

April 26, 2006 (2:07pm)

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

**OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF**

Before the Atomic Safety and Licensing Board

In the Matter of : Docket No. IA-05-054
: :
STEVEN P. MOFFITT : ASLBP No. 06-847-03-EA
: :

**STEVEN P. MOFFITT'S
INITIAL DISCOVERY DISCLOSURES**

Pursuant to the Board's Initial Scheduling Order dated April 18, 2006, and 10 C.F.R. § 2.704(a), Steven P. Moffitt makes the following initial discovery disclosures. In accordance with 10 C.F.R. § 2.704(e), Mr. Moffitt understands that he must supplement his disclosures as additional information and documents are developed, obtained, or identified.

(a)(1) Names of Individuals Likely to Have Discoverable Information Relative to Disputed Issues:

Mr. Moffitt has not yet determined the individuals upon whom he will rely as witnesses. Persons upon whose roles he based his February 23, 2006 Answer disputing the allegations made in the U.S. Nuclear Regulatory Commission's January 4, 2006 "Order Prohibiting Involvement in NRC-Licensed Activities" (Enforcement Order) include those identified below. None has yet been asked to provide an analysis or statement on Mr. Moffitt's behalf.

Contention 1: Mr. Moffitt was not fully aware of the scope of Davis-Besse Nuclear Power Station's (Davis-Besse's) previous reactor pressure vessel (RPV) head inspections or cleaning, he attributed boric acid residue to leaking control rod drive mechanism (CRDM) flanges, and believed that boric acid residue was not a safety issue.

<u>Name and Title</u> ¹	<u>Address</u>	<u>Telephone Number</u>
William H. Bateman	U.S. Nuclear Regulatory Commission	301-415-2795
Scott A. Coakley, 12RFO Outage Director	Current business address unknown.	
David C. Geisen, Manager Design Engineering	c/o Richard A. Hibey, Esq. Miller & Chevalier, Chartered 655 Fifteenth Street, NW, Suite 900 Washington, D.C. 20005-0858	202-626-5800
Gregory A. Gibbs	Piedmont Management & Technical Services, Inc. 2502 South 17th St., Suite 118 Wilmington, NC 28401	910-452-3088
Prasoon Goyal, Senior Design Engineer	c/o James C. Howarth, Esquire 2000 Penobscot Bldg. 645 Griswold Street Detroit, MI 48226-4009	313-962-3500
David L. Eshelman, Manager Plant Engineering	c/o FirstEnergy Nuclear Operating Company (FENOC) Legal Department 76 S. Main Street Akron, OH 44308	330-384-5308
David Lockwood, Manager Regulatory Affairs	FENOC Legal Department 76 S. Main Street Akron, OH 44308	330-384-5308
Joseph W. Rogers, Former Outage Director and Plant Engineering Manager	FENOC Legal Department 76 S. Main Street Akron, OH 44308	330-384-5308

¹ Titles, when stated, refer to the individual's position in 2000 during Davis-Besse's 12th Refueling Outage or in 2001, during the Bulletin response period.

Andrew Siemaszko, System Engineer	c/o Billie Pirner Garde, Esquire John M. Clifford, Esquire Clifford & Garde 1707 L Street, NW, Suite 500 Washington, D.C. 20036	202-289-8990
Jack R. Strosnider, Jr.	U.S. Nuclear Regulatory Commission	301-415-7800
John Wood, Former Site Vice President	Will provide home address (Ohio)	
Dale Wuokko, Regulatory Affairs Supervisor Licensing	c/o FENOC Legal Department 76 S. Main Street Akron, OH 44308	330-384-5308

Contention 2: Mr. Moffitt did not make or cause any misleading statements to be made to the NRC during an October 3, 2001 teleconference.

