UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

In the Matter of	:	
	:	**IA-05-052**
	:	
David Geisen	:	

ANSWER AND DEMAND FOR AN EXPEDITED HEARING

David Geisen, by and through undersigned counsel, hereby submits the following answer in accordance with 10 C.F.R. § 2.202(b) to the Order (Effective Immediately) Prohibiting Involvement in NRC-Licensed Activities ("the Order") issued by the U.S. Nuclear Regulatory Commission Staff ("Staff") on January 4, 2006. 71 Fed. Reg. 2571 (January 17, 2006.) Mr. Geisen demands an expedited hearing on the Order pursuant to 10 C.F.R. § 2.202(c)(1).

INTRODUCTION

A person to whom the Commission has issued an Order must "specifically admit or deny each allegation or charge made in the order." 10 C.F.R § 2.202(b). Clearly, the Regulations contemplate that an order will set forth its allegations and charges in sufficiently clear fashion so as to allow the answering party to make clear and unambiguous responses. In its present form, the Order precludes such an answer. The paragraphs in the Order are not numbered, and juxtapose allegations of fact with legal conclusions and outright speculations. Given the urgency of this matter and the fact that the immediate effectiveness of the Order has already resulted in the termination of Mr. Geisen's employment, counsel will submit the following answer notwithstanding the form of the Order. In doing so, however, counsel will: (1) number the paragraphs in the Order through the section of the Order that require a response as depicted in the document attached to this answer as Appendix A, (2) only admit or deny those allegations

and charges that apply to Mr. Geisen, and (3) not respond to statements that are legal conclusions or speculation. Anything not specifically admitted in the following Answer is denied.

Mr. Geisen also reserves the right to supplement and/or amend his Answer once he has had the opportunity to review the NRC Office of Investigations Report, number 3-2002-006, issued on August 22, 2003 and cited in the Order at page four.

ANSWER

I

1. Mr. Geisen admits that he was employed as Manager Design Basis Engineering at the Davis-Besse Nuclear Power Station ("Davis-Besse") from approximately March 2000 until approximately May 2002. The remainder of the paragraph contains allegations that do not relate specifically to Mr. Geisen.

II

2. This paragraph contains allegations that do not relate specifically to Mr. Geisen.

3. This paragraph contains allegations that do not relate specifically to Mr. Geisen.

4. This paragraph contains allegations that do not relate specifically to Mr. Geisen.

5. This paragraph contains allegations that do not relate specifically to Mr. Geisen.

6. This paragraph contains allegations that do not relate specifically to Mr. Geisen.

7. This paragraph contains allegations that do not relate specifically to Mr. Geisen.

8. Mr. Geisen admits he was aware of limited details regarding previous Reactor Pressure Vessel ("RPV") head inspections through conversations with other FirstEnergy Nuclear Operating Company ("FENOC") employees and review of documents, although he was not involved in conducting or recording those inspections. Mr. Geisen denies he was aware of all of

the details of the previous RPV head inspections and otherwise denies the remaining allegations set forth in this paragraph.

8a. Mr. Geisen admits he signed and closed out the mode restraint in CR2000-1037 to a work order, admits the quoted language was contained in that Condition Report, and otherwise denies the allegations set forth in this paragraph.

8b. Mr. Geisen admits he signed a memorandum that contained the quoted language and otherwise denies the allegations set forth in this paragraph. Notably, the Order omits from paragraph 8b the sentence that directly follows the two that are included, which reads "[t]he flange was repaired and the head was cleaned."

8c. Mr. Geisen admits he was included on the recipient's list for an email dated August 11, 2001 that contained the quoted language within a recap of a meeting that Mr. Geisen did not attend and otherwise denies the allegations set forth in this paragraph.

8d. Mr. Geisen admits he was on the distribution list for a Piedmont Management and Technical Services, Inc. report dated September 14, 2001 and otherwise denies the allegations set forth in this paragraph.

8e. Mr. Geisen admits he had discussions with a Senior Staff Nuclear Advisor regarding whether or not a particular video recording of an inspection provided sufficient clarity and angles to be considered a valid visual inspection under future inspection criteria and otherwise denies the allegations set forth in this paragraph.

8f. Mr. Geisen admits he was interviewed on or about March 27, 2002, and discussed, among other topics, the 2000 cleaning and inspection, and otherwise denies the allegations set forth in this paragraph, including the allegation that he reviewed videos of inspections in preparation for interacting with the NRC in August, 2001.

8g. Mr. Geisen admits he was interviewed on or about June 18, 2002, and discussed, among other topics, FENOC's responses to Bulletin 2001-01, and otherwise denies the allegations set forth in this paragraph.

9. Mr. Geisen denies the allegations set forth in this paragraph. Specifically, Mr. Geisen denies FENOC's responses to Bulletin 2001-01, taken in their entirety, were incomplete and/or inaccurate. To the extent that statements in specific Bulletin responses can be deemed to be inaccurate and/or incomplete, Mr. Geisen did not know that such statements were inaccurate and/or incomplete at the relevant times and did not knowingly or intentionally make incomplete and/or inaccurate statements or allow incomplete and/or inaccurate statements to be submitted to the NRC. In addition, any such statements were cured by subsequent submissions so that any misimpression resulting from earlier submissions was corrected in a timely fashion. Finally, when the NRC decided to allow FENOC to continue operation of the Davis-Besse facility as referenced in paragraph three, it was in possession of all of the information that formed the basis for FENOC's Bulletin responses and thus shared a complete understanding of FENOC's prior inspection history such that any prior inaccurate and/or incomplete statements were not material to the NRC's ultimate decision.

