

From: Bruce Burgess *R3*
To: Malcolm Widmann
Date: 08/02/2007 3:54:39 PM
Subject: Region III Input for Green Ticket G20070534

Malcolm,
Addition enforcement input for Davis Besse. As we discussed, you will provide to John Lamb to include in our response to Commission Lyons.

Thanks for your help.

Bruce

CC: Cynthia Pederson; James Caldwell; Mark Satorius

F-24

Mail Envelope Properties (46B2448F.860 : 23 : 3652)

Subject: Region III Input for Green Ticket G20070534
Creation Date 08/02/2007 3:54:39 PM
From: Bruce Burgess
Created By: BLB@nrc.gov

Recipients

nrc.gov
 ATL_PO.ATL_DO
 MTW (Malcolm Widmann)

nrc.gov
 ch_po.CH_DO
 CDP1 CC (Cynthia Pederson)
 JLC1 CC (James Caldwell)
 MAS CC (Mark Satorius)

Post Office

ATL_PO.ATL_DO
 ch_po.CH_DO

Route

nrc.gov
 nrc.gov

Files	Size	Date & Time
MESSAGE	650	08/02/2007 3:54:39 PM
DAVIS BESSE AND NRC ENFORCMENT ACTIONS.wpd		11714 08/02/2007 3:35:38 PM

Options

Expiration Date: None
Priority: Standard
ReplyRequested: No
Return Notification:
 Send Mail Receipt when Undeliverable

Concealed Subject: No
Security: Standard

Junk Mail Handling Evaluation Results

Message is not eligible for Junk Mail handling
 Message is from an internal sender

Junk Mail settings when this message was delivered

Junk Mail handling disabled by User

Junk Mail handling disabled by Administrator
Junk List is not enabled
Junk Mail using personal address books is not enabled
Block List is not enabled

Davis Besse Enforcement Actions

Department of Justice Actions:

An investigation was initiated based on multiple allegations of willful misconduct by FirstEnergy Nuclear Operating Company (FENOC) personnel, including a contractor at the Davis-Besse Nuclear Power Plant (Davis-Besse), regarding the reactor vessel head. The primary allegation investigated was whether FENOC personnel deliberately provided incomplete and/or inaccurate information in its responses to NRC Bulletin 2001-01, "Circumferential Cracking of Reactor Pressure Vessel Head Penetration Nozzles." Based on evidence developed during this investigation, the case was referred to the Department of Justice (DOJ) for prosecutorial review and a Special Grand Jury was convened. OI and NRC technical staff provided support to the Environmental Crimes Section of DOJ and to the U.S. Attorney's Office for the Northern District of Ohio in response to the Grand Jury investigation.

On January 20, 2006, DOJ announced that FENOC agreed to pay \$28 million in penalties, restitution, and community service projects as part of an agreement to defer prosecution of the company. This was the largest monetary penalty in the history of the commercial nuclear power industry. The terms of the deferred prosecution agreement involved an admission of culpability by FENOC, in which the company admitted that the government could prove that its employees, acting on its behalf, knowingly made false representations to the NRC in an attempt to persuade the NRC that Davis-Besse was safe to operate. In addition, a design engineer accepted and entered into a deferred prosecution agreement with the government. Further, two former employees and a former contractor of FENOC were charged in a five-count indictment for allegedly preparing and providing false statements to the NRC. The indictment alleged the individuals falsely represented to the NRC that past inspections of the plant were adequate to assure safe operation.

NRC Actions:

The NRC had previously initiated enforcement action against FENOC and five individuals following its review of the OI investigation. The NRC issued nine cited violations of NRC requirements and levied a civil penalty of \$5.45 million to FENOC. This civil penalty was the largest fine in NRC history. The failure to comply with NRC regulations and the failure to provide accurate information led to a 2-year shutdown of the Davis-Besse plant for extensive repairs, major management changes, and improvements to the safety culture of the plant. Enforcement actions against the corporation have been concluded. NRC proposed enforcement actions against five individuals. Four individuals were banned from NRC-licensed activities for a period of five years. Two of those individuals elected to enter into Alternative Dispute Resolution. The fifth individual was banned for a one-year period from NRC-licensed activities.

Currently, the start date for the Siemaszko trial is September 10, 2007. The start date for the Geisen/Cook trial is October 9, 2007.