<u>Name and Title</u>	<u>Address</u>	<u>Telephone Number</u>
William H. Bateman	U.S. Nuclear Regulatory Commission	301-415-2795
Guy Campbell, Site Vice President	c/o John F. McCaffrey, Esq. McLaughlin & McCaffrey, LLP Easton Center, Suite 1350 1111 Superior Avenue Cleveland, OH 44114-2500	216-623-0900
Scott A. Coakley, 12RFO Outage Director	Current business address unknown.	
Rodney Cook, Regulatory Affairs Consultant	c/o John F. Conroy, Esquire Gordon & Ermer Two Lafayette Center 1133 21 st Street, NW, Suite 450 Washington, D.C. 20036-3354	202-833-3400

Stephen Fyfitch	c/o AREVA NP Inc. 3315 Old Forest Road Lynchburg, VA 24501	434-832-3000
David C. Geisen, Manager Design Engineering	c/o Richard A. Hibey, Esq. Miller & Chevalier, Chartered 655 Fifteenth Street, NW, Suite 900 Washington, D.C. 20005-0858	202-626-5800
Prasoon Goyal, Senior Design Engineer	c/o James C. Howarth, Esquire 2000 Penobscot Bldg. 645 Griswold Street Detroit, MI 48226-4009	313-962-3500
Allen L. Hiser, Jr.	U.S. Nuclear Regulatory Commission	301-415-5650
David Lockwood, Manager Regulatory Affairs	c/o FENOC Legal Department 76 S. Main Street Akron, OH 44308	330-384-5308
Douglas E. Killian	c/o AREVA NP Inc. 3315 Old Forest Road Lynchburg, VA 24501	434-832-3000
Alvin McKim	c/o AREVA NP Inc. 3315 Old Forest Road Lynchburg, VA 24501	434-832-3000
Mark McLaughlin, Alloy 600 Team Leader	c/o AREVA NP Inc. 3315 Old Forest Road Lynchburg, VA 24501	434-832-3000
Dale L. Miller, Regulatory Affairs Supervisor Compliance	c/o Jane G. Penny, Esq. Killian & Gephart, LLP P.O. Box 886 Harrisburg, PA 17108	717-238-5430
Dale Wuokko, Regulatory Affairs Supervisor Licensing	c/o FENOC Legal Department 76 S. Main Street Akron, OH 44308	330-384-5308
Jacob I. Zimmerman	U.S. Nuclear Regulatory Commission	301-415-1220

Contention 3: Mr. Moffitt did not make or cause any misleading statements to be made to the NRC Commissioners' Technical Assistants during an October 11, 2001 presentation.

<u>Name and Title</u>	<u>Address</u>	<u>Telephone Number</u>
Guy Campbell, Site Vice President	c/o John F. McCaffrey, Esq. McLaughlin & McCaffrey, LLP Easton Center, Suite 1350 1111 Superior Avenue Cleveland, OH 44114-2500	216-623-0900
Steven Fyfitch	c/o AREVA NP Inc. 3315 Old Forest Road Lynchburg, VA 24501	434-832-3000
David C. Geisen, Manager Design Engineering	c/o Richard A. Hibey, Esq. Miller & Chevalier, Chartered 655 Fifteenth Street, NW, Suite 900 Washington, D.C. 20005-0858	202-626-5800
David Lockwood, Manager Regulatory Affairs	c/o FENOC Legal Department 76 S. Main Street Akron, OH 44308	330-384-5308
Gerald M. Wolf	c/o FENOC Legal Department 76 S. Main Street Akron, OH 44308	330-384-5308

Contention 4: Mr. Moffitt corrected information Davis-Besse related to the NRC on October 3 and 11, 2001, through Serial Response Number 2375 dated October 17, 2001.

<u>Name and Title</u>	<u>Address</u>	<u>Telephone Number</u>
Kendall W. Byrd	c/o FENOC Legal Department 76 S. Main Street Akron, OH 44308	330-384-5308
David C. Geisen, Manager Design Engineering	c/o Richard A. Hibey, Esq. Miller & Chevalier, Chartered 655 Fifteenth Street, NW, Suite 900 Washington, D.C. 20005-0858	202-626-5800
Prasoon Goyal, Senior Design Engineer	c/o James C. Howarth, Esquire 2000 Penobscot Bldg. 645 Griswold Street Detroit, MI 48226-4009	313-962-3500
David Lockwood, Manager Regulatory Affairs	c/o FENOC Legal Department 76 S. Main Street Akron, OH 44308	330-384-5308
Andrew Siemaszko, System Engineer	c/o Billie Pirner Garde, Esquire John M. Clifford, Esquire Clifford & Garde 1707 L Street, NW, Suite 500 Washington, D.C. 20036	202-289-8990
Lonnie W. Worley, Director Nuclear Services	c/o FENOC Legal Department 76 S. Main Street Akron, OH 44308	330-384-5308

Contention 5: Through Mr. Moffitt's efforts, Davis-Besse corrected and provided more complete and accurate information to the NRC by Serial Numbers 2735 and 2744, RPV head inspection videos, and expert crack growth analysis. By the time the NRC allowed Davis-Besse to continue operations past 2001, the NRC had reached the same conclusions as Davis-Besse.