10. Mr. Geisen admits several FENOC employees were involved in compiling, presenting, and reviewing the information provided to the NRC by FENOC in response to Bulletin 2001-01 and otherwise denies the allegations set forth in this paragraph.

III

11. Mr. Geisen repeats his answer from paragraph one regarding the dates of his employment as Manager Design Basis Engineering and otherwise denies the allegations set forth in this paragraph.

12. Mr. Geisen admits he signed the "Green Sheet(s)" for the three FENOC responses to Bulletin 2001-01 on or about August 28, October 17, and October 30, 2001, and that he participated in meetings with the NRC on or about October 3, October 11, and November 9, 2001 and otherwise denies the allegations set forth in this paragraph.

13. This paragraph contains allegations that do not relate specifically to Mr. Geisen.

14. This paragraph contains allegations that do not relate specifically to Mr. Geisen.

15. This paragraph contains allegations that do not relate specifically to Mr. Geisen.

16. This paragraph contains allegations that do not relate specifically to Mr. Geisen.

17. Mr. Geisen denies the allegations set forth in this paragraph. Specifically, Mr. Geisen denies that FENOC's September 4, 2001 response to the Bulletin, taken in its entirety, was materially incomplete and/or inaccurate. To the extent that statements in the response can be deemed to be inaccurate and/or incomplete, Mr. Geisen did not know that such statements were inaccurate and/or incomplete at the time he signed the Green Sheet for the response and did not knowingly or intentionally allow inaccurate and/or incomplete statements to be submitted to the NRC. In addition, any such statements were cured by subsequent submissions so that any misimpression resulting from the September 4, 2001 submission was corrected in a timely fashion. Finally, when the NRC decided to allow FENOC to continue operation of the Davis-Besse facility as referenced in paragraph three, it was in possession of all of the information that formed the basis for FENOC's Bulletin responses and thus shared a complete understanding of FENOC's prior inspection history such that any prior inaccurate and/or incomplete statements were not material to the NRC's ultimate decision.

18. This paragraph contains allegations that do not relate specifically to Mr. Geisen.

19. Mr. Geisen admits he participated in a conference call with the NRC on or about October 3, 2001 and that the inspections of the reactor pressure vessel head were discussed during that call, and otherwise denies the allegations set forth in this paragraph. Mr. Geisen specifically denies knowingly making any materially incomplete and inaccurate statements during the October 3, 2001 conference call.

20. Mr. Geisen admits he participated in a meeting with other FENOC employees on or about October 10, 2001 in preparation for a meeting with the NRC Commissioners' Technical Assistants. The remainder of the paragraph contains allegations that do not relate specifically to Mr. Geisen.

21. Mr. Geisen admits he participated in a meeting with the NRC Commissioners' Technical Assistants on or about October 11, 2001, during which slides were presented by FENOC and discussed, and denies the remaining allegations set forth in the paragraph.

22. Mr. Geisen denies the allegations set forth in this paragraph. Specifically, Mr. Geisen denies FENOC's presentation to the NRC Commissioners' Technical Assistants was materially incomplete and/or inaccurate in its entirety, and denies any of the statements he made to the Technical Assistants during the October 11, 2001 meeting was inaccurate. To the extent that any of his statements can be deemed to be inaccurate and/or incomplete, Mr. Geisen did not make such statements with knowledge of the inaccuracies and/or omissions, nor did he intend to mislead the Technical Assistants. Mr. Geisen denies he was aware of the extent of the boric acid present on the RPV head at the relevant time during the October 11, 2001 meeting with the Technical Assistants, and further states that any arguably inaccurate statements made on that date regarding past inspections were cured by subsequent submissions; any misimpression created by the October 11, 2001 presentation was corrected in a timely fashion. Finally, when the NRC

decided to allow FENOC to continue operation of the Davis-Besse facility as referenced in paragraph three, it was in possession of all of the information that formed the basis for FENOC's Bulletin responses and thus shared a complete understanding of FENOC's prior inspection history such that any prior inaccurate and/or incomplete statements were not material to the NRC's ultimate decision.

23. This paragraph contains allegations that do not relate specifically to Mr. Geisen.

24. This paragraph contains allegations that do not relate specifically to Mr. Geisen.

25. Mr. Geisen denies the allegations set forth in this paragraph. Specifically, Mr. Geisen denies FENOC's October 17, 2001 response to the Bulletin, taken in its entirety, was materially incomplete and inaccurate. To the extent that statements in the response can be deemed to be inaccurate and/or incomplete, Mr. Geisen did not know that such statements were inaccurate and/or incomplete at the relevant times and did not knowingly or intentionally make incomplete and/or inaccurate statements or allow incomplete and/or inaccurate statements to be submitted to the NRC. In addition, any such statements were cured by subsequent submissions so that any misimpression created by the October 17, 2001 response was corrected in a timely fashion. Finally, when the NRC decided to allow FENOC to continue operation of the Davis-Besse facility as referenced in paragraph three, it was in possession of all of the information that formed the basis for FENOC's Bulletin responses and thus shared a complete understanding of FENOC's prior inspection history such that any prior inaccurate and/or incomplete statements were not material to the NRC's ultimate decision.

