

June 30, 2006

Michael C. Farrar, Chairman
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

E. Roy Hawkens
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Nicholas G. Trikouros
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

In the Matter of
STEVEN P. MOFFITT
Docket No. IA-05-054, ASLPB No. 06-847-03

Dear Administrative Judges:

In accordance with the 10 C.F.R. § 2.709 please find enclosed the NRC Staff's Answers to Interrogatories and Requests for Admissions in the above captioned proceeding. Documents responsive to the Requests for Production of Documents have been sent through first class U.S. mail to Counsel to Mr. Moffitt today.

Sincerely,

/RA by Sara E. Brock/

Sara E. Brock
Mary C. Baty
Michael A. Spencer
Counsel for the NRC Staff

Attachments: As stated.

cc: Jane G. Penny
Thomas W. Scott

June 30, 2006

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

STEVEN P. MOFFITT

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Docket No. IA-05-054

ASLBP No. 06-847-03-EA

NRC STAFF RESPONSES AND OBJECTIONS TO STEVEN P. MOFFITT'S
DISCOVERY REQUESTS DATED JUNE 1, 2006

INTRODUCTION

Pursuant to 10 C.F.R. §§ 2.706 and 2.709 of the Commission's regulations, the Staff of the Nuclear Regulatory Commission (Staff) hereby files its responses and objections to the interrogatories, specific document requests, and requests for admission contained in "Steven P. Moffitt's Discovery Requests Addressed to NRC Staff," dated June 1, 2006. The Staff reserves the right to supplement its responses contained herein pursuant to 10 C.F.R. § 2.705(e) of the Commission's regulations.

I. NRC Staff Responses and Objections to Mr. Moffitt's Interrogatories

INTERROGATORY 1

State the name, business address, and position or title of each person who was consulted or supplied information in answering the Interrogatories set forth below. Designate the Interrogatory or the part of each Interrogatory, for which the identified person was consulted or supplied information.

RESPONSE

In accordance with 10 C.F.R. § 2.706(b)(2) of the Commission's regulations, each member of the NRC staff who assisted in the preparation of answers to interrogatories and requests for admission has signed an affidavit identifying the responses to interrogatories and

responses to requests for admission he assisted in preparing and attesting to that assistance.

Affidavits from the following individuals are attached: Robert Starkey, Scott Langan, William FitzGibbon, Kenneth Lambert, Scotty Kryk, Kenneth O'Brien, Eugene Richards, Stephen Sands, and Charles Weil.

INTERROGATORY 2

State the name, business address, employer, and position or title of each person you intend to use as a witness in this enforcement proceeding. State the subject matter for which each of the witnesses is expected to testify.

RESPONSE

Objection. Under 10 C.F.R. § 2.709(a)(2), interrogatories directed toward the Staff need not be answered absent a finding by the presiding officer that the answers are "necessary to a proper decision in the proceeding." The Staff has not yet settled on which fact witnesses it will call, and under § 2.704(c)(2) parties other than the Staff are ordinarily not required to disclose witness lists until 30 days prior to a scheduled hearing. Therefore, disclosure of the Staff's list of fact witnesses at this time is not necessary to a proper decision in the proceeding. Furthermore, to the extent that the interrogatory is seeking preliminary thoughts about the witnesses the Staff's attorneys might use, the Staff asserts the Attorney Work Product privilege.

INTERROGATORY 3

State the name, business address, employer, and position or title of each person you intend to use as an expert witness, including the details of each expert's education, professional qualifications, employment history, and the subject matter on which the expert is expected to testify. State a summary of the grounds for each expert's opinion and identify all documents, data, or other information that each expert has reviewed, or is expected to rely upon for his or her testimony.

RESPONSE

Objection. Under 10 C.F.R. § 2.709(a)(2), interrogatories directed toward the Staff need not be answered absent a finding by the presiding officer that the answers are “necessary to a proper decision in the proceeding.” The Staff has not yet settled on which expert witnesses it will call, and under § 2.704(b)(3) parties other than the Staff are ordinarily not required to disclose information and material related to their expert witnesses until 90 days prior to a scheduled hearing. Therefore, disclosure of the Staff’s expert witnesses and related information at this time is not necessary to a proper decision in the proceeding. Furthermore, to the extent that the interrogatory is seeking preliminary thoughts about the witnesses the Staff’s attorneys might use, the Staff asserts the Attorney Work Product privilege.

INTERROGATORY 4

Identify by name, business address, position or title all NRC personnel who were involved in the evaluation or issuance of the Enforcement Order directed to Steven P. Moffitt.

RESPONSE

| NAME | BUSINESS ADDRESS | POSITION OR TITLE |
|----------------------|---|--|
| Bruce A. Berson | USNRC, Region III 2443 Warrenville Road Suite 210 Lisle, IL 60532-4352 | Regional Counsel, Region III |
| Sara E. Brock | USNRC Washington, D.C. 20555 | Attorney, Office of the General Counsel |
| James L. Caldwell | USNRC, Region III 2443 Warrenville Road Suite 210 Lisle, IL 60532-4352 | Regional Administrator, Region III |
| Lawrence J. Chandler | USNRC Washington, D.C. 20555 | Associate General Counsel for Hearings, Enforcement & Administration |

| | | |
|----------------------|---|---|
| Geoffrey E. Grant | USNRC, Region III 2443 Warrenville Road Suite 210 Lisle, IL 60532-4352 | Deputy Regional Administrator, Region III |
| Michael R. Johnson | USNRC Washington, D.C. 20555 | Director, Office of Enforcement |
| Bradley W. Jones | USNRC Washington, D.C. 20555 | Assistant General Counsel for Material, Litigation, and Enforcement, Office of the General Counsel |
| Kenneth J. Lambert | USNRC, Region III 2443 Warrenville Road Suite 210 Lisle, IL 60532-4352 | Senior Radiation Specialist, Region III |
| Christine A. Lipa | USNRC, Region III 2443 Warrenville Road Suite 210 Lisle, IL 60532-4352 | Chief, Reactor Projects, Branch 4, Region III |
| James G. Luehman | USNRC Washington, D.C. 20555 | Deputy Director, Office of Enforcement |
| M. Christopher Nolan | USNRC Washington, D.C. 20555 | Former Section Chief, Enforcement, Policy & Program Oversight Section, Office of Enforcement |
| Kenneth G. O'Brien | USNRC, Region III 2443 Warrenville Road Suite 210 Lisle, IL 60532-4352 | Enforcement/Investigations Officer, Region III |
| Richard C. Paul | USNRC, Region III Office of Investigations 2443 Warrenville Road Suite 210 Lisle, IL 60532-4352 | Field Office Director, Office of Investigations, Region III |
| Monte P. Phillips | USNRC, Region III 2443 Warrenville Road Suite 210 Lisle, IL 60532-4352 | Project Engineer, Technical Support Staff, Division of Reactor Projects, Region III |

| | | |
|--------------------|---|---|
| Mark A. Satorius | USNRC, Region III 2443 Warrenville Road Suite 210 Lisle, IL 60532-4352 | Director, Division of Reactor Projects, Region III |
| Robert D. Starkey | USNRC Washington, D.C. 20555 | Office of Enforcement, Senior Enforcement Specialist |
| Martin J. Virgilio | USNRC Washington, D.C. 20555 | Deputy Executive Director for Materials, Research, State, and Compliance Programs |
| Charles H. Weil | USNRC, Region III 2443 Warrenville Road Suite 210 Lisle, IL 60532-4352 | Senior Enforcement Specialist, Region III |

INTERROGATORY 5

Identify by name, business address, position or title all NRC personnel who participated in the conference call between the NRC and Davis-Besse on October 3, 2001.