<u>Name and Title</u>	<u>Address</u>	<u>Telephone Number</u>
Kendall W. Byrd	c/o FENOC Legal Department 76 S. Main Street Akron, OH 44308	330-384-5308
Rodney Cook, Regulatory Affairs Consultant	c/o John F. Conroy, Esquire Gordon & Ermer Two Lafayette Center 1133 21 st Street, NW, Suite 450 Washington, D.C., 20036-3354	202-833-3400
David C. Geisen, Manager Design Engineering	c/o Richard A. Hibey, Esq. Miller & Chevalier, Chartered 655 Fifteenth Street, NW, Suite 900 Washington, D.C. 20005-0858	202-626-5800
Prasoon Goyal, Senior Design Engineer	c/o James C. Howarth, Esquire 2000 Penobscot Bldg. 645 Griswold Street Detroit, MI 48226-4009	313-962-3500
David Lockwood, Manager Regulatory Affairs	c/o FENOC Legal Department 76 S. Main Street Akron, OH 44308	330-384-5308
Andrew Siemaszko, System Engineer	c/o Billie Pirner Garde, Esquire John M. Clifford, Esquire Clifford & Garde 1707 L Street, NW, Suite 500 Washington, D.C. 20036	202-289-8990
Lonnie W. Worley, Director Nuclear Services	c/o FENOC Legal Department 76 S. Main Street Akron, OH 44308	330-384-5308
John Zwolinski	U.S. Nuclear Regulatory Commission	

Contention 6: Mr. Moffitt has never posed a risk to the health and safety of the general public.

<u>Name and Title</u>	<u>Address</u>	<u>Telephone Number</u>
Howard Bergendahl, Site Vice President	Will provide home address	
Human Resources Director	c/o FENOC Legal Department 76 S. Main Street Akron, OH 44308	330-384-5308
David Lockwood, Manager Regulatory Affairs	c/o FENOC Legal Department 76 S. Main Street Akron, OH 44308	330-384-5308
Robert Saunders, Chief Nuclear Officer	Will provide home address	
John Wood, Former Site Vice President	Will provide home address	
Lonnie Worley, Director Nuclear Services	c/o FENOC Legal Department 76 S. Main Street Akron, OH 44308	330-384-5308

(a)(2) A Description By Category and Location of All Documents, Data Compilations and Tangible Things Relative to Disputed Issues:

In approximately July of 2002, FENOC provided to the NRC's Office of Investigations (OI) all of the documents in Mr. Moffitt's possession, custody, or control relating to Davis-Besse's 2000 Refueling Outage and the Bulletin response. FENOC produced 971 pages of Mr. Moffitt's documents and data compilations numbered S14N-00001 through S14N-000971.² Because the relatively small volume of Mr. Moffitt's FENOC-produced documents should not impede the progress of discovery, Mr. Moffitt will not reproduce the set again unless requested.

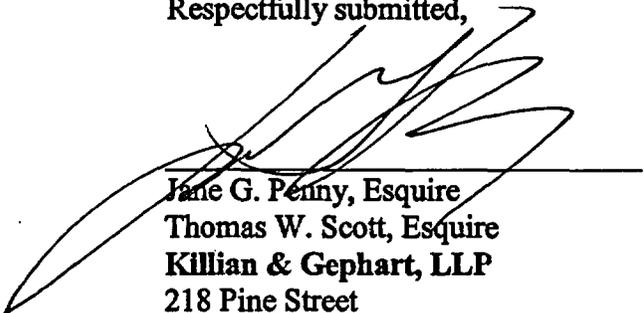
In compliance with 10 C.F.R. § 2.704(a)(2), Mr. Moffitt is separately producing copies of additional documents relative to the disputed issues. Mr. Moffitt's additional documents

² Counsel understands that the NRC Staff will be producing a set of Mr. Moffitt's documents numbered S14N-000001 through S14N-000971, on or near to April 26, 2006.

provided on one compact disk include an April 29, 2000 copy of the *Outage Insider*, a restart readiness memorandum from May 2000, intra-company memoranda, print-outs of electronic memoranda on which he was copied, typed or handwritten notes of meetings or telephone calls, two draft copies of Serial Number 2731, slide print-outs, NRC memoranda, a FENOC report, July 1, 2002 interview notes, a redacted copy of Office of Inspector General notes, a page from Mr. Moffitt's access log (March through November 2001) and calendar entries for 2000 and 2001. These documents are numbered SPM-000001 through SPM-00000223.³ By letter dated April 25, 2006, Mr. Moffitt provided Staff counsel with copies of correspondence redacted on the basis of attorney-client privilege.