26. This paragraph contains allegations that do not relate specifically to Mr. Geisen.

27. Mr. Geisen admits he participated in the labeling of photographs contained in FENOC's October 30, 2001 response and that he did so based on his discussions with Andrew

Seimaszko, and otherwise denies the allegations in this paragraph. Mr. Geisen denies the allegations set forth in this paragraph. Specifically, Mr. Geisen denies FENOC's October 30, 2001 response to the Bulletin, taken in its entirety, was materially incomplete and inaccurate. To the extent that individual statements in the response can be deemed to be inaccurate and/or incomplete, Mr. Geisen did not know that such statements were inaccurate and/or incomplete at the relevant times and did not knowingly or intentionally make incomplete and/or inaccurate statements or allow incomplete and/or inaccurate statements to be submitted to the NRC. In addition, any such statements were cured by subsequent submissions so that any misimpression created by the October 30, 2001 response was corrected in a timely fashion. Finally, when the NRC decided to allow FENOC to continue operation of the Davis-Besse facility as referenced in paragraph three, it was in possession of all of the information that formed the basis for FENOC's Bulletin responses and thus shared a complete understanding of FENOC's prior inspection history such that any prior inaccurate and/or incomplete statements were not material to the NRC's ultimate decision.

28. Mr. Geisen admits he made a presentation to the Advisory Committee on Reactor Safeguards (ACRS) on or about November 9, 2001 that included a discussion of the previous inspections, and otherwise denies the allegations in this paragraph.

29. This paragraph contains allegations that do not relate specifically to Mr. Geisen.

30. Mr. Geisen denies the allegations set forth in this paragraph. For the reasons set forth in the preceding paragraphs of this Answer, the "conclu[sion]" that Mr. Geisen "had knowledge of the RPV head conditions and the limitations experienced during RPV head inspections" is unsupported and inaccurate. Mr. Geisen denies he, on any occasion, deliberately provided materially incomplete and inaccurate information to the NRC. To the extent that any

statement that can be attributed to Mr. Geisen can be deemed to be inaccurate and/or incomplete, Mr. Geisen did not know that such statements were inaccurate and/or incomplete at the time he made them. Any such statements were cured by subsequent submissions so that any misunderstanding was corrected in a timely fashion. Finally, when the NRC decided to allow FENOC to continue operation of the Davis-Besse facility as referenced in paragraph three, it was in possession of all of the information that formed the basis for FENOC's Bulletin responses and thus shared a complete understanding of FENOC's prior inspection history such that any prior inaccurate and/or incomplete statements were not material to the NRC's ultimate decision.

31. Mr. Geisen denies the information provided by FENOC in the Bulletin responses and in teleconferences and meetings was material to the NRC's ultimate decision to allow Davis-Besse to operate until February 2002 rather than December 31, 2001. The latest FENOC "statement" cited in the Order is the November 9, 2001 ACRS presentation. Notably, communications between FENOC and the NRC continued after that date. There were meetings between the NRC and FENOC on November 14 and 28, 2001. FENOC made another written submission on November 30, 2001. In each instance, FENOC continued to update and supplement its earlier submissions. It was not until after these communications that the NRC made its decision to allow continued operation of Davis-Besse. At that decision point, the NRC had received and reviewed not only the FENOC submissions, but also the raw data that FENOC had relied upon to draft the submissions, namely the videotapes of the inspections conducted in 1996, 1998, and 2000, and the recollections of key FENOC personnel that performed those inspections. Thus, NRC was privy to all of the information that was known to FENOC at the time that its ultimate decision was reached, and any arguable inaccuracies in earlier Bulletin responses had been corrected and were not material to that decision.

32. Mr. Geisen denies that he engaged in deliberate misconduct in violation of 10 C.F.R. § 50.5(a)(2) or that his actions placed FENOC in violation of 10 C.F.R. § 50.9. Specifically, Mr. Geisen denies that FENOC's responses to the Bulletin, taken in their entirety, were materially incomplete and inaccurate. To the extent that individual statements in the response can be deemed to be inaccurate and/or incomplete, Mr. Geisen did not know that such statements were inaccurate and/or incomplete at the time he made those statements. In addition, any such statements were cured by subsequent submissions so that any misimpression was corrected in a timely fashion. Finally, the Bulletin responses were not material to the NRC's ultimate decision for the reasons set forth in the paragraph 31 of this Answer.

IV

33. Mr. Geisen denies he violated 10 C.F.R. § 50.5(a)(2) for the reasons set forth in paragraph 32 of this Answer and otherwise denies the allegations set forth in this paragraph.

