

January 26, 2007

IA-05-054

Mr. Mark B. Bezilla
Site Vice President
FirstEnergy Nuclear Operating Company
Davis-Besse Nuclear Power Station
5501 North State Route 2
Oak Harbor, OH 43449-9760

SUBJECT: ATOMIC SAFETY AND LICENSING BOARD ORDER (APPROVING
PROPOSED SETTLEMENT AND DISMISSING PROCEEDING)
(ASLPB NO. 06-847-03)

Dear Mr. Bezilla:

Enclosed for your information is a November 20, 2006, Settlement Agreement between the U.S. Nuclear Regulatory Commission (NRC) and a former employee of FirstEnergy Nuclear Operating Company (FENOC) in a matter before an NRC Atomic Safety and Licensing Board (ASLB). Your attention is directed to Section 13 of the enclosed Settlement Agreement.¹ This information is being provided to you for your information and use. No specific action or written response to this letter is required.

Please contact Gary L. Shear, Acting Enforcement Officer, with any questions. Mr. Shear can be contacted at (630) 810-4373.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure 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

¹ The Atomic Safety and Licensing Board December 13, 2006, Order (Approving Proposed Settlement and Dismissing Proceeding) can be found in the NRC document system (ADAMS) under ADAMS Accession No. ML063470542 which is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

M. Bezilla

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Web site at <http://www.nrc.gov/reading-rm/adams.html>. 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/

Mark A. Satorius, Director
Division of Reactor Projects

Docket No. 50-346
License No. NPF-3

Enclosure: As stated

cc w/encl: J. G. Penny, Esq.
T. W. Scott, Esq.
G. Leidich, President and Chief
Nuclear Officer - FENOC

FILE NAME: G:\EICS\05-054 IA Letter to Davis-Besse - Settlement Agreement.wpd

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|--------|----------|---|------------------|---|-----------------------|---|----------------|---|----------|---|
| NAME | Weil | | Baty for Jones | | Starkey for Carpenter | | Weil for Shear | | Satorius | |
| DATE | 01/25/07 | | 01/24/07 | | 01/24/07 | | 01/26/07 | | 01/27/07 | |

OFFICIAL RECORD COPY

² No legal objection received in a January 24, 2007, e-mail from Mary Baty, OGC.

³ HQ concurrence received in a January 24, 2007, e-mail from Doug Starkey, OE.

Letter from M. Satorius to M. Bezilla dated January 26, 2007

SUBJECT: ATOMIC SAFETY AND LICENSING BOARD ORDER (APPROVING
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(ASLPB No. 06-847-03)

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November 20, 2006

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)

STEVEN P. MOFFITT)

) Docket No. IA-05-054

) ASLBP No. 06-847-03EA

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REVISED SETTLEMENT AGREEMENT

1. On January 4, 2006, the Staff issued an Order (Effective Immediately) Prohibiting Involvement in NRC Licensed Activities to Mr. Steven P. Moffitt, a former employee of Davis-Besse Nuclear Power Plant.

2. On February 23, 2006, Mr. Moffitt properly and timely answered the Order, denied the allegations in the Order, and requested an expedited hearing.

3. On March 16, 2006, the Atomic Safety and Licensing Board with jurisdiction over Mr. Moffitt's hearing request was established.

4. On March 20, 2006, the Staff answered the hearing request, and agreed that Mr. Moffitt was entitled to a hearing.

5. On March 27, 2006, the Board granted Mr. Moffitt's request for a hearing.

6. The parties agree that the Order issued on January 4, 2006 to Mr. Moffitt will be superseded by an Order approving and incorporating this Agreement.

7. Mr. Moffitt agrees that, by virtue of his position as Director of Technical Services, he was responsible for misinformation communicated to the NRC during the Fall of 2001 related to NRC Bulletin 2001-01.⁴ Mr. Moffitt agrees the NRC was misled by FirstEnergy's oral and written submissions to the NRC during the Fall of 2001 related to Bulletin 2001-01.

8. Mr. Moffitt agrees to take the following corrective actions:

a. Mr. Moffitt agrees not to seek employment in any NRC-licensed activities prior to January 4, 2008.

⁴ The NRC initiated enforcement actions against other individuals who it believes provided inaccurate and/or incomplete information to the NRC in connection with the Bulletin.

b. Between January 4, 2008 and January 4, 2010, Mr. Moffitt agrees not to seek employment at an NRC-licensed operating nuclear power facility, or with the corporate parent of a nuclear power facility in a position related to oversight or operation of a nuclear power plant, as either a manager or a supervisor, above the first-line supervisor level prior to January 4, 2010.⁵

c. Mr. Moffitt agrees to use his best efforts to make presentations to the INPO Senior Nuclear Plant Manager (SNPM) training course regarding lessons learned from the incident at Davis-Besse for directors and future directors of nuclear power facilities.

d. Mr. Moffitt agrees to use his best efforts to make presentations to an NRC leadership development program regarding lessons learned from the incident at Davis-Besse. The NRC Staff agrees to make every effort to arrange said presentations.

9. With regard to the presentations to the SNPM training course and the NRC Leadership Development Program:

a. Mr. Moffitt agrees to provide drafts of his presentations to the Director of the Office of Enforcement for review prior to making the presentation.

b. Mr. Moffitt will use his best efforts to make presentations to the NRC class for at least the next two years, from the date of this Agreement.

c. Mr. Moffitt will use his best efforts to make four presentations to the SNPM course over the next two years, from the date of this Agreement.

10. With regard to Mr. Moffitt's employability:

a. Mr. Moffitt may engage in sales of products and services to nuclear facilities.

b. Mr. Moffitt's current position complies with the terms of this Agreement.

c. Mr. Moffitt cannot hold any position with his current employer that violates the terms of this Agreement.

11. The corrective actions listed in Item 8 are sufficient to satisfy the NRC's underlying concerns with Mr. Moffitt's trustworthiness and reliability regarding the incident at Davis-Besse. Furthermore, the NRC Staff believes Mr. Moffitt's acceptance of responsibility and agreement to undertake corrective actions serves the public interest.

12. Mr. Moffitt agrees to cooperate with any on-going investigations or proceedings in connection with the incident at Davis-Besse.

⁵ A "first-line" supervisor is the first person, starting from the bottom of the organization, with supervisory or managerial authority.

13. The NRC Staff agrees to provide copies of this Agreement to the licensees for the Fermi, Perry, and Davis-Besse nuclear power stations for their information and consideration in regard to the Personnel Access Data System (PADS) for access authorization.

14. In light of the above, the parties agree that all further procedural steps before the Licensing Board and any right to challenge or contest the validity of the order entered into in accordance with the Agreement, and all rights to seek judicial review or otherwise to contest the validity of the order are expressly waived.

15. The parties further agree that the order accepting the Agreement has the same force and effect as an order made after a full hearing.

16. It is also agreed by the parties that all matters required to be adjudicated as part of this proceeding have been resolved upon the Licensing Board's approval of this agreement and the parties agree that the proceeding, ASLB-06-847-03-EA, should be dismissed upon the Licensing Board's approval of this Agreement.

[As submitted to the Board, the foregoing Revised Settlement Agreement was subscribed to on behalf of Counsel for the NRC Staff and Counsel for Mr. Moffitt]