

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD  
Before Administrative Judges:

Michael C. Farrar, Chairman  
E. Roy Hawkens  
Nicholas G. Trikouros

In the Matter of  
  
DAVID GEISEN

Docket No. IA-05-052-EA  
  
ASLBP No. 06-845-01-EA  
  
November 21, 2008

NOTICE OF EVIDENTIARY HEARING  
(Challenge to Enforcement Order)

This proceeding stems from (1) events that took place in late 2001 and early 2002 involving the Davis-Besse Nuclear Power Station (which is located in northwestern Ohio, some 25 miles east of Toledo near Oak Harbor), and (2) reports that the Licensee and its employees made to the Staff of the U.S. Nuclear Regulatory Commission concerning those events. Based on their findings about the nature of those events and reports, the NRC Staff and the U.S. Department of Justice took certain enforcement or prosecutorial actions, including the NRC Staff's issuing, on January 4, 2006, an immediately-effective Enforcement Order against Mr. David Geisen.

That Order prohibited Mr. Geisen from "engaging in NRC-licensed activities" for five years because of certain actions the NRC Staff believes he took in 2001 when he was employed at Davis-Besse. Specifically, that Order – published in the Federal Register (71 Fed. Reg. 2571) on January 17, 2006 – detailed the Staff's assertions that Mr. Geisen had deliberately provided materially incomplete and inaccurate information in connection with an issue affecting the continued operation of the Davis-Besse facility.

The Order provided Mr. Geisen with the opportunity, under 10 C.F.R. § 2.202(b), to request a hearing to contest the matters set out in the Order and thus to seek relief from the five-year ban on his employment in the regulated nuclear industry. Through counsel, Mr. Geisen timely filed such a request on February 23, 2006.

This Atomic Safety and Licensing Board was established on March 16, 2006, to consider Mr. Geisen's hearing request. With the NRC Staff having indicated no objection thereto, we granted that request on March 27, 2006.

Before that hearing could be held, the Commission ruled that, to avoid potential conflicts, this enforcement proceeding should be held in abeyance while a parallel criminal case against Mr. Geisen, based on substantially the same allegations, was pending in the United States District Court for the Northern District of Ohio. That criminal case ended earlier this year with a jury verdict finding Mr. Geisen guilty of three of the five counts against him (he has appealed his conviction and sentence to the United States Court of Appeals). His challenge to the Staff's Enforcement Order is now ready to be heard.

In light of the foregoing, and consistent with 10 C.F.R. § 2.318(a) (see also § 2.312(a)), PLEASE TAKE NOTICE that during the week beginning Monday, December 8, 2008, an evidentiary hearing will be conducted to consider Mr. Geisen's challenge. That hearing will take place in the 3rd Floor Hearing Room of the Two White Flint North Building of the NRC's headquarters complex at 11545 Rockville Pike in Rockville, Maryland. The public is invited to attend the evidentiary hearing (subject to any need that might arise to conduct one or more closed sessions) (id. § 2.328).

The hearing will begin at 9:30 A.M. the first day and may last the entire week. The time of each day's sessions will be fixed by subsequent directives during the course of the hearing, which will be made available to the public through the NRC website, <http://www.nrc.gov>.

The hearing will be governed by the specific hearing procedures set forth in 10 C.F.R. Part 2, Subpart G (10 C.F.R. §§ 2.700-2.713), which procedures supplement the general rules set forth in 10 C.F.R. Part 2, Subpart C (10 C.F.R. §§ 2.300-2.390).

Documents relating to this proceeding are available for public inspection at the NRC's Public Document Room or electronically from the publicly available records component of NRC's document system (ADAMS). ADAMS is accessible from the NRC web site at <http://www.nrc.gov/reading-rm/adams.html>.

Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS may contact the NRC Public Document Room reference staff by telephone Monday through Friday between 8:00 A.M. and 4:00 P.M. at 1-800-397-4209 or 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

Those unable to attend the hearing in person are advised that current plans call for the first day of the proceeding to be made available for live viewing via the following internet web streaming feed at <http://www.visualwebcaster.com/event.asp?id=53643>. This webstream will be available for viewing for 90 days, i.e., until March 8, 2009. In addition, the entire proceeding will be carried on the agency's internal broadband (Channel 50) for viewing within agency offices.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

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By Michael C. Farrar, Chairman  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
November 21, 2008

Copies of this Notice were sent this date by e-mail transmission to counsel for the parties in this proceeding.

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NUCLEAR REGULATORY COMMISSION

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Docket No. IA-05-052

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB NOTICE OF EVIDENTIARY HEARING (CHALLENGE TO ENFORCEMENT ORDER) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Administrative Judge  
E. Roy Hawkens

Administrative Judge  
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[Original signed by Nancy Greathead]

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Office of the Secretary of the Commission

Dated at Rockville, Maryland  
this 21<sup>st</sup> day of November 2008