34. Mr. Geisen denies the public health, safety and interest require he be prohibited from any involvement in NRC-licensed activities for a period of five years from the effective date of the Order. For the reasons set forth in the preceding paragraphs of this Answer, the stale allegations that Mr. Geisen engaged in deliberate misconduct are unfounded and incorrect both as a matter of fact and law. Moreover, assuming, *arguendo*, the accuracy of the allegations, the actions complained of occurred in 2001 and were fully known by the NRC by 2002. For close to four years thereafter, Mr. Geisen continued to work in the nuclear industry and continued to perform licensed activities. During that period, Mr. Geisen performed to the highest standards of integrity and professionalism, as he has throughout his career in the industry. Any suggestion that the health and safety of the public is implicated by Mr. Geisen's participation in NRC-licensed activities is wholly unsupported.

Respectfully Submitted,

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I affirm that the foregoing Answer is true and accurate to the best of my knowledge.

David C. Geisen

Date: 2/21/06

APPENDIX A

[7590-01-P]

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	IA-05-052
David Geisen	)	
	)	

ORDER PROHIBITING INVOLVEMENT IN
NRC-LICENSED ACTIVITIES
(EFFECTIVE IMMEDIATELY)

I

1. Mr. David Geisen was previously employed, at times relevant to this Order, as the Manager of Design Engineering at the Davis-Besse Nuclear Power Station (Davis-Besse) operated by FirstEnergy Nuclear Operating Company (FENOC or licensee). The licensee holds License No. NPF-3 which was issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50 on April 22, 1977. The license authorizes the operation of Davis-Besse in accordance with the conditions specified therein. The facility is located on the licensee's site near Oak Harbor, Ohio.

II

2. On August 3, 2001, the NRC issued Bulletin 2001-001, "Circumferential Cracking of Reactor Pressure Vessel Head Penetration Nozzles," (Bulletin). In the Bulletin, the NRC requested that all holders of operating licenses for pressurized water nuclear power reactors (PWR), including FENOC for the Davis-Besse facility, provide information to the NRC relating to the structural integrity of the reactor pressure vessel (RPV) head penetration nozzles at their respective facilities. The information requested from the licensees included the extent of RPV head

penetration nozzle leakage and cracking that had been found to date, a description of the inspections and repairs undertaken to satisfy applicable regulatory requirements, and the basis for concluding that a licensee's plans for future inspections would ensure compliance with applicable regulatory requirements. The NRC also required that all Bulletin addressees, including FENOC, submit a written response to the NRC in accordance with the provisions of 10 CFR 50.54(f). That regulation provides, in part, that upon request of the NRC, an NRC-licensee must submit written statements, signed under oath or affirmation, to enable the NRC to determine whether the license should be modified, suspended, or revoked.

3. On September 4, October 17, and October 30, 2001, the licensee provided written responses to the Bulletin. Additionally, the licensee met with the NRC staff on numerous occasions during October and November of 2001 to provide clarifying information. Based, in part, on the information provided by FENOC in its written responses to the Bulletin and during meetings with the NRC staff, the NRC staff allowed the licensee to continue operation of the Davis-Besse facility until February 2002, rather than requiring FENOC to shut the unit down to perform inspections by December 31, 2001, as provided in the Bulletin.

4. On February 16, 2002, FENOC shut down Davis-Besse for refueling and inspection of control rod drive mechanism (CRDM) RPV head penetration nozzles. Using ultrasonic testing, the licensee found cracks in three CRDM RPV head penetration nozzles and on March 6, 2002, the licensee discovered a cavity in the RPV head in the vicinity of CRDM Penetration Nozzle No. 3. The cavity measured approximately 5 to 7 inches long, 4 to 5 inches wide, and penetrated through the 6.63 inch-thick low-alloy steel portion of the RPV head, leaving the stainless steel cladding material (measuring 0.202 to 0.314 inches-thick) as the sole reactor coolant system

(RCS) pressure boundary. A smaller cavity was also found near CRDM Penetration Nozzle No. 2.

5. The licensee conducted a root cause evaluation and determined that, contrary to the earlier information provided to the NRC, the cavities were caused by boric acid from the RCS released through cracks in the CRDM RPV head penetration nozzles. The root cause evaluation found that the licensee conducted limited cleaning and inspections of the RPV head during the Twelfth Refueling Outage (12RFO) that ended on May 18, 2000. However, neither the limited RPV head cleaning nor the resultant inspections during 12RFO were sufficient to ensure that the significant boric acid deposits on the RPV head were only a result of CRDM flange leakage, as supposed, and were not a result of RCS pressure boundary leakage.

6. On March 6 and March 10, 2002, the licensee provided information to the NRC concerning the identification of a large cavity in the RPV head adjacent to CRDM Penetration Nozzle No. 3. The NRC conducted an Augmented Inspection Team (AIT) inspection at Davis-Besse from March 12 to April 5, 2002, to determine the facts and circumstances related to the significant degradation of the RPV head. The results of the AIT inspection were documented in NRC Inspection Report No. 50-346/2002-03, issued on May 3, 2002. A follow-up Special Inspection was conducted from May 15 to August 9, 2002, and on October 2, 2002, the NRC issued the AIT Follow-up Special Inspection Report No. 50-346/2002-08 documenting ten apparent violations associated with the RPV head degradation.