RESPONSE

The NRC personnel whom attended the conference call on October 3, 2001, as indicated on document NRC001-0571, include:

Allen Hiser, Senior Reviewer, Division of Engineering, (NRR/ADES/DCI/CSG)
William Bateman, Branch Chief, (NRR/ADES/DCI)
Stephen Sands, Project Manager, (NRR/DORL/LPLF)
Andrea (Lee)¹ Valentin, technical reviewer, Division of Engineering,
Jacob Zimmerman, Project Manager, lead project manager for Bulletin 2001-01
John Jacobson, Inspector, Region III, Division of Reactor Safety (DRS)
Melvin Holmberg, Inspector, Region III, Division of Reactor Safety (DRS)
Jay Collins, Materials Engineering, Division of Engineering, NRR
All of the individuals listed above remain NRC employees.

¹ Ms. Lee's last name is now Valentin.

INTERROGATORY 6

Identify by name, business address, position or title the individual or individuals whose handwriting appears on document NRC001-0574, "10/3 Davis-Besse phone call" (attached as Exhibit A).

RESPONSE

The author of document NRC001-0574 is Allan L. Hiser, Jr., Chief of the SG Tube Integrity and Chemical Engineering Branch of the Division of Component Integrity of the Office of Nuclear Reactor Regulation. His address is: Mail Stop 9H6, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

INTERROGATORY 7

Identify by name, business address, position or title the individual or individuals whose handwriting appears on document NRC001-0575 dated 10/3/2001 (attached as Exhibit B).

RESPONSE

The author of document NRC001-0575 dated 10/3/2001 is Andrea D. (Lee) Valentin, Chief of the Corrosion and Metallurgy Branch, of Metals and Engineering Section of the Division of Fuel, Engineering, and Radiological Research, of the Office of Nuclear Regulatory Research. Her mailing address is Mail Stop 10E10, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

INTERROGATORY 8

Identify by name, business address, position or title the individual or individuals who prepared the memorandum "Davis Besse conference call 10/3/2001" (NRC001-0571) (attached at Exhibit C).

RESPONSE

The author of the memorandum "Davis Besse conference call 10/3/2001" (NRC001-0571) is Melvin S. Holmberg, Senior Reactor Inspector in the Region III Division of Reactor Safety. His mailing address is 2443 Warrenville Road, Suite 210, Lisle, IL 60532.

INTERROGATORY 9

Identify by name, business address, position or title the individual or individuals who prepared the memorandum "Current Status of High Susceptibility Plants That May Receive Orders." (19960-19962).

RESPONSE

Jacob Zimmerman was a Project Manager when he prepared document 19960-19962. He is now a Branch Chief in the Division of License Renewal in the office of Nuclear Reactor Regulation. His address is Mail Stop 11F1 U.S. NRC, Washington D.C., 20555.

INTERROGATORY 10

If you contend that Mr. Moffitt attended an August 11, 2001, meeting to discuss the pending response to the Bulletin, state all facts in support of the contention with references to the specific testimony or documents relied upon.

RESPONSE

The NRC Staff contends that Mr. Moffitt attended an August 11, 2001 meeting to discuss the pending response to the Bulletin. Facts in support of this contention include the following:

1. Mr. Moffitt is listed as a meeting attendee. (OI Exhibit 88 (NRC010-1818-NRC010-1819)).
2. Mr. Moffitt received several e-mails regarding the August 11, 2001 meeting. (NRC006-0513-NRC006-0514, NRC019-0515-NRC019-0516, NRC021-0876, NRC007-2677-NRC007-2678, NRC007-2682 - NRC007-2683).
3. Mr. Moffitt informed Mr. Rossomme that he had attended meetings.

(NRC026-3024-NRC026-3031).

4. The testimony of Mr. Fyfitch reflects that Mr. Moffitt attended meetings. (OI Exhibit 234 (NRC002-0539-NRC002-0621)).

INTERROGATORY 11

If you contend that Mr. Moffitt prepared any of the slides presented to the Commissioners' Technical Assistants of October 11, 2001 (attached as Exhibit D), state all facts in support of the contention with references to the specific testimony or documents relied upon.

RESPONSE

Whether Mr. Moffitt prepared any of the slides presented to the Commissioners' Technical Assistants on October 11, 2001, is not within the knowledge of the NRC Staff. However, the NRC Staff does contend that Mr. Moffitt was present at the October 10, 2001, meeting where the slides were developed. Documents listed below support the Staff's contention that Mr. Moffitt was present at the October 10, 2001, preparation meeting:

1. Attendee list to October 10, 2001, preparatory meeting listing Mr. Moffitt as an attendee. (Exhibit 191 (NRC015-1928), NRC029-1270).
2. Transcript of Douglas Killian. Mr. Killian stated in his interview that he was present at a meeting the day before FENOC met with the NRC. Mr. Killian indicated in the interview that Mr. Moffitt was in attendance at this meeting. (Exhibit 195 at 9-11 (NRC001-1355-NRC001-1357)).
3. Transcript of Steven Fyfitch. Mr. Fyfitch indicated that Mr. Moffitt was at preparatory meetings. (Exhibit 234 at 54-55 (NRC002-0592-NRC002-0593)).
4. Transcript of David Lockwood. Mr. Lockwood stated that Guy Campbell and Mr. Moffitt were the "main presenters" at the October 11, 2001, briefing of the Commissioners' Technical Assistants. (Exhibit 112 at 95 (NRC002-1784)).
5. Transcript of Gerald Wolf. Mr. Wolf indicated that Mr. Moffitt was present at the October/November meetings between Davis-Basse and the NRC, including preparatory meetings held the night before. (Exhibit 237 at 65,

77-78 (NRC003-1872, NRC003-1884-NRC003-1885)).

INTERROGATORY 12

Identify by name, business address, position or title all NRC personnel who attended the Technical Assistants' briefing on October 11, 2001. Include with your answer the names of the Technical Assistants who attended the October 11, 2001 briefing and their current positions or employers, if known.

RESPONSE

The NRC attendees listed on document titled "Commission Technical Assistant Briefing, October 11, 2001," ADAMS accession number ML022400364, include the following:

Thomas Hiltz, Office of the Commission/Technical Assistant for Comm. Dicus
Stacy Rosenberg, OEDO, R-III/NRR interface, (NSIR/DRP/DDEP/LR)
William Bateman, Branch Chief, NRR/ADES/DCI
Allen Hiser, senior reviewer, (NRR/ADES/DCI/CSG)
James Beall, OCM/MCGAFFIGAN
Sunil Weerakkody, OCM/ Technical Assistant for Comm. Dicus
Darrell Roberts, OCM/Technical Assistant for Chairman Merserve
Richard Croteau, OCM/Technical Assistant for Comm. Diaz
David Loveless, OEDO
Stephen Sands, Project Manager for Davis-Besse

All of the individuals listed above remain NRC employees.

INTERROGATORY 13

State the basis for your contention that Mr. Moffitt was involved in preparatory meetings from the October 3, 2001, conference call with the NRC. Provide all facts in support of the contention with references to the specific testimony or documents relied upon.

RESPONSE

The NRC Staff contends that Mr. Moffitt was involved in the preparatory meetings for the October 3, 2001, teleconference call with the NRC, based on the following documents:

1. The licensee's interview of Moffitt on July 1, 2002. Question 27 asked Mr. Moffitt if he was a participant in a telecon prep meeting on October 2, 2001 and then participated in the teleconference with the NRC on

October 3, 2001. Mr. Moffitt answered "Yes this was our first big call with the NRC after we had a phone call from their management" (NRC026-3024 at NRC026-3027-NRC026-3028).

2. Mr. Miller's hand written notes about an October 1, 2001, in Mr. Moffitt's office indicated that Mr. Moffitt was in attendance. (Exhibit 169 (NRC017-1364), SPM 0000087).
3. Mr. Miller's hand written notes about an October 1, 2001, telecon prep meeting indicated that Mr. Moffitt was in attendance. (Exhibit 176 (NRC017-1368), SPM 0000091).
4. Mr. Miller's hand written notes about an October 2, 2001, meeting indicated that Mr. Moffitt was in attendance. (Exhibit 171 (NRC017-1365), SPM0000088).
5. Mr. Miller's hand written notes about an October 1, 2001, meeting with Mr. Lockwood indicated that Mr. Campbell would call Mr. Sheron to confirm a Tuesday meeting and that Mr. Moffitt was in charge. (Exhibit 152 (NRC017-1358 at 1359), NRC004-0604-NRC004-606, at NRC004-0605, SPM0000081-83).
6. Handwritten notes from October 1, 2001, indicating that Mr. Moffitt was the lead for the October 3, 2001, meeting with the NRC. (NRC020-2199 - NRC020-2200, NRC020-2210).
7. E-mail from Dale Wuokko transmitting the agenda and participants list for the October 3, 2001, teleconference to Mr. Moffitt et al. (NRC020-2753).