Mr. Moffitt has reviewed documents related to Davis-Besse's response to the NRC Bulletin and the discovery of the RPV head degradation posted on the NRC website at <http://www.nrc.gov/reading-rm/adams>. He has also reviewed information obtained by the Union of Concerned Scientists through the Freedom of Information Act posted at www.ucsusa.org/clean_energy/nuclear_safety/nrcs-inspector-general-documents-on-davisbesse.html.

Respectfully submitted,



Jane G. Penny, Esquire
Thomas W. Scott, Esquire
Killian & Gephart, LLP
218 Pine Street
P.O. Box 886
Harrisburg, PA 17108-0886
jpenny@killiangephart.com
tscott@killiangephart.com

Counsel for Steven P. Moffitt
Dated: April 26, 2006

³ A list of the documents is attached as Exhibit A.

EXHIBIT "A"

STEVEN MOFFITT'S LISTING OF INITIAL DISCLOSURE DOCUMENTS

Item No.	Document Title	Est. Volume	Date
S14N-00001-S14N-00971	S. Moffitt documents produced to OI	971 pages	7/02 (production date)
SPM-000001	<i>Outage Insider</i>	3 pages	4/29/00
SPM-000004	Restart Readiness Review	2 pages	5/9 and 5/10/00
SPM-000006	P. Goyal re NEI/MRP meeting	4 pages	4/26/01
SPM-0000010	P. Goyal re Mode 5 Inspection	4 pages	6/27/01
SPM-0000014	Call notes with meeting notice	3 pages	7/23/01
SPM-0000017	P. Goyal re meeting	2 pages	8/11/01
SPM-0000019	Station Review Board	2 pages	8/8/01
SPM-0000021	Bulletin Action Plan	3 pages	8/11/01
SPM-0000024	R. Cook e-mail with draft response 8-29-01 Version 1g-ANO	26 pages	8/29/01
SPM-0000050	R. Cook e-mail re Serial 2731 "final copy"	26 pages	9/4/01
SPM-0000076	G. Gibbs letter	5 pages	9/14/01
SPM-0000081	D. Miller notes re calls/meetings	14 pages	9/28-10/3/01
SPM-0000095	D. Wuokko e-mail with call summary	2 pages	10/2/01
SPM-0000097	R. Cook e-mail with agenda	2 pages	10/3/01
SPM-0000099	D. Miller notes re calls	9 pages	10/3-10/4/01
SPM-00000108	D. Miller notes re calls	3 pages	10/10-10/11/01
SPM-00000111	Slides re Bulletin (Campbell, Moffitt, Geisen, Lockwood, Fyfitch)	16 pages	10/11/01
SPM-00000127	D. Wuokko e-mail re meeting request	2 pages	10/12/01
SPM-00000129	D. Wuokko e-mail re SIA	1 page	10/12/01