7. On April 22, 2002, the NRC Office of Investigations (OI) initiated an investigation at Davis-Besse to determine, among other matters, whether FENOC and individual employees at the Davis-Besse facility failed to provide complete and accurate information to the NRC in its

September 4, October 17, and October 30, 2001, responses to the Bulletin and during numerous conference calls and meetings in violation of 10 CFR 50.9 and 10 CFR 50.5(a)(2). The OI report (No. 3-2002-006) was issued on August 22, 2003. A copy of the OI report was provided to the U. S. Department of Justice (DOJ), Office of the United States Attorney, Northern District of Ohio for review. The matter remains under continued Federal investigation.

8. Mr. Geisen, through the performance of his engineering duties, and through oral and written communications with other FENOC employees, was aware of the results of previous RPV head inspections. For example:

8a. On April 27, 2000, Mr. Geisen signed and closed out Condition Report (CR) 2000-1037 which included the following problem statement associated with the identification of five leaking control rod drives:

> "Identified at locations: F10, D10, C11, F8, and G9 . . . There are no boron deposits on the vertical faces of the flange of G9 drive. The bottom of the flange of G9 drive is inaccessible for inspection due to the boron buildup on the reactor head insulation, not allowing full camera insertion. Since the boron is evident only under the flange and not on the vertical surfaces, there is a high probability that G9 is a leaking CRD."

8b. On June 27, 2001, Mr. Giesen approved and signed a intra-company memorandum that indicated that "large boron leakage from a control rod drive mechanism (CRDM) flange was observed during 12RFO inspection" and "This leakage did not permit the detailed inspection of CRDM nozzles."

8c. On August 11, 2001, Mr. Geisen received an E-mail that stated, in part: "it was pointed out that we cannot clean our head thru the mouse holes and a system engineer is requesting that three large holes be cut in the Service Structure for viewing [inspection] and cleaning."

8d. Mr. Geisen reviewed a Piedmont Management and Technical Services, Inc., report, dated September 14, 2001, that indicated, in part, that at the completion of 12RFO the RPV head had boric acid deposits of considerable depth left at the center top area of the head.

8e. A Senior Staff Nuclear Advisor (former Inservice Inspector), FENOC, at the request of a system engineer from Davis-Besse plant engineering, reviewed a CD ROM video that the system engineer had made from videos of the reactor vessel head. The purpose of the review was to assist in locating or determining the location of some nozzles. Shortly after completing the review, Mr. Geisen asked the Senior Staff Nuclear Advisor what he thought, from a visual standpoint, of the data he had seen on the video. The Senior Staff Nuclear Advisor replied, in part, that, based on an Electric Power Research Institute (EPRI) head examination document being developed, boron on the Davis-Besse head would preclude an examination of that nature [EPRI] from being performed.

8f. In March 2002, a consultant from Martin Sigmund Consulting Services, Inc., conducted an assessment of reactor head management issues at Davis-Besse. The consultant provided his assessment to the Davis-Besse Site Vice President via a memorandum dated March 28, 2002. The assessment, in part, consisted of interviews with many of the personnel involved with the reactor head corrosion issues. Mr. Geisen was

Interviewed for this assessment on March 27, 2002, and stated, in part, that some boric acid was left on the head in 2000 and that the condition report was not very thoroughly evaluated. Mr. Geisen also stated that he became aware that the reactor vessel head had not been cleaned completely when reviewing the videos of the inspections in preparation for interacting with the NRC in August, 2001.

8g. On June 18, 2002, the licensee interviewed Mr. Geisen regarding the Davis-Besse responses to Bulletin 2001-001. When asked whether the reactor vessel head was inspected in accordance with plant procedure, Mr. Geisen stated, in part, that we did the inspection but clearly not with [in accordance with] the procedure. Mr. Geisen further stated that Davis-Besse was taking credit for a general inspection which clearly did not meet the requirements in Bulletin 2001-001.

9. The above information demonstrates that Mr. Geisen had sufficient knowledge of the results of previous inspections of the RPV head and that he knew that the licensee's written and oral responses to NRC Bulletin 2001-001 were incomplete and inaccurate.

10. Several FENOC employees, including Mr. David Geisen, were responsible for the information provided to the NRC by FENOC in response to the Bulletin.

III

11. David Geisen was employed by FENOC as the Manager of Design Engineering at Davis-Besse at the time the licensee developed and transmitted to the NRC its written responses to the

Bulletin and at the time the licensee met with the NRC to provide clarifying information regarding its written responses.

12. On August 28, October 17, and October 30, 2001, respectively, Mr. Geisen concurred in the issuance of the licensee's September 4, October 17, and October 30, 2001, responses to the Bulletin. On the concurrence sheets, Mr. Geisen was listed as the FENOC manager responsible for ensuring the completeness and accuracy of the responses. Mr. Geisen participated in the development and presentation of information to the NRC during information briefings held on October 3, October 11, and November 9, 2001.

13. Item 1.d of the Bulletin requested each pressurized water reactor (PWR) licensee, including FENOC for Davis-Besse, to provide a description of the RPV head penetration nozzles and RPV head inspection (including type, scope, qualification requirements, and acceptance criteria) that were performed at PWRs in the 4 years preceding the date of the Bulletin, and the findings resulting from the inspections. The licensees were requested to include a description of any limitations (insulation or other impediments) to accessibility of the bare metal of the RPV head for visual examinations.