INTERROGATORY 14

Identify the information that was developed during the October 10, 2001 meeting, as referenced on page 9 of the Enforcement Order directed to Mr. Moffitt. State all facts in support with references to any testimony or documents relied upon.

RESPONSE

1. The slides, which were subsequently used during the presentation to the Commissioners' TAs on October 11, 2001, were developed and finalized at the October 10, 2001, meeting. Slides believed to be the draft slides from which the final slides were prepared are contained in Exhibit 191 (NRC015-1929-NRC015-1950).
2. Other versions of the slides that were either used at the briefing of the Commissioners' Technical Assistants or were drafts are: NRC015-2712 (S14N00663), NRC029-0884, Exhibit 193 (NRC004-0815), and

ML022700373.

3. Document NRC015-2730 (S14N-00681) is a set of slides for the presentation belonging to Mr. Moffitt. This set of slides contains information not contained in either Exhibit 193 (NRC004-0815), NRC015-2712 (S14N00663), NRC029-0884, or SPM 0000011.
4. Exhibit 191 (NRC015-1928), List of Attendees from Meeting to Finalize Presentation for Commissioners' TAs, dated October 10, 2001, provides a list of attendees at the October 10, 2001, meeting. Mr. Moffitt was shown on the list as an attendee.
5. Steve Fyfitch, Metallurgist/Advisory Engineer, Framatome, who was also listed as an attendee at the October 10, 2001, meeting, stated in his OI interview (Exhibit 234 at 55 (NRC002-0593)) that FENOC employees like Campbell, Moffitt, and Geisen were always present at these type pre-meetings. Fyfitch recalled that at one of these pre-meetings he learned for the first time that when FENOC referred to "no visible leakage" they [FENOC] meant no visible leakage of what could be inspected. He believed that one of the presenters, Moffitt or Geisen, said at one of these pre-meetings that "you can't see it [visible leakage] if you can't see it." (Exhibit 234 at 54 (NRC002-0592)).

INTERROGATORY 15

State the basis for your contention that Mr. Moffitt's actions affected the health and safety of the public in a manner that requires his prohibition from employment in NRC-licensed activities for a period of five years from the date of the Order.

RESPONSE

The NRC's primary goal is to regulate the safe uses of radioactive materials for civilian purposes to ensure the protection of public health and safety and the environment. In order to achieve this goal, the NRC must be able to rely on licensees and their employees to comply with NRC requirements. The NRC determined that Mr. Moffitt, while employed by the licensee, engaged in deliberate misconduct, a violation of 10 C.F.R. § 50.5(a)(2), by deliberately providing FENOC and the NRC information that he knew was not complete or accurate in all material respects. The NRC determined that these violations were of very high safety and regulatory significance. As stated in the Order, Mr. Moffitt's deliberate actions raised serious doubt as to

whether he can be relied upon to comply with NRC requirements and to provide complete and accurate information to the NRC. Since the NRC does not have reasonable assurance that Mr. Moffitt can conduct licensed activities in compliance with the Commission's requirements, the health and safety of the public will be protected if Mr. Moffitt is prohibited from involvement in NRC-licensed activities.

II. NRC Staff Responses to Mr. Moffitt's Specific Document Requests

DOCUMENT REQUEST 1

An unredacted copy of the OI Report Case No. 3-2002-006 dated August 22, 2003, (30000-30232), including the redacted parts of or entire pages labeled: 30003-30005, 30007-30010, 30017, 30030-30031, 30042-30053, 30063-30074, 30080-30082, 30101-30102, 30105-30106, 30124-30126, 30130-30131, 30134-30135, 30174-30178, 30185-30186, 30193-30195, 30197, and 30200-30210. Please include OI Report pages 17 and 18.

RESPONSE

The NRC Staff has asserted the deliberative process privilege for portions of the OI Report. The report was included on the deliberative process privilege log served on April 25, 2006. The Staff's assertion of the deliberative process privilege is supported by the Affidavit of Guy Caputo, Director of the Office of Investigations, that the Staff filed with the Board on April 25, 2006. Of the pages requested in Document Request No. 1, the Staff has asserted the deliberative process privilege on the following pages: 30063, 30074, 30080, 30082, 30101-30102, 30105-30106, 30124-30126, 30130-30131, 30134-30135, 30174-30178, 30185-30186, 30193-30195, 30193, 30195, 30197, 30200-30201, and 30208.

The NRC Staff redacted, in part or in whole, the pages listed below on the basis of relevance and personal privacy—disclosure would constitute an unwarranted invasion of personal privacy. In general, these pages are devoted to unsubstantiated allegations and/or allegations that do not involve Messrs. Moffitt and Miller. The unredacted version of the report was included on the personal privacy privilege log served on April 25, 2006 (30235-30468). Of

the pages requested, the NRC Staff has asserted the personal privacy privilege on the following pages of the redacted copy (30000-30232): 30003-30005, 30007-300010, 300017, 3030-3031, 30042-30053, 30064-30073, 30081-30082, 30135, 30197, 30201, 30202-30208, 30209-30210.

Pages 17 and 18 of the OI Report were inadvertently left out during the Staff's production process and are enclosed.

DOCUMENT REQUEST 2

An unredacted and complete copy of all Exhibits issued on September 5, 2003 to OI Report No. 3-2002-06 (02554A). A list of exhibits is set out at 02555A-02517A.

RESPONSE

The NRC Staff's 10 C.F.R. § 2.336(b) mandatory disclosures dated April 25, 2006, included all of the requested exhibits with the exception of exhibit 140, which was provided via the Staff's 5th Supplemental Disclosure. These exhibits are identified as such in the "Full Name" column of document indexes served by the Staff on April 25, 2006. Exhibit 1, however, is not identified as an exhibit in the "Full Name" column. Exhibit 1 is bates number 02150-02151. Also, Exhibit 54 may not be properly identified. Exhibit 54 is bates number NRC004-0948 - NRC004-0950. Although Exhibit 71, Report of Interview of Hengee, was completely redacted, document 21074-21075 is the same document and is not redacted.

The NRC Staff redacted basic personal privacy information (e.g. home address, home phone number, social security number, date of birth) from the exhibits. This type of redaction is not listed. The NRC Staff asserts the personal privacy privilege for redactions listed in the table below.

| Bates Numbers | Title | Exhibit Number | Explanation |
|---------------|------------------------------|----------------|------------------------------------|
| NRC002-0891 | Interview of Mark McLaughlin | Ex 117 | Personal Privacy: personnel issues |

| | | | |
|---|-------------------------------------|--------|---|
| NRC002-1050 NRC002-1051 | Interview of Guy Campbell | Ex 111 | Personal Privacy: personnel issues |
| NRC002-1139 NRC002-1140 | Interview of Steven Moffitt | Ex 118 | Personal Privacy: personnel issues |
| NRC002-1264 NRC002-1265 | Interview of David Geisen | Ex 115 | Personal Privacy: personnel issues |
| NRC002-1697 NRC002-1797 NRC002-1798 NRC002-1799 | Interview of David Lockwood | Ex 112 | Personal Privacy: personnel issues |
| NRC002-1950 NRC002-1951 NRC002-1952 | Interview of Eshelman | Ex 31 | Personal Privacy: personnel issues |
| NRC003-0262 NRC003-0263 (21074- 21075—unredacted version) | Report of Interview of Craig Hengge | Ex 71 | This LLTF Record of Interview was completely redacted but an unredacted version has been provided (21074-21075) |
| NRC003-0407 | Interview of Dale Miller | Ex 113 | Personal Privacy: personnel issues |
| NRC003-0812 NRC003-0813 | Interview of Scott Coakley | Ex 51 | Personal Privacy: personnel issues |
| NRC003-1055 NRC003-1056 NRC003-1085 NRC003-1110 | Interview of Arthur Lewis | Ex 249 | Personal Privacy: unwarranted invasion of personal privacy |
| NRC004-0321 NRC004-0322 NRC004-0323 | Interview of Prasoon Goyal | Ex 27 | Personal Privacy: personnel issues |
| NRC004-0496 NRC004-0497 NRC004-0498 NRC004-0499 NRC004-0500 NRC004-0527 NRC004-0528 | Interview of Saunders | Ex 270 | Personal Privacy: personnel issues |

An unredacted copy of Stephen Moffitt's July 1, 2002, LLTF Record of Interview Form (NRC029-1088-89).

