subject: Re: Davis-Besse SOL list

Doug, Monte:

Sara

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<sup>106</sup>  
>>> Doug Starkey 03/29/05 02:43PM >>>  
Sara,

<sup>106</sup>  
>>> Monte Phillips 03/29/05 02:27PM >>>

It sure would be nice if we could go with an extension of the Statue of Limitations, but I'm not sure that this is legally defensible in light of the decision of the United States Court of Appeals for the 6th district, which includes Ohio in the case of US v Jude G. Del Percio, Indiana and Michigan Electric, et al for decision no. 87-1396 (cite as 870 F.2d 1090 6Cir. 1989). In that case, the appeals court allowed an extension of the statute for one violation, but ruled the remaining 8 counts of the indictment (where the NRC argued that the violations were continuing and thus filed within the SOL) were time-barred.

I just want to make sure that we're ok with an extension for all counts and that we won't ultimately lose something further down the line if the licensee or the individuals who may be banned from nuclear activities ultimately appeal the decision to the courts and argue the SOL time-bars our enforcement actions.

<sup>106</sup>  
>>> Doug Starkey 03/29/05 11:16AM >>>  
Brent,

CC: O'Brien, Kenneth; Weil, Charles

Information in this record was deleted  
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