14. On September 4, 2001, FENOC submitted its written response to the Bulletin for Davis-Besse. Item 1.d of the licensee's September 4, 2001, response to the Bulletin stated, in part, that:

> "The DBNPS [Davis-Besse] has performed two inspections within the past four years, during the 11th Refueling Outage (RFO) in April 1998 and during the 12th RFO in April 2000. The scope of the visual inspection was to inspect the bare metal RPV head area that was accessible through the weep holes to identify any boric acid leaks/deposits. The DBNPS also inspected 100% of Control Rod Drive Mechanism (CRDM) flanges for leaks in response to Generic Letter 88-05,

'Boric Acid Corrosion of Carbon Steel Reactor pressure Boundary Components in PWR Plants." The results of these two recent inspections are described below.

Inspections of the RPV head are performed with the RPV head insulation installed in accordance with DBNPS procedure NG-EN-0324, "Boric Acid Corrosion Control Program," which was developed in response to Generic Letter 88-05. As stated previously, a gap exists between the RPV head and the insulation, the minimum gap being at the dome center of the RPV head where it is approximately 2 inches, and does not impede visual inspection. The service structure envelopes the DBNPS RPV head and has 18 openings (weep holes) at the bottom through which inspections are performed. There are 69 CRDM nozzles that penetrate the RPV head. The metal reflective insulation is located above the head and does not interfere with the visual inspection. The visual inspection is performed by the use of a small camera. This camera is inserted through the weep holes."

15. Item 1.d of the licensee's September 4, 2001, response, under the section entitled, "April 2000 Inspection Results (12RFO)," stated:

"The boric acid deposits were located beneath the leaking flanges with clear evidence of downward flow. No visible evidence of nozzle leakage was detected."

16. Item 1.d of the licensee's September 4, 2001, response, under the section entitled, "Subsequent Review of 1998 and 2000 Inspection Videotapes Results," stated:

"Since May 2001, a review of the 1998 and 2000 inspection videotapes of the RPV head has been performed. This review was conducted to re-confirm the indications of boron leakage experienced at the DBNPS were not similar to the indications seen at ONS and ANO-1; i.e., was not indicative of RPV nozzle leakage. This review determined that indications such as those that would result from RPV head penetration leakage were not evident."

17. The licensee's September 4, 2001, response was materially incomplete and inaccurate in that the response: (1) mischaracterized the accumulation of boric acid on the RVP head as a result of the 12RFO RPV head inspection; (2) failed to include information that during the Eleventh Refueling Outage (11RFO) and 12RFO, the licensee's access to the RPV head bare metal was

impeded by the presence of significant accumulations of boric acid deposits; (3) failed to indicate that the presence of boric acid deposits was not limited to the area beneath control rod drive mechanism flanges; and (4) failed to indicate that the build-up of boric acid deposits was so significant that the licensee could not inspect all of the RPV head penetration nozzles. Mr. Geisen was aware that the licensee's September 4, 2001, response to the Bulletin was materially incomplete and inaccurate, but nevertheless concurred on the response, thereby allowing it to be submitted to the NRC.

18. The NRC staff determined that the September 4, 2001 response did not include sufficient information to justify the NRC permitting FENOC to operate Davis-Besse beyond December 31, 2001. As a result, FENOC met with the NRC staff, Commissioners' Technical Assistants, the Advisory Committee on Reactor Safeguards, and Congressional staff members, and developed supplemental responses in an effort to better communicate its justification for continued operations beyond December 31, 2001.

19. On October 3, 2001, Mr. Geisen participated in a conference call with the NRC staff. Mr. Geisen was also involved in preparatory meetings for the October 3rd conference call. The agenda for the conference call stated "Video Inspection Review from RFO10, RFO11, and RFO12: Further Confirmation of no indication of leakage attributable to CRDM nozzle leakage; clearly CRDM flange leakage." During the conference call, Mr. Geisen informed the NRC that 100% of the reactor pressure vessel head had been inspected during the last outage (RFO12) but some areas were precluded from inspection and that videotapes of the 10RFO, 11RFO, and 12RFO reactor pressure vessel head inspections had been reviewed. The information communicated by the Mr. Geisen during the conference call was materially incomplete and inaccurate in that the licensee did not conduct a 100% inspection of the RPV head during

12RFO due to the presence of significant amount of boric acid on the reactor pressure vessel head which obscured a significant number of RPV head nozzles.

20. On October 10, 2001, Mr. Geisen attended a meeting with other FENOC management officials for the purposes of finalizing presentation slides for an October 11, 2001, meeting with the NRC Commissioner's Technical Assistants. Draft Presentation Slide 20 stated: "Reviewed video inspections of Reactor Vessel head taken during 11RFO (April 1998) and 12RFO (April 2000) and confirmed that Davis-Besse has not experienced boron leakage as seen at Oconee or Arkansas Nuclear." Presentation Draft Slide 21 stated: "Reviewed past 3 outages of Reactor Vessel Head Inspection video tapes which were taken to satisfy Generic Letter 97-01: No telltale "popcorn" type boron deposits; During 12RFO (Spring 2000), Davis-Besse identified sources of boron that precluded the visual inspection of some CRDM penetrations, as five leaking flanges above the mirror insulation; Viewed past 3 outages of inspection video tapes of area masked by boron in 12 RFO did not have previous leakage."