RESPONSE

Objection. The NRC Staff objects because the only redacted portion of the interview is Staff analysis for which the Staff has asserted (and continues to assert) deliberative process privilege.

DOCUMENT REQUEST 4

An unredacted copy of unidentified "LLTF Record of Interview Form" (NRC003-0262-NRC003-0263).

RESPONSE

Document NRC003-0362-NRC003-0363 is Exhibit 71: Report of Interview of Hengge. Document 21074-21075 is an unredacted copy of this document.

DOCUMENT REQUEST 5

A complete, unredacted copy (except for personal privacy information) of the Wednesday, August 21, 2002 Interview of Andrea Lee conducted by OIG Special Agents Joseph Bodensteiner and Richard Scenna (NRC003-0001- NRC003-0085).

RESPONSE

This document is being released pursuant to the Personal Privacy Protective Order.

DOCUMENT REQUEST 6

A complete unredacted copy (except for personal privacy information) of pages 1-24 of the Friday, August 23, 2002 Interview of Andrea Lee conducted by OIG Special Agents Joseph Bodensteiner and Cheryl Montgomery White (NRC003-0086- NRC003-?).

RESPONSE

This document is being released pursuant to the Personal Privacy Protective Order.

DOCUMENT REQUEST 7

A complete, unredacted copy (except for personal privacy information) of the Tuesday, August 20, 2002 Interview of Allen Hiser conducted by OIG Special Agents Joseph Bodensteiner, Cheryl Montgomery White, and Richard Scenna (NRC003-0161-NRC003-0261).

RESPONSE

This document is being released pursuant to the Personal Privacy Protective Order.

DOCUMENT REQUEST 8

A copy of Allen Hiser's "notes from a conference call that took place on October 3, 2001" referenced by OIG Special Agent Bodensteiner on August 22, 2002, transcript page NRC002-2044.

RESPONSE

Mr. Hiser's notes from the October 3, 2001, teleconference are contained in document NRC001-0574.

DOCUMENT REQUEST 9

A copy of Andrea Lee's notes from the October 3, 2001 conference call between the NRC and Davis-Besse, referenced during her August 21, 2002 interview by Special Agents Joseph Bodensteiner and Richard Scenna (NRC003-0066-NRC003-0067).

RESPONSE

Ms. Valentin's notes from the October 3, 2001, teleconference are contained in

document NRC001-0575.

DOCUMENT REQUEST 10

A complete, unredacted copy (except for personal privacy information) of the Tuesday, August 20, 2002 Interview of Stephen Long conducted by OIG Special Agents Joseph Bodensteiner, Cheryl Montgomery White, and Richard Scenna (NRC002-2055-NRC002-?).

RESPONSE

This document is being released pursuant to the Personal Privacy Protective Order.

DOCUMENT REQUEST 11

A complete, unredacted copy (except for personal privacy information) of the Wednesday, May 8, 2002 Interview of Richard Barrett conducted by OIG Special Agent Joseph Bodensteiner (NRC001-0376-NRC001-?).

RESPONSE

Objection. The OIG is not part of the NRC Staff; thus, the NRC does not control documents owned by the OIG. We do not have a complete and unredacted copy of the interview. The portion of the document that is within the control of the NRC Staff was previously provided.

DOCUMENT REQUEST 12

A complete, unredacted copy (except for personal privacy information) of the approximately 44-page NRC Interview of Richard J. Barrett, dated Friday August 23, 2002 (NRC003-0114-NRC003-?).

RESPONSE

This document is being released pursuant to the Personal Privacy Protective Order.

DOCUMENT REQUEST 13

Complete, unredacted copies (except for personal privacy information) of any NRC interviews conducted of Jack Strosnider.

RESPONSE

Objection. The request, as worded, is impermissibly broad in that it would cover interviews of Mr. Strosnider entirely unrelated to the Davis-Besse issue. The Staff objects on the grounds of relevancy to the extent that the question was intended to ask for documents unrelated to the Davis-Besse matter. Furthermore, the introductory text of the Document Requests section specifies that document requests are for all documents in the custody of the NRC. This is impermissibly broad because it is not the entire NRC, but, rather, the Staff that is a party to the proceeding, and it is to the head of the Staff (the Executive Director for Operations) that document requests are directed under 10 C.F.R. § 2.709(b). The Staff objects to the extent that the request covers documents not in the custody of the Staff. See *Pennsylvania Power and Light Co.* (Susquehanna Steam Electric Station, Units 1 and 2), ALAB-613, 12 N.R.C. 317, 334 (1980) ("In responding to discovery requests, a party is not required to engage in extensive independent research. It need only reveal information in its possession or control . . ."). As for documents related to the Davis-Besse matter that are in the custody of the Staff, the Staff discovered the following: (1) a summary of the LLTF interview of Strosnider on July 15, 2002 (20971-72), which has already been turned over in the Staff's first set of supplemental disclosures, and (2) a summary of the LLTF interview of Strosnider on May 30, 2002 (21096-98), which has yet to be turned over. The summary of this May 30, 2002, interview is being turned over in response to the request. The Staff notes that a page appears to be missing from this interview summary. The Staff is attempting to locate the missing page

and if the Staff locates the missing page, it will supplement this response.

DOCUMENT REQUEST 14

Complete, unredacted copies (except for personal privacy information) of any NRC interviews conducted of Jacob Zimmerman.

RESPONSE

Objection. The request, as worded, is impermissibly broad in that it would cover interviews of Mr. Zimmerman entirely unrelated to the Davis-Besse issue. The Staff objects on the grounds of relevancy to the extent that the question was intended to ask for documents unrelated to the Davis-Besse matter. Furthermore, the preface for the Document Requests section asks for all documents in the custody of the NRC. This is impermissibly broad because it is not the entire NRC, but, rather, the Staff that is a party to the proceeding, and it is to the head of the Staff (the Executive Director for Operations) that document requests are directed under 10 C.F.R. § 2.709(b). The Staff objects to the extent that the request covers documents not in the custody of the Staff. See *Pennsylvania Power and Light Co.* (Susquehanna Steam Electric Station, Units 1 and 2), ALAB-613, 12 N.R.C. 317, 334 (1980) ("In responding to discovery requests, a party is not required to engage in extensive independent research. It need only reveal information in its possession or control...."). As for documents related to the Davis-Besse matter that are in the custody of the Staff, the Staff discovered only a summary of the LLTF interview of Zimmerman on July 11, 2002 (20961-62), which has already been turned over in the Staff's first set of supplemental disclosures.

III. NRC Staff Response to Mr. Moffitt's Request for Document Admission

REQUEST FOR DOCUMENT ADMISSION1

Pursuant to 10 C.F.R. § 2.708(a), admit the genuineness and authenticity of the attached slides as a true and correct copy of those prepared by Guy Campbell, Steven Moffitt,

David Geisen, David Lockwood, and Stephen Fyfitch to the Commissioners' Technical Assistants on October 11, 2001. (Attached as Exhibit D; SPM00000111-SPM00000126; SPM00000126A).

