



Mr. Geisen and Mr. Miller are presently employed by NRC reactor licensees, i.e., Mr. Geisen at Kewaunee and Mr. Miller at Fermi. Once the Orders are issued, the staff will inform those licensees of the Order so that action can be taken to immediately terminate the site access for Mr. Geisen and Mr. Miller. Mr. Moffitt is employed by General Electric and Mr. Goyal is employed by Bechtel-Nevada. Although Mr. Moffitt and Mr. Goyal are not currently engaged in NRC-licensed activities, they are employed by companies which are involved in licensed activities. Therefore, there is the possibility that Mr. Moffitt and Mr. Goyal could be assigned to work on tasks associated with NRC-licensed activities.

The following paragraphs summarize the evidence the staff used to support issuance of Orders to the four individuals.

1. Mr. David Geisen was previously employed as the Manager of Design Engineering at Davis-Besse. Mr. Geisen had knowledge of the condition of the RPV head and deliberately provided incomplete and inaccurate information to the NRC when he concurred in the September 4, October 17, and October 30, 2001, responses to the Bulletin and when he provided incomplete and inaccurate information during presentations to the NRC on October 3, October 11, and November 9, 2001.

On June 27, 2001, Mr. Geisen approved and signed an intra-company memorandum stating that the large boron leakage from a CRDM flange was observed during the 2000 head inspection and that this leakage did not permit the detailed inspection of CRDM nozzles. Mr. Geisen also reviewed a consultant's report, dated September 14, 2001, that indicated at the completion of the 2000 refueling outage that the RPV head had boric acid deposits of considerable depth left in the center, top area of the head. Mr. Geisen, when interviewed by the licensee on March 27, 2002, stated in part that he became aware that the reactor vessel head had not been cleaned completely when reviewing the video tapes of the inspections in preparation for interacting with the NRC in August, 2001. ] Martin

On October 3, 2001, Mr. Geisen participated in a teleconference call with the NRC staff. During the conference call, Mr. Geisen made the statement that 100 percent of the RPV head had been inspected during the 2000 refueling outage which included CRD housing to head interfaces. He stated further that, for 5-6 nozzles near the center of the head, boric acid from the CRD flange leakage precluded definitive conclusions that the CRD nozzle welds were not leaking. The information communicated by the licensee during the conference call was materially incomplete and inaccurate in that the licensee could not conduct a 100 percent inspection of the RPV head during the 2000 refueling outage due to the presence of a significant amount of boric acid on the reactor pressure vessel head which obscured significantly more than 5-6 nozzles on the head.

During a briefing of the Commissioner's Technical Assistants on October 11, 2001, Mr. Geisen, as a presenter, discussed the status of the licensee's RPV head inspection efforts. During the briefing Mr. Geisen discussed one slide which documented that video taped inspections of the RPV head were conducted during the 2000 refueling outage and no head penetration leakage was identified. Another slide documented that all CRDM penetrations were verified to be free from "popcorn" type boron deposits using video recordings from the 1998 and 2000 refueling outages. The presentation was materially

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incomplete and inaccurate in that it did not indicate that the buildup of the boric acid deposits was so significant that the licensee could not inspect all of the nozzles. Mr. Geisen did not have a basis for stating that no head penetration leakage was identified.

2. Mr. Prasoan Goyal was previously employed as a Senior Design Engineer at Davis-Besse. Mr. Goyal had first-hand knowledge of the condition of the RPV head and the limitations experienced during RPV head inspections conducted during the 1996 refueling outage. Nevertheless, Mr. Goyal deliberately provided materially incomplete and inaccurate information when he concurred on the licensee's October 17, 2001, supplemental response to the Bulletin.

Mr. Goyal was the individual who reviewed the inspection of the CRDM flanges, and conducted the inspection of the RPV head and CRDM nozzles during the 1996 refueling outage. Mr. Goyal testified to OI that during the 1996 reactor head CRDM nozzle inspection he could not see the top of the head due to the limited access through the support structure access holes and the accumulation of boric acid on the RPV head. In 1996, Mr. Goyal wrote a Condition Report documenting that the accumulation of boric acid on the head and that the size of the access holes limited the extent of the head inspection. The Condition Report stated that the extent of the inspection was limited to approximately 50 to 60% of the head area because of the restrictions imposed by the location and size of the access holes and that the inspection showed varying sizes of boric acid mounds scattered in various areas of head. The report further stated that it is extremely difficult to develop an estimate of the amount of boric acid deposit because of the deposit scatter and limited inspection.

Mr. Goyal authored a white paper, dated May 8, 1996, that discussed CRD nozzle cracking within the nuclear power industry. Mr. Goyal documented in the white paper, in part, that, "Davis-Besse's access [to the RPV head] is limited to about 50 percent of the head area."

Despite his historical knowledge of the condition of the RPV head in 1996, Mr. Goyal concurred in the issuance of the October 17, 2001, supplemental response to the Bulletin which stated, in part, that "No leakage was identified, and these results have been recently verified by a re-review of the video tapes obtained from that inspection" and that the 1996 inspection consisted of a whole head visual inspection of the RPV head.

The OI investigation documented that Mr. Goyal, prior to the issuance of the September 4, 2001, response, expressed to FENOC management (Mr. Dale Miller) his concerns regarding the completeness and accuracy of the information in the September 4<sup>th</sup> response. However, Mr. Goyal did not formally document his concerns using the licensee's corrective action program, employee concerns program, or communicate these concerns directly to the NRC. In consideration of Mr. Goyal's attempt, although unsuccessful, to correct incorrect information in the Bulletin response and his non-supervisory position in the licensee's organization, the staff determined that a one year ban from NRC licensed activities is an appropriate enforcement action.