21. On October 11, 2001, Mr. Geisen and other licensee staff briefed the NRC Commissioners' Technical Assistants as to FENOC's basis for determining that Davis-Besse was safe to operate until the next refueling outage (March 2002). During the briefing, FENOC and Mr. Geisen, as a presenter, discussed the presentation slides that were finalized the previous day. Presentation Slide 6, as presented by FENOC stated, in part: "Conducted and recorded video inspections of the head during 11RFO (April 1998) and 12RFO (April 2000) - No head penetration leakage was identified." Presentation Slide 7, as presented by Mr. Geisen stated, in part: "All CRDM [control rod drive mechanism] penetrations were verified to be free from "popcorn" type boron deposits using video recordings from 11RFO or 12RFO."

22. The licensee's October 11, 2001, presentation to the NRC Commissioners' Technical Assistants was materially incomplete and inaccurate in that the presentation slides did not state that the build-up of boric acid on the RPV head was so significant that the licensee could not inspect all of the RPV head penetration nozzles. Due to the significant amount of boric acid present on the RPV head, of which he was aware, Mr. Geisen did not have a basis for stating that no visible evidence of RPV penetration nozzle leakage was detected.

23. On October 17, 2001, the licensee provided a supplemental response to the Bulletin. The second paragraph under the section entitled, "Previous Inspection Results," on Page 2 of Attachment 1 of the licensee's October 17, 2001, supplemental response stated, in part:

> "The inspections performed during the 10th, 11th, and 12th Refueling Outage (10RFO, conducted April 6 to June 2, 1996; 11RFO, conducted April 10 to May 23, 1998; and, 12RFO, conducted April 1 to May 18, 2000) consisted of a whole head visual inspection of the RPV head in accordance with the DBNPS Boric Acid Control Program pursuant to Generic Letter 88-05 "Boric Acid Corrosion of Carbon Steel Reactor Pressure Boundary Components in PWR Plants." The visual inspections were conducted by remote camera and included below insulation inspections of the RPV bare head such that the Control Rod Drive Mechanism (CRDM) nozzle penetrations were viewed. During 10RFO, 65 of 69 nozzles were viewed, during 11RFO, 50 of 69 nozzles were viewed, and during 12RFO, 45 of 69 nozzles were viewed. It should be noted that 19 of the obscured nozzles in 12RFO were also those obscured in 11RFO."

24. Information included under Column 6 of Attachment 2 of the licensee's October 17, 2001, supplemental response stated, in part, that 24 nozzles have a "flange leak evident." Note 1 on the same table stated, in part:

> "In 1996 during 10 RFO, the entire RPV head was inspected. Since the video was void of head orientation narration, each specific nozzle view could not be correlated."

25. The licensee's October 17, 2001, supplemental response was materially incomplete and inaccurate, in that the licensee did not view the stated number of RPV head penetration nozzles during the referenced outages, and the licensee believed that only five RPV head control rod drive mechanism flanges were leaking instead of the 24 RPV head control rod drive mechanism flanges noted in the response. Mr. Gelsen was aware that the licensee's October 17, 2001, supplemental response was materially incomplete and inaccurate but, nevertheless, concurred on the response, thereby allowing it to be submitted to the NRC.

26. On October 30, 2001, the licensee provided a supplemental response to the Bulletin. In an enclosure to the supplemental response, the licensee provided a summary table and photographic images of areas of accumulated boric acid crystal deposits on the RPV head. The photographic images were labeled to indicate the time the images were captured, the specific RPV nozzle locations associated with the images, except for those associated with 10 RFO (1996), and narrative comments. The labels also represented that the images were generally indicative of the condition of the RPV head for 10RFO and 11RFO.

27. The licensee's October 30, 2001, supplemental response was materially incomplete and inaccurate, in that the photographic images of the RPV head nozzles and the accompanying labels were not consistent with the actual RPV head conditions and with the actual RPV head nozzle pictured. Specifically, the RPV head images omitted images of the significant boric acid accumulations present on the RPV head, and many of the RPV head nozzle images were mislabeled to indicate that the images were of a different RPV head nozzles then actually presented in the image. In addition, several of the images were mere copies of other images with the labels changed. Mr. Gelsen labeled the images based on his understanding of the head inspections and his discussions with a former Davis-Besse system engineer. Mr. Gelsen

was aware that the information contained in the licensee's October 30, 2001, supplemental response was materially incomplete and inaccurate but, nevertheless, concurred on the response, thereby allowing it to be submitted to the NRC.

