

October 17, 2006

Mr. Andrew Siemaszko
[Home Address Removed
Under 10 CFR 2.390(a)]

SUBJECT: AMENDMENT OF ORDER PROHIBITING INVOLVEMENT IN NRC-LICENSED
ACTIVITIES (NRC SPECIAL INSPECTION REPORT NO. 50-346/2002-08 (DRS))

Dear Mr. Siemaszko:

On April 21, 2005, the U.S. Nuclear Regulatory Commission (NRC) issued an order prohibiting you from involvement in NRC-licensed activities for a period of five years. The order was based on the NRC's determination that it lacked reasonable assurance that NRC-licensed activities can be conducted in compliance with the Commission's requirements and the health and safety of the public will be protected if you are permitted to be involved in NRC-licensed activities. That order was premised on the examples described therein which establish that you had deliberately provided incomplete and inaccurate information to the FirstEnergy Nuclear Operating Company (FENOC), a NRC licensee, in violation of 10 CFR 50.5(a)(2).

Enclosed is an Amendment of Order which provides notice of additional examples further substantiating the violation of 10 CFR 50.5(a)(2) cited in the April 21, 2005, order with respect to your deliberate submission of incomplete and inaccurate information to FENOC and the NRC. This Amendment of Order does not otherwise alter the statements or terms of the April 21, 2005, order.

A copy of this letter and its enclosure is being sent to FENOC, the operator of the Davis-Besse Nuclear Power Station.

Questions concerning this Amendment of Order should be addressed to Cynthia Carpenter, Director, Office of Enforcement, who can be reached at (301) 415-2741. This letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from our Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such

material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

The NRC also includes significant enforcement actions on its Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Significant Enforcement Actions**.

Sincerely,

/RA/

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

Enclosure: Amendment of Order

cc w/encls: Billie Pirner Garde, Esq.
Clifford, Lyons and Garde
1620 L Street, NW
Suite 625
Washington, DC 20036-5600

Gary Leidich, President
FirstEnergy Nuclear Operating Company
76 Main Street
Akron, OH 44308

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Martin J. Virgilio
Deputy Executive Director for Materials, Research,
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DATE	10/17/06	10/17/06	10/17/06

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of
Andrew Siemaszko

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IA-05-021

AMENDMENT OF ORDER PROHIBITING INVOLVEMENT IN
NRC-LICENSED ACTIVITIES

I

On April 21, 2005, the NRC issued an order (Order of April 21, 2005 Order) to Mr. Andrew Siemaszko, which, although not immediately effective, would prohibit his involvement in NRC-licensed activities for a period of five years for reasons stated therein. This amendment, which incorporates the April 21, 2005 Order as if fully set out herein, is issued solely for the purpose of providing notice to Mr. Siemaszko of additional grounds upon which the NRC staff relies in support of the April 21, 2005 Order.

II

Based on the statement of facts set forth in the Order, the Staff determined, and hereunder reiterates, that Mr. Siemaszko engaged in deliberate misconduct in violation of 10 CFR 50.5(a)(2) in submitting to FENOC information that he knew to be incomplete or inaccurate in a respect material to the NRC. Under the relevant provisions of that regulation, an employee of a licensee may not deliberately submit to the NRC or a licensee information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC. In the Order, the Staff premised the finding that Mr. Siemaszko violated that regulation based on the actions described in the Order relating to two documents; Work

Order No. 00-001846-000 and Condition Report 2000-1037.

The Staff has determined that Mr. Siemaszko's actions with respect to three additional documents which were submitted to the NRC present additional instances in which he engaged in deliberate misconduct in violation of 10 CFR 50.5(a)(2). Accordingly, notice is provided that the grounds upon which the April 21, 2005 Order was issued are hereby amended to include those instances as described below.