STEVEN MOFFITT'S LISTING OF INITIAL DISCLOSURE DOCUMENTS

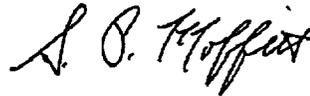
Item No.	Document Title	Est. Volume	Date
SPM-00000130	D. Lockwood e-mail re J. Zwolinski request	1 page	10/12/01
SPM-00000131	D. Wuokko e-mail re supplemental response	1 page	10/12/01
SPM-00000132	D. Wuokko call notes	2 pages	10/12/01
SPM-00000134	D. Wuokko call notes	1 page	10/12/01
SPM-00000135	D. Wuokko call notes	1 page	10/16/01
SPM-00000136	D. Wuokko call notes	2 pages	10/16-10/18/01
SPM-00000138	D. Pickett e-mail	1 page	10/17/01
SPM-00000139	D. Pickett e-mail	1 page	10/17/01
SPM-00000140	D. Pickett e-mail	1 page	10/18/01
SPM-00000141	D. Wuokko e-mail	1 page	10/18/01
SPM-00000142	D. Wuokko e-mail	1 page	10/18/01
SPM-00000143	D. Wuokko notes about call with 10/15/01 e-mail	2 pages	10/15/01
SPM-00000145	D. Wuokko e-mail	1 page	10/26/01
SPM-00000146	Review and approval forms	7 pages	8/01-10/30/01
SPM-00000153	Notice of Meeting	3 pages	11/1/01
SPM-00000156	D. Wuokko e-mail with "crack growth" forward	1 page	11/5/01
SPM-00000157	D. Wuokko e-mail with chronology	3 pages	11/5/01
SPM-00000160	D. Wuokko call notes	1 page	11/8/01
SPM-00000161	S. Long notes	1 page	
SPM-00000162	R. Cook e-mail with chronology	4 pages	11/12/01
SPM-00000166	D. Lockwood e-mail with S. Moffitt attributed e-mail	2 pages	11/16/01
SPM-00000168	DB-RA system e-mail with meeting notice	3 pages	11/21/01
SPM-00000171	Meeting summary	3 pages	11/26/01
SPM-00000174	R. Smoot report	14 pages	4/4/02
SPM-00000188	R. Rossomme interview	8 pages	7/1/02

STEVEN MOFFITT'S LISTING OF INITIAL DISCLOSURE DOCUMENTS

Item No.	Document Title	Est. Volume	Date
	of S. Moffitt		
SPM-00000196	OIG interview of S. Moffitt (redacted)	2 pages	9/24/02
SPM-00000198	S. Moffitt 2000 lotus notes	4 pages	03/02-10/18/00
SPM-00000202	S. Moffitt 2001 lotus notes	16 pages	03/13/01-1/14/02
SPM-00000217	S. Moffitt access log	1 page	3/16-11/5/01
SPM-00000218	P. Goyal deferred prosecution agreement	6 pages	11/10/05

UNSWORN DECLARATION

I, **Steven P. Moffitt**, declare under penalty of perjury that the facts set forth in the foregoing "Initial Discovery Disclosures" are true and correct to the best of my knowledge, information and belief. This declaration is made pursuant to Title 28 U.S.C. § 1746.



Steven P. Moffitt
[Home Address Deleted
Under 10 C.F.R. § 2.390(a)]

April 26, 2006

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before the Atomic Safety and Licensing Board

In the Matter of	:	Docket No.	IA-05-054
	:		
STEVEN P. MOFFITT	:	ASLBP No.	06-847-03-EA
	:		

CERTIFICATE OF SERVICE

I certify that on April 26, 2006, copies of Steven P. Moffitt's Initial Discovery Disclosures were served on the following persons through the U. S. mail, and electronic mail where indicated by an asterisk (*):

Administrative Judge
Michael C. Farrar, Chair
Atomic Safety and Licensing Board Panel
Mail Stop: T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
E-mail: mcf@nrc.gov *

Administrative Judge
Nicholas G. Trikouros
Atomic Safety and Licensing Board Panel
Mail Stop: T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
E-mail: ngt@nrc.gov *

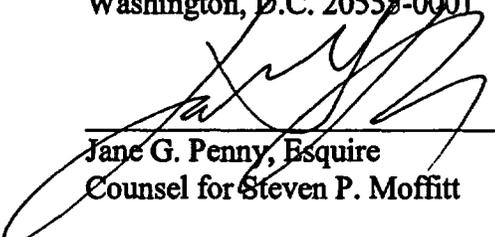
Administrative Judge
E. Roy Hawkens
Atomic Safety and Licensing Board Panel
Mail Stop: T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
E-mail: erh@nrc.gov *

Office of Commission Appellate Adjudication
U.S. Nuclear Regulatory Commission
Mail Stop: 0-16 C1
Washington, D.C. 20555-0001

Sara E. Brock, Esquire
Mary C. Baty, Esquire
Office of the General Counsel
Mail Stop: O-15 D21
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
E-mail: seb2@nrc.gov *
E-mail: mcb1@nrc.gov *

Office of the Secretary
Attn: Rulemaking and Adjudications Staff
Mail Stop: O-16 C1
Washington, D.C. 20555-0001
Email: hearingdocket@nrc.gov *

Adjudicatory File
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Mail Stop: T-3 F23
Washington, D.C. 20555-0001



Jane G. Penny, Esquire
Counsel for Steven P. Moffitt