28. On November 9, 2001, in a transcribed presentation to the Advisory Committee on Reactor Safeguards (ACRS), Mr. Geisen stated that the 11RFO (1998) and 12RFO (2000) inspections were focused on inspecting the RPV for indications of the impact of boric acid leakage from leaking flanges. Mr. Geisen stated that the 1998 and 2000 inspections (video tapes) did not give a good view of the control rod drives because the camera angle was looking upwards at the structural material of the service structure on top of the head. Mr. Geisen stated that the video tape of the 10RFO (1996) inspection was a better video because the camera was following around a vacuum and probe that were specifically looking for head wastage as a result of boron deposits on the head. The information provided by the licensee and Mr. Geisen to the ACRS was materially incomplete and inaccurate in that each of the video tapes was helpful in understanding the significant boron accumulations present at the start of each outage, the clear impediments to 100% inspection of the RPV head nozzles, and difficulty the licensee encountered in its attempts to fully clean the RPV head of boron or to complete a comprehensive inspection of the RPV head nozzles.

29. Following the 1996 RPV head inspection, the licensee generated Potential Condition Adverse to Quality Report 96-0551, which stated, in part, on Continuation Sheet Page 9, Part C, Item 1:

> "The extent of the inspection was limited to approximately 50 to 60% of the head area because of the restrictions imposed by the location and size of mouseholes. The inspection showed varying sizes of boric acid mounds scattered in various areas of the head. It is extremely difficult to develop an

estimate of the amount of boric acid deposit because of the deposit scatter and limited inspection."

30. Based on the above information, the NRC concludes that Mr. Geisen had knowledge of the RPV head conditions and the limitations experienced during RPV head inspections, and that, notwithstanding that knowledge, he deliberately provided materially incomplete and inaccurate information when he: (1) concurred, on August 28, October 17, and October 30, 2001, respectively, in the licensee's September 4, October 17, and October 30, 2001, responses to the Bulletin; and (2) assisted in the preparation and presentation of incomplete or inaccurate information during internal meetings on October 2 and 10, 2001, and during meetings or teleconferences held with the NRC on October 3, 11, and November 9, 2001.

31. The information provided by the licensee under oath in the Bulletin responses based, in part on the concurrence of Mr. Geisen, was material to the NRC because the NRC used the information, in part, to allow FENOC to operate Davis-Besse until February 2002 rather than requiring the plant to shut down by December 31, 2001, to conduct inspections of the head as discussed in Item 3.v.1. of the Bulletin. The information provided to the NRC during teleconferences and meetings was material to the NRC because the information gave the impression to the NRC staff that the Davis-Besse RPV head had been completely inspected and that the licensee had not identified any indications of RPV head penetration nozzle cracks when this was not the case at the time the response was submitted.

32. Based on the above information, Mr. David Geisen, while employed by the licensee, engaged in deliberate misconduct by deliberately providing FENOC and the NRC information that he knew was not complete or accurate in all material respects to the NRC, a violation of 10 CFR 50.5(a)(2). Mr. Geisen's actions also placed FENOC in violation of 10 CFR 50.9. The NRC

V

Accordingly, pursuant to sections 103, 104, 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, 10 CFR 50.5, and 10 CFR 150.20, IT IS HEREBY ORDERED THAT EFFECTIVE IMMEDIATELY:

1. Mr. David Geisen is prohibited for five years from the date of this Order from engaging in NRC-licensed activities. The NRC considers NRC-licensed activities to be those activities that are conducted pursuant to a specific or general license issued by the NRC, including those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

2. If Mr. Geisen is currently involved with another licensee in NRC-licensed activities, he must immediately cease those activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer.

3. For a period of five years after the five-year period of prohibition has expired, Mr. Geisen shall, within 20 days of acceptance of his first employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in NRC-licensed activities. In the notification, Mr. Geisen shall include a statement of his commitment to

V

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compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Geisen of good cause.

VI

In accordance with 10 CFR 2.202, David Geisen must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order within 20 days of the date of this Order. However, since this enforcement action is being proposed prior to the U.S. Department of Justice completing its review of the OI investigation results, consideration may be given to extending the response time for submitting an answer as well as the time for requesting a hearing, for good cause shown. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Geisen or other person adversely affected relies and the reasons as to why the Order should not have been issued. Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Giesen, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. Any answer or request for a hearing shall be submitted to the Secretary,

U.S. Nuclear Regulatory Commission, Attn: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region III, 2443 Warrenville Road, Lisle, IL 60532-4352, and to Mr. Geisen if the answer or hearing request is by a person other than Mr. Geisen. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. If a person other than the Mr. Geisen requests a hearing, that

person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309.

If a hearing is requested by Mr. Geisen or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Goyal, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate

effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be effective immediately and shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

FOR THE NUCLEAR REGULATORY COMMISSION

Martin J. Virgilio
Deputy Executive Director for Materials,
Research, State and Compliance Programs
Office of the Executive Director for Operations

Dated this 4th day of January 2006.

Reinhard, Matthew

From: Reinhard, Matthew
Sent: Thursday, February 23, 2006 4:36 PM
To: 'hearingdocket@nrc.gov'; 'OGCMailCenter@NRC.gov'
Subject: IA-05-052 Answer and Request For Expedited Hearing

Ladies and Gentlemen,

Please find attached the Answer and Request for Expedited Hearing of David Geisen, filed in response to NRC Order IA-05-52 issued on January 4, 2006. A copy of this Answer will follow via facsimile and first class mail.

Please let me know if you have any questions.

Matthew Reinhard
Miller & Chevalier
202-626-5800

NRC Answer.pdf