RESPONSE

The NRC Staff admits that the substance and the text of SPM00000111-SPM00000126; SPM00000126A is a true and accurate representation of the slides presented to the Commissions' Technical Assistants on October 11, 2001. However, the NRC Staff cannot admit the genuineness and authenticity of the slides (SPM00000111-SPM00000126; SPM00000126A) because the NRC Staff is aware of two versions of slides allegedly presented to the Commissioner's Technical Assistants on October 11, 2001. The slides contained in Exhibit 193 (NRC004-0815 to 0832) are identical SPM00000111-SPM00000126; SPM00000126A, however, another version of the slides from the October 11, 2001, presentation is publicly available on ADAMS as a result of a FOIA request (ML022700373).

IV. NRC Staff's Response to Mr. Moffitt's Requests for Admission

REQUEST FOR ADMISSION 1

During 2000 and 2001, Steven P. Moffitt was Davis-Besse's Director, Technical Services.

RESPONSE

Admitted.

ADMISSION REQUEST 2

During 2001, Jack Strosnider was the NRC's Director of the Division of Engineering. This Division reviewed Bulletin responses and made decisions on the timing of plant inspections.

RESPONSE

The NRC staff ADMITS that Mr. Jack Strosnider was the NRC Division Director of Engineering responsible for reviewing Bulletin responses. The NRC Staff DENIES that the Division of Engineering had total decision-making authority. However, the NRC Staff admits that the Division made recommendations as to the timing of plant inspections.

REQUEST FOR ADMISSION 3

Jack Strosnider told OIG that the NRC's focus in 2001 was on circumferential cracking, not corrosion.

RESPONSE

Objection. The Staff can neither truthfully admit nor deny the request for admission because the Staff, as a party, is not in possession of notes, summaries, or transcripts of this interview. "In responding to discovery requests, a party is not required to engage in extensive independent research. It need only reveal information in its possession or control"

Pennsylvania Power and Light Co. (Susquehanna Steam Electric Station, Units 1 and 2), ALAB-613, 12 N.R.C. 317, 334 (1980). Established by the Inspector General Act, the Office of the Inspector General (OIG) must operate independently and free from agency interference in order to conduct its own fair and unbiased investigations and auditory functions. See *NRC v. FLRB*, 25 F.3d 229 (4th Cir. 1994); *FLRB v. National Aeronautics and Space*, 120 F.3d 1208, 1214 (11th Cir. 1997). Because Congress intended to insulate OIG from agency interference, it follows that materials owned by OIG should not thereby be considered under the control of other offices in the agency. More specifically, the Office of the Inspector General is independent of the Staff and is not supervised by the Executive Director for Operations. Rather, the Inspector General reports directly to the Chairman of the Commission. Management Directive, "Directive 9.2" at 1. For the above reasons, the Staff cannot truthfully admit or deny the requested admission and objects to the request to the extent it is intended to imply an obligation on the

part of the Staff to seek documents from OIG.

ADMISSION REQUEST 4

In 2001, Andrea Lee was Senior Materials Engineer in the Division of Engineering. (NRC003-0005).

RESPONSE

Denied. Ms. (Lee) Valentin did not state in document NRC003-005 that she was a Senior Materials Engineer in the Division of Engineering in 2001. Rather, Ms. Valentin stated that she was currently (August 21, 2002) Senior Materials Engineer in the Division of Engineering.

ADMISSION REQUEST 5

Andrea Lee was a reviewer for the Bulletin, reviewed Davis-Besse's inspection plans, and participated in discussions leading to the NRC's decision to allow Davis-Besse to continue operating past December 31, 2001. (NRC003-0005-NRC003-0006).

RESPONSE

The NRC Staff admits that Ms. (Lee) Valentin stated during her August 21, 2002 Office of Investigation Interview: "as a reviewer for Bulletin 2001-01, I reviewed all the plans and Davis-Besse was one of the high susceptibility." The NRC Staff admits that Ms. Valentin participated in discussions and pre-discussions *leading* to the NRC's decision in November 2001 but did not participate in the final decision.

ADMISSION REQUEST 6

On August 23, 2002, Andrea Lee told OIG "all of our deliberations and speculations at the time [2001] were whether or not Davis-Besse had leaking CRDM nozzles." (NRC003-0093).

RESPONSE

The NRC Staff admits that the transcript of Ms. (Lee) Valentin's OIG interview included the above quotation.

ADMISSION REQUEST 7

On August 23, 2001, Andrea Lee told OIG "[t]here was never anybody sitting in a room saying we think Davis-Besse's going to blow a nozzle before February and there's going to be a LOCA. So that was true then. It's still true even in retrospect."

RESPONSE

The NRC Staff admits that Admission Request 7 is an accurate quotation from the transcript of Ms. (Lee) Valentin's OIG interview.

ADMISSION REQUEST 8

According to Andrea Lee, the NRC's bottom line was whether Davis-Besse needed "to shut down and look and do adequate inspections . . . [I]t was really just a timing issue. The fact that they couldn't see four or five or 19 nozzles before means that they just need to do that much better of a job when they do shut down and look. (NRC003-0072-NRC003-0073).

RESPONSE

The NRC Staff admits that the transcript reflects that Ms. (Lee) Valentin stated: "the bottom line we were trying to get to is they need to shut down and look and do adequate inspections."

REQUEST FOR ADMISSION 9

Andrea Lee was aware, during the Fall of 2001, that from the time of its 10th Refueling Outage, Davis-Besse was unable to inspect the top area of the RPV head, because Davis-Besse "provided a document showing successively where they had masking with their reactor vessel head." (NRC003-0077).

RESPONSE

The NRC Staff ADMITS that the transcript of Ms. (Lee) Valentin's OIG interview reflects that, when asked: "So were you made aware that during the Fall of 2001 review, that since at least the 10th RFO until the current outage, that Davis-Besse had not been able to inspect the top area of the RVH?" Ms. Valentin responded: "Yeah, they provided a document showing successively where they had masking with their reactor vessel head." (NRC003-0077-NRC003-0078).

REQUEST FOR ADMISSION 10

Andrea Lee testified that based upon the ASME Code as "rolled into NRC regulations," Davis-Besse only had "to do inspections on the top of the insulations;" therefore, Davis-Besse was in full compliance with the NRC regulations and the provisions of its operating license. (NRC003-0001-NRC003-0002).

RESPONSE

(a) The NRC Staff admits that Ms. (Lee) Valentin stated that the ASME Code "is rolled into our regulations through 10 C.F.R. §50.55.a." (NRC003-0092). The Staff ADMITS that Ms. Valentin is correctly quoted as saying that Davis-Besse only has "to do inspections on the top of the insulation." (NRC003-0091).

(b) The NRC Staff DENIES that Ms. Valentin testified that Davis-Besse was "in full compliance with NRC regulations and the provisions of its operating license." However, the NRC Staff ADMITS that, when asked whether she believed that the following was an accurate statement: "To the best of the Staff's knowledge, Davis-Besse was in full compliance with NRC regulations and the provisions of their operating license," Ms. Valentin replied: "Absolutely, because we had no idea of the amount of build up of boric acid, no idea of the boric acid was pouring out of the side of the flanges. So with the information we had, we felt that Davis-Besse was in compliance." (NRC003-0091).

REQUEST FOR ADMISSION 11

According to Andrea Lee, Davis-Besse, in the Fall of 2001, was in compliance with its surveillance requirements.

RESPONSE

Ms. (Lee) Valentin stated that the "surveillance requirements are in the American Society of Mechanical Engineers Code, section 11" and "[t]hat Code is rolled into our regulations through 10 C.F.R. § 50.55.a." The NRC Staff admits that Andrea (Lee) Valentin indicated that, to the best of the NRC Staff's knowledge in the Fall of 2001, Davis-Besse was in compliance with its surveillance requirements. (NRC003-0091-0093).

REQUEST FOR ADMISSION 12

In the Fall of 2001, Richard Barrett was the Chief of the Problem Assessment Branch. Mr. Barrett's Branch along with the Engineering Division "thought up the possibility" that an order to an unacceptable Bulletin response "could be based on a risk-informed logic." (NRC003-0114-NRC003-0118).