III

On August 3, 2001, the Nuclear Regulatory Commission (NRC) issued Bulletin 2001-001, "Circumferential Cracking of Reactor Pressure Vessel Head Penetration Nozzles," (Bulletin) to holders of operating licenses for pressurized water nuclear power reactors. The NRC requested that addressees provide information related to the structural integrity of the reactor pressure vessel head penetration (VHP) nozzles for their respective facilities, including the extent of VHP nozzle leakage and cracking that had been found to date, the inspections and repairs that had been undertaken to satisfy applicable regulatory requirements, and the basis for concluding that their plans for future inspections would ensure compliance with applicable regulatory requirements. The information was required to be submitted to the NRC in writing in accordance with the 10 CFR 50.54(f).

FirstEnergy Nuclear Operating Company's (FENOC's) supplemental written responses to the Bulletin, dated October 17, 2001 (Serial Letter 2735) and October 30, 2001 (Serial Letter 2741 and Serial letter 2744), set forth inaccurate, incomplete or otherwise misleading information, provided by Mr. Siemaszko to FENOC which, in turn, provided it to the NRC. For instance, Mr. Siemaszko was the source of the information in a table summarizing the previous

three (1996, 1998, 2000) refueling outage nozzle inspection results which was included in Serial Letter 2735 (as attachment 2) which was included, with minor changes, in Serial Letter 2741 (as attachment 2). The information provided in that table did not accurately identify the nozzles that were obscured in those three outages. Mr. Siemaszko knew that the table included incomplete or inaccurate information in some respect material to the NRC but nevertheless, on October 17, 2001, he signed off on the issuance of Serial Letter 2735.

Furthermore, Mr. Siemaszko provided inaccurate, incomplete or otherwise misleading information to FENOC, which FENOC submitted to the NRC in FENOC's supplemental written response to the Bulletin, dated October 30, 2001 (Serial Letter 2744). For instance, Mr. Siemaszko produced, assembled and labeled the pictures which were included in Serial Letter 2744 as further proof of the safe condition of the head. However, Mr. Siemaszko mislabeled some of the pictures and knew that the collection of the pictures that were provided to the NRC did not accurately reveal the true condition of the head which in reality was substantially worse than shown through those images.

IV

The NRC determined, in the April 21, 2005 Order, that Mr. Siemaszko's submission of inaccurate and incomplete information in condition report No. 2000-1037 and Work Order No. 00-001846-000 was of very high safety and regulatory significance. Had the NRC been aware of this incomplete and inaccurate information, the NRC would likely have taken immediate regulatory action to shut down the Davis-Besse plant and require FENOC to implement appropriate corrective actions. The additional examples cited above provide further support for the determination in the April 21, 2005 Order that NRC cannot have reasonable assurance that Mr. Siemaszko will conduct NRC-licensed activities in compliance with regulatory requirements.

The NRC is not proposing to modify the sanctions which were imposed on Mr. Siemaszko in the April 21, 2005 Order or otherwise alter the statement or terms of that Order by the citation of these three additional examples.

V.

In accordance with 10 CFR 2.202, Mr. Siemaszko must, and any other person adversely affected by this Amendment of Order may, submit an answer to this Amendment of Order within 20 days of the date hereof. The answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Amendment of Order and shall set forth the matters of fact and law on which Mr. Siemaszko or other person adversely affected relies and the reasons as to why the Amendment of Order should not have been issued. Any answer shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Rulemakings and Adjudications Staff, Washington, DC 20555-0001. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, 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. Siemaszko if the answer is by a person other than Mr. Siemaszko. Because of a potential disruption in delivery of mail to United States Government offices, it is requested that answer 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 [OGCMail Center@nrc.gov](mailto:OGCMailCenter@nrc.gov). In light of the fact that Mr. Siemaszko filed a timely request for hearing relating to the April 21, 2005 Order, which hearing has been commenced, a further request for hearing is not required to be filed for this Amendment of Order.

NUCLEAR REGULATORY COMMISSION

/RA/

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

Dated this 17th day of October 2006