RESPONSE

The Staff DENIES that Mr. Barrett was the Chief of the *Problem* Assessment Branch. The Staff admits that the transcript reflects he was "Chief of the Problem *Safety* Assessment Branch." The Staff admits that Mr. Barrett was the Chief of the Probabilistic Safety Assessment Branch. The Staff admits that the transcript reflects that Mr. Barrett stated that in discussions with the Engineering Division, the Problem Safety Assessment Branch, "thought up the possibility that such an order could be based on a risk-informed logic."

REQUEST FOR ADMISSION 13

On May 8, 2002, Richard Barrett testified that the NRC was looking at Davis-Besse's

1996, 1998, and 2000 inspections in a different light in 2002, because the head degradation was a “new phenomenon”. (NRC001-0376-NRC001-0378).

RESPONSE

The Staff admits that Mr. Barrett was interviewed on May 8, 2002, and the transcript reflects that he stated: “I know that we’ve done an augmented inspection team at Davis Besse to look at the new phenomenon. I’ve been reading the augmented inspection team report in the last couple of days. There’s a lot of information in there that I didn’t know about the head degradation issue and about inspections that were done. A lot of the inspections that were done that we considered; the ‘96, ‘98, 2000 inspections, the information they brought us was here’s what we know from those inspections about this cracking. . . . Now we’re looking at those inspections in a different light. There’s a lot more information in those inspections than we had on the table.”

REQUEST FOR ADMISSION 14

According to Richard Barrett, “a lot of this other information” looked at in 2002 relevant to the head degradation issue and inspection, “really isn’t relevant to the question of whether or not there’s cracking.” (NRC001-0378).

RESPONSE

Denied. However, the Staff admits that the transcript of the interview of Mr. Barrett reflects that he stated:

There’s a lot of information in there that I didn’t know about the head degradation issue and about inspections that were done. A lot of the inspections that were done that we considered; the ‘96, ‘98, 2000 inspections, the information they brought us was here’s what we considered know from those inspections about this cracking. . . . Now we’re looking at those inspections in a different light. There’s a lot more information in those inspections than we had on the table. . . . You might say why wasn’t all this other

information on the table. Because a lot of it really isn't relevant to the question of whether or not there's cracking. . . . It's relevant to whether or not there's head degradation.

REQUEST FOR ADMISSION 15

Richard Barrett could not identify anything about Davis-Besse's risk characterization that he wished he had known in the fall of 2001. (NRC001-0379).

RESPONSE

The Staff admits that the May 8, 2002, transcript reflects that Mr. Barrett could not identify anything about risk characterization that he wished he had known in the Fall of 2001.

REQUEST FOR ADMISSION 16

Richard Barrett declared it was not easy doing risk analysis, when "you're under the gun like that especially when you have to answer to the NRC," and "sign on the dotted line that this is true to the best of your knowledge." (NRC001-0379).

RESPONSE

The Staff admits that the transcript reflects that Mr. Barrett stated, "It's not easy doing risk analysis. It's not easy doing it when you're under the gun like that especially when you have to answer to the NRC and you have to sign on the dotted line that this is true to the best of your knowledge."

REQUEST FOR ADMISSION 17

In 2001, Allen Hiser was lead reviewer for the Bulletin responses. (NRC004-0533).

RESPONSE

Admitted.

REQUEST FOR ADMISSION 18

Allen Hiser participated in an October 3, 2001 telephone conference with representatives of the NRC, Davis-Besse, and Framatome ANP. (NRC002-2045).

RESPONSE

The Staff ADMITS that Mr. Hiser participated in a conference call with representatives of the NRC and Davis-Besse. The Staff DENIES that the cited document, NRC002-2045, reflects that Framatome ANP was a party to the October 3, 2001, teleconference.

REQUEST FOR ADMISSION 19

According to Allen Hiser, Davis-Besse's October 3, 2001 teleconference statement that five to six nozzles were obscured, revealed to the NRC that a 100 percent inspection did not occur. (NRC002-2047-NRC002-2048).

RESPONSE

Denied.

REQUEST FOR ADMISSION 20

Allen Hiser was not concerned with Davis-Besse's October 3, 2001 statement of 100 percent inspection based on the conference participant's characterization of the boric acid interferences. (NRC002-2048).

RESPONSE

Admitted.

REQUEST FOR ADMISSION 21

According to Allen Hiser, once the NRC heard that there were problems with Davis-Besse's head inspection in 2000, the NRC requested "information to try to understand the extent of that and how that may have impaired the inspection." (NRC002-2051).

RESPONSE

Admitted.

REQUEST FOR ADMISSION 22

An NRC document titled "Davis Besse Conference Call: 10/3/01" states: "for 5-6 nozzles near the center of the head, boric acid from CRD flange leakage precluded definitive conclusions that the CRD nozzle welds were not leaking."

RESPONSE

Admitted.

REQUEST FOR ADMISSION 23

According to NRC document "Davis Besse Conference Call: 10/3/01," NRR requested the videotapes of the head examinations and a nozzle-by-nozzle listing of inspection results/conclusions. (NRC001-0571).

RESPONSE

Admitted.

REQUEST FOR ADMISSION 24

Based upon "Davis Besse Conference Call: 10/3/01," NRR stated that if the April 2000 inspection was considered "a qualified" inspection by the Staff, the maximum acceptable operating time based on Staff analysis was 18 months. (NRC001-0571).

RESPONSE

Admitted.

REQUEST FOR ADMISSION 25

"Davis Besse Conference Call: 10/3/01" observed that the licensee [FENOC] was "pursuing approval through the company board of directors for vessel head replacement in RFO-14 (next outage after RFO-13 scheduled for April 2002)." (NRC001-0571).

RESPONSE

Admitted.

REQUEST FOR ADMISSION 26

By e-mail dated October 17, 2001, the NRC's Douglas Pickett told Dale Wuokko, Davis-Besse's Supervisor of Regulatory Affairs' Licensing unit, that he had heard "encouraging words describing your 100% inspection from your last outage. I'll keep you informed." (NRC020-2633).

RESPONSE

Admitted.

REQUEST FOR ADMISSION 27

By e-mail dated October 19, 2001, Licensing Supervisor Dale Wuokko forwarded Mr. Pickett's October 17, 2001 e-mail to David Lockwood, Mark McLaughlin, David Geisen, Rodney Cook, Michael Leisure, Prasoon Goyal, Steven Moffitt, Lonnie Worley, Dale Miller, and Kendall Byrd. (NRC020-2633).

RESPONSE

Admitted.

REQUEST FOR ADMISSION 28

Licensing Supervisor Wuokko's October 19, 2001 e-mail asked the above-listed recipients to note Mr. Pickett's 100% inspection statement, adding: "Our letter sent on Wed. 10/17/01 will correct their [the NRC's] misunderstanding." (NRC020-2633).

RESPONSE

The Staff admits that the referenced document states "Our letter sent on Wed. 10/17/01 will correct their misunderstanding."

REQUEST FOR ADMISSION 29

On October 17, 2001, Davis-Besse filed Serial No. 2735, that referred to Davis-Besse's October 3 and October 11, 2001 conferences with the NRC and reported: "This submittal provides updated and additional information in support of the basis for the continued safe operation" of Davis Besse. (NRC001-0388-NRC001-0395).

RESPONSE

The Staff admits that the referenced document includes the above quote.

REQUEST FOR ADMISSION 30

Attachment 2 to Serial No. 2735 bolded the five flanges where leaks were discovered and repaired during 12RFO, noting on page 2: "Bold letters indicate CRDM bolting flanges discovered and repaired during 12RFO (April 2000)." (DLM 00000495-496).

RESPONSE

Admitted.

REQUEST FOR ADMISSION 31

On August 20, 2002, Allen Hiser testified that when the NRC looked at Davis-Besse's 1998 videotape at a 2001 evening meeting, "there was sufficient boric acid, that we did not think any credit could be given." (NRC003-0259).

RESPONSE

The NRC Staff admits that the quotation of Mr. Hiser's testimony is accurate, however, the quote is located at NRC003-0258, not NRC003-0259.

REQUEST FOR ADMISSION 32

At the 2001 evening meeting Allen Hiser attended, when Davis-Besse's representative told the NRC that the 2000 video was "even worse," the NRC "did not view any portions of the 2000 video."

RESPONSE

The NRC Staff ADMITS that Mr. Hiser testified: "what we were told by the licensee, or by the licensee's representative was that the 2000 video was 'even worse,' so we did not view any portions of the 2000 video." (NRC003-0258-NRC003-0259).

REQUEST FOR ADMISSION 33

During the Fall of 2001, William Bateman served as Chief, Materials and Chemical Engineering Branch. (July 11, 2002 LLTF Record of Interview Form; 21062-63).

RESPONSE

Denied. Document 21062-63, LLTF Record of Interview Form for Bill Bateman, does not state that Mr. Bateman served as Chief, Materials and Chemical Engineering Branch. However, the NRC Staff ADMITS that Mr. Bateman was Chief, Materials and Chemical Engineering Branch on July 11, 2002.

REQUEST FOR ADMISSION 34

William Bateman recalled that FENOC's David Geisen showed videotapes of Davis-Besse's head cleaning "in an evening after a public meeting with the licensee." (July 11, 2002 LLTF Record of Interview Form; 21062-63).

RESPONSE

The NRC Staff admits that the document cited above reflects the referenced statement.

REQUEST FOR ADMISSION 35

At the videotape presentation, William Bateman told David Geisen he did not see giving any credit to Davis-Besse for its head inspection. (July 11, 2002 LLTF Record of Interview Form; 21062-21063).

RESPONSE

The NRC Staff admits that the cited document reflects the above statement.

REQUEST FOR ADMISSION 36

At the videotape presentation, David Geisen “essentially gave up” and agreed with William Bateman that Davis-Besse should not receive credit for its inspections. (July 11, 2002 LLTF Record of Interview Form; 21062-21063).

RESPONSE

The NRC Staff admits that the cited document reflects the above statement.

REQUEST FOR ADMISSION 37

William Bateman did not recall “anyone in EMBC during his tenure making a prior connection between the VHP cracking issue and boric acid degradation on the head.” (July 11, 2002 LLTF Record of Interview Form; 21062-21063).

RESPONSE

The NRC Staff admits that the cited document reflects the above statement.

REQUEST FOR ADMISSION 38

Project Manager Stephen Sands’s meeting summary dated November 26, 2001, stated that on November 8, 2001, the licensee brought videotapes made during the 1996, 1998, and 2000 refueling outages. (SPM 00000171- SPM00000173).

RESPONSE

The NRC Staff admits that the document reflects: “...the licensee brought videotapes made during the refueling outages noted above.”

REQUEST FOR ADMISSION 39

According to the November 26, 2001, meeting summary, FENOC requested a November 8, 2001, closed meeting "in order to supplement their response to" the NRC Bulletin (SPM 00000171-SPM 00000173).

RESPONSE

The NRC Staff admits that the document reflects the above cited quotation.

REQUEST FOR ADMISSION 40

The November 26, 2001 summary reported that the November 8, 2001 "meeting consisted of viewing videotapes and determining whether an independent assessment of the reactor vessel penetrations could be made." (SPM 00000171-SPM00000173).

RESPONSE

Admitted.

REQUEST FOR ADMISSION 41

The November 26, 2001 meeting summary stated that the Staff, on November 8, 2001, "made various comments concerning the quality of the inspections and their results." (SPM 00000171-SPM 00000173).

RESPONSE

Admitted.

REQUEST FOR ADMISSION 42

The November 26, 2001 meeting summary enclosed a list of participants at the November 8, 2001 meeting, including David Geisen from Davis-Besse, and "John Zwolinski, Bill Bateman, Singh Bajwa, Keith Wichman, Allen Hiser, Steve Long, Stacy Rosenberg, Jake Zimmerman, Andrea Lee, and Doug Pickett," from the NRC. (SPM 00000173).

RESPONSE

Admitted.

REQUEST OF ADMISSION 43

Until the RPV head degradation was discovered in 2002, both NRC and Davis-Besse personnel believed that high temperatures provided a dry environment on the top of the head, and corrosion either did not take place or took a long time to progress to a significant stage. (Jack Strosnider 7/15/02 LLTF RIF; 20971) (NRC Davis-Besse Reactor Vessel Head Lessons-Learned Task Force Report, p. 25).

RESPONSE

Denied.

REQUEST FOR ADMISSION 44

A September 20, 2001 pre-decisional NRC table titled "Plants with Cracking/Leakage History (Bin 1) and High Susceptibility Plants (Bin 2)" described Davis-Besse's inspection dated "03/2000" as "Visual-Partial," and proposed regulatory action against FENOC. (20060).

RESPONSE

The NRC Staff admits that the NRC table titled "Plants with Cracking/Leakage History (Bin 1) and High Susceptibility Plants (Bin 2)," described Davis-Besse's "Last Inspection Date" as "03/2000." The "Method," as "Visual-Partial," and "Regulatory Action Proposed?" as "YES". (20060).

ADMISSION REQUEST 45

An NRC table dated September 20, 2001 describing Davis-Besse's 2000 inspection as Visual-Partial" was circulated by Jacob Zimmerman as part of a September 24, 2001 e-mail sent to Richard Barrett, William Bateman, Farouk Eltawila, Allen Hiser, Ian Jung, Douglas Kalinousky, Margie Kotzalas, Andrea Lee, Steven Long, James Medoff, F. Mark Reinhart, Jack Strosnider, Keith Wichman, and John Zwolinski. (2056-20066).

RESPONSE

The NRC Staff admits the Table titled "Plants with Cracking/Leakage History (BIN 1) and High Susceptibility Plants (BIN2)," was sent in an e-mail by Jacob Zimmerman to: Richard Barrett, William Bateman, Farouk Eltawila, Allen Hiser, Ian Jung, Douglas Kalinousky, Margie Kotzalas, Andrea Lee, Steven Long, James Medoff, F. Mark Reinhart, Jack Strosnider, Keith Wichman, and John Zwolinski. (20060).

ADMISSION REQUEST 46

On September 18, 2001, Allen Hiser sent an e-mail to "CRDM reviewers" about the "Summary of Staff Review of Bulletin Responses." (20051-20055).

RESPONSE

Admitted.

ADMISSION REQUEST 47

A preliminary summary table dated 9/13, attached to Allen Hiser's September 18, 2001 e-mail, stated Davis-Besse's qualified visual inspection was scheduled for April 2002. (20051-20053).

RESPONSE

The NRC Staff admits the summary table dated 9/13, attached to Allen Hiser's September 18, 2001, e-mail, lists the following under the column heading "Inspection Plans" for Davis-Besse: "Qualified visual - 4/02." (20053).

ADMISSION REQUEST 48

A preliminary summary table dated 9/13, attached to Allen Hiser's September 18, 2001 e-mail, stated the Staff had "issues" with Davis-Besse's inspection timing, its technical basis was inadequate, and it employed a regulatory argument. (20051-20053).

RESPONSE

The NRC Staff admits the preliminary summary table dated 9/13, attached to Allen Hiser's September 18, 2001 e-mail included the following statements: "Issues with inspection timing. Technical basis is inadequate. Employed a regulatory argument."

REQUEST FOR ADMISSION 49

On September 28, 2001, Dr. Brian Sheron told Davis-Besse that its Bulletin response did not provide sufficient basis for delaying an inspection until April 2002. (19960).

RESPONSE

The NRC Staff admits that the document reflects: "On September 28, 2001, NRR senior management called FirstEnergy Nuclear Operating Company (FENOC), the licensee for Davis-Besse, regarding the Staff's initial assessment of the Bulletin response for the Davis-Besse plant. NRR senior management indicated that the Davis-Besse Bulletin response did not provide sufficient basis for delaying their inspection schedule until April 2002, and unless FENOC had new, or additional pertinent information, the staff's position was that Davis-Besse should perform a 100% inspection of VHP nozzles by December 31, 2001." (19960).

REQUEST FOR ADMISSION 50

Davis-Besse's approved Restart Readiness Review Minutes dated May 9 and 10, 2000, included Plant Engineering's report: "Cleaned the reactor head to get a good base line."

RESPONSE

The NRC Staff admits that the approved Restart Readiness Review stated: "Cleaned the reactor head to get a good base line" under the heading "Plant Engineering - Dave Eshelman." (NRC005-2895, NRC005-2903, NRC005-2926, and NRC034-0155).

REQUEST FOR ADMISSION 51

At Log Date April 7, 2000, and Log Time 7:00 p.m., Davis-Besse's 12RFO Log reflected that flanges D10, C11, F10, and F8 were "confirmed leakers," G9 was "questionable," but after evaluation by Ed Chimahusky and Andrew Siemaszko, the engineering recommendation was to "repair all 5."

RESPONSE

The NRC Staff admits that at Log Date April 7, 2000, and Log Time 7:00 PM, Day Shift, an unidentified log reflected "OUTAGE ISSUES ... 2. Boron in Service Structure Confirmed leakers: D10, C11, F10, F8. Questionable G9 SYME Evaluation Ed Chimahusky, Andrew Siemaszko Inspection Complete - Eng recommendation is to repair all 5" (NRC020-0582 [incomplete scan], NRC027-0011, and NRC027-1998).

REQUEST FOR ADMISSION 52

An Intra-Company Memorandum dated May 22, 2000, sent by Audit Supervisor Charles Ackerman to David Geisen and David Eshelman, said Design and Plant Engineering would be audited beginning June 5, 2000.

RESPONSE

The NRC Staff admits that a Davis-Besse Intra-Company Memorandum dated May 22, 2000, sent by C.E. Ackerman, Supervisor - Audits, to D.W. Geisen, Manager - Design Basis Engineering and D.L. Eshelman, Manager - Plant Engineering, stated that "Quality Assessment will audit Design and Plant Engineering beginning June 5, 2000. The audit will evaluate the effectiveness of program activities." (NRC032-2014). The memorandum also stated the scope of the audit would include, but not be limited to, the following:

- Safety System Design and Performance Capability
- Safety Evaluations
- Risk Assessment
- Modification Process
- Design Bases and Configuration

Control Engineering
Spare Parts List
Electrical Grid Issues
Engineering Management and Leadership
Engineering Interface with Plant Organizations
Previous Corrective Actions
Self-Assessments

REQUEST FOR ADMISSION 53

“Technical Specialist” Gregory A. Gibbs was listed as a member of the Quality Assessment audit team, whose scope was “to evaluate the effectiveness of the Davis-Besse Engineering Program.” (NRC0032-20014-15; NRC0032-2007-8; NRC032-2065).

RESPONSE

The NRC Staff ADMITS that Mr. Gibbs was listed as a member of the Quality Assessment audit team as a Technical Specialist (NRC032-2014-NRC032-2015; NRC032-2007-NRC032-2008; NRC032-2065).

The NRC Staff ADMITS that document NRC032-2007-NRC032-2008 indicates that the scope of the audit is: “To evaluate the effectiveness of the Davis-Besse Engineering Program.”

The NRC Staff notes the Mr. Gibbs’s memo, Document NRC0032-2065, is the cover memo for the Team’s report on “Engineering Management and Leadership.”

REQUEST FOR ADMISSION 54

The Quality Assessment Audit Report reviewed issues from 12RFO. (NRC032-1961).

RESPONSE

The NRC Staff ADMITS that 12RFO is referenced in the audit report (NRC021-1959-NRC032-1988). However, the NRC Staff DENIES the characterization that the Report “reviewed issues from 12RFO” because there are few and limited references to 12RFO in the Report. For example, 12RFO is referenced on page 3 (NRC032-1961) of the audit report in a

section titled Engineering and Management Leadership. In that reference, support by the Mechanical and Structural Units during 12RFO is listed as one of six positive attributes of Engineering and Management Leadership. There is also a reference to 12RFO on page 8 (NRC032-1966) of the audit report which compares the number of temporary modifications post 11RFO to the number of temporary modifications post 12RFO. The section on temporary modifications concludes on page 11 (NRC032-1969) by stating that the temporary modification process is rated satisfactory overall. The temporary modification process was found to provide effective control for the initiation and implementation of temporary modifications in the plant.

As stated in the Executive Summary of the Audit Report, the audit was performed to assess the effectiveness of various engineering programs and activities at Davis-Besse. 12RFO was not a focus of the audit.

REQUEST FOR ADMISSION 55

The Quality Assessment Audit Report never stated that cleaning the RPV head was unsuccessful during 12RFO.

RESPONSE

The NRC Staff admits that the Quality Assessment Audit Report never stated that cleaning the RPV head was unsuccessful during 12RFO. However, the Quality Assessment Audit Report (NRC032-1959-NRC032-1988) does not mention cleaning of the head during 12RFO.

REQUEST FOR ADMISSION 56

The Quality Assessment Audit Report never stated that the RPV head service structure weep holes restricted access for head inspection and cleaning.

RESPONSE

The NRC Staff admits that the Quality Assessment Audit Report does not state that the RPV head service structure weep holes restricted access for head inspection and cleaning, however, the Quality Assessment Audit Report (NRC032-1959-NRC032-1988) does not discuss Davis-Besse's Service Structure.

REQUEST FOR ADMISSION 57

Gregory A. Gibbs, Principle Consultant, Piedmont Management & Technical Services, Inc., sent a letter dated September 14, 2001 to Mark McLaughlin, with copies to Steven Moffitt, Scott Coakley, David Geisen, Andy Wilson, and "Project Team Members" (NRC023-0778-NRC023-0782).

RESPONSE

Admitted.

REQUEST FOR ADMISSION 58

Mr. Gibbs's September 14, 2001 letter stated that he had reviewed Davis-Besse's preparations to date for addressing CRDM cracking issues and its response to the Bulletin (NRC023-0778).

RESPONSE

Admitted.

REQUEST FOR ADMISSION 59

Mr. Gibbs's September 14, 2001 letter did not report that Davis-Besse's Bulletin response provided inaccurate or incomplete information to the NRC. (NRC023-0778 - NRC032-0782).

RESPONSE

The NRC Staff admits that Mr. Gibbs's September 14, 2001 letter does not explicitly

characterize Davis-Besse's Bulletin response as incomplete or inaccurate.

Respectfully submitted,

/RA by Mary C. Baty/

Sara E. Brock
Mary C. Baty
Michael A. Spencer
Counsel for NRC Staff

Dated at Rockville, Maryland
this 30th day of June, 2006

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

STEVEN P. MOFFITT

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Docket No. IA-05-054

ASLBP No. 06-847-03-EA

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney enters an appearance in the above-captioned matter. In accordance with 10 C.F.R. § 2.314(b), the following information is provided:

| | |
|-------------------|---|
| Name: | Michael A. Spencer |
| Address: | U.S. Nuclear Regulatory Commission Office of the General Counsel Mail Stop: O-15 D21 Washington, D.C. 20555-0001 |
| Telephone Number: | (301) 415-4073 |
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| Admissions: | District of Columbia |
| Name of Party: | NRC Staff |

Respectfully submitted,

/RA/

Michael A. Spencer
Counsel for NRC Staff

Dated at Rockville, Maryland
this 30th day of June, 2006

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

STEVEN P. MOFFITT

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Docket No. IA-05-054

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSES AND OBJECTIONS TO STEVEN P. MOFFITT'S DISCOVERY REQUESTS DATED JUNE 1, 2006" and "NOTICE OF APPEARANCE" for Michael A. Spencer in the above captioned proceeding have been served on the following persons by deposit in the United States mail; through deposit in the Nuclear Regulatory Commission internal mail system as indicated by an asterisk (*); and by electronic mail as indicated by a double asterisk (**) on this 30th day of June, 2006.

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