3. Mr. Dale Miller was previously employed as the Regulatory Affairs Compliance Supervisor at Davis-Besse. Mr. Miller reviewed and concurred in the licensee's September 4, 2001, response to Bulletin 2001-01. He deliberately provided incomplete and inaccurate

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information to the NRC in the September 4, 2001, response with regard to the presence of limitations or impediments to performing the RPV head inspection and the conclusion that no visible evidence of nozzle leakage was detected.

Mr. Miller knew that the licensee could not view some of the CRDM nozzles because they were obscured by boron. Mr. Miller was aware in August 2001 that there were boric acid deposits on the RPV head and that the RPV head service structure access holes were an impediment to viewing all nozzle penetrations, due to the small size of the access hole openings. Mr. Miller, in his OI transcript, stated that [he knew prior to the September 4, 2001, response letter] it [the RPV head inspection] couldn't be credited as a qualified visual inspection because there was boron on the head in some areas.

Mr. Miller received several e-mails during August 2001, which contributed to his awareness that the boric acid deposits on the RPV head and the RPV head service structure access holes were an impediment to viewing all RPV head nozzle penetrations. One e-mail, in particular, dated August 30, 2001, Mr. Goyal stated, in part, that Davis-Besse did "not say anywhere in our response to the Bulletin that inspection thru the [access holes] creates an impediment for 100% visual examination. (Management need[s] to know this)."

4. Mr. Steven Moffitt was previously employed as the Technical Services Director at Davis-Besse. Mr. Moffitt had knowledge of the Davis-Besse RPV head conditions but failed to correct the incomplete and inaccurate information presented by the Davis-Besse staff during the October 3, 2001, teleconference call with the NRC, the licensee's October 11, 2001, presentation to the Commissioners' Technical Assistants, or the October 17, 2001, supplemental response to the Bulletin.

Mr. Moffitt stated during an interview with OI that it was common knowledge [at Davis-Besse] that the RPV head was not totally cleaned during the 2000 refueling outage. He also stated during the OI interview that he became aware at the end of the 2000 refueling outage that the head had not been totally cleaned. In August 2001, Mr. Moffitt was told by the engineer who had cleaned the RPV head during the 2000 refueling outage that only 80 percent of the RPV head was cleaned. On June 27, 2001, he was sent a memorandum that stated, in part, "Large boron leakage from a CRDM flange was observed. This leakage did not permit the detailed inspection of CRDM nozzles."

On October 3, 2001, Mr. Moffitt participated on a conference call with the NRC staff. Mr. Moffitt was also involved in the licensee's preparatory meetings which discussed the agenda for the October 3<sup>rd</sup> conference call. During the conference call Mr. Moffitt's subordinate, Mr. Geisen, made the statement that 100% of the reactor pressure vessel head had been inspected during the 2000 refueling outage, however, for 5-6 nozzles near the center of the head, boric acid from the CRD flange leakage precluded definitive conclusions that the CRD nozzle welds were not leaking. Mr. Moffitt was aware at the time of the October 3, 2001, conference call that the entire RPV head had not been cleaned during the previous outages and that significantly more than 5-6 nozzles were obscured, yet he did not correct the misleading and inaccurate statements made during the call.

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Mr. Moffitt was present during an October 11, 2001, meeting with the Commissioners' Technical Assistants in which his direct subordinate, Mr. Geisen, made a presentation. One of the Mr. Geisen's presentation slides documented that video taped inspections of the RPV head were conducted during the 2000 refueling outage and no head penetration leakage was identified. Another slide documented that all of the CRDM penetrations were verified to be free from "popcorn" type boron deposits using video recordings from the 1998 and 2000 refueling outages. The licensee's presentation was materially incomplete and inaccurate in that the RPV boric acid deposits buildup was so significant that the licensee could not inspect all of the nozzles. Mr. Moffitt knew that there was no basis for the licensee stating at the meeting that no visible evidence of nozzle leakage was detected.

It should be noted that the four individuals have not been informed of these enforcement actions. The Department of Justice will be consulted concerning these matters prior to issuance. The schedule of issuance and notification is:

Telephone Notification of Individuals	January 3, 2006
Mailing of Orders	January 3, 2006
FirstEnergy Nuclear Operating Company	January 3, 2006
Present Employers Notified As Appropriate	January 3, 2006

The State of Ohio will be informed.

The individuals have 20 days from the date of the Order in which to request a hearing.

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\*Previously concurred

<b>OFC</b>	OE*		RIII*		NRR*		OGC*	
<b>NAME</b>	DStarkey		JCaldwell		MCase		SBrock (NLO)	
<b>DATE</b>	12/19/05		12/12/05		12/12/05		12/12/05	
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SDP/EA REQUEST & STRATEGY FORM

Case Data
Disputed: [ ] Related Cases: EA-05-182, 183, 185
SDP/EA No.: 05-184 Number: 1 Docket No: N/A
Request Date: 8-18-05 Region: III Case Type: Indiv Small Entity: [x] N [ ] Yes
Licensee: Individual Facility / City: Davis-Besse Nuclear Power Plant
License No.: N/A Last Day of Insp.: 8-22-03
Insp. Rpt No.: OI 3-2002-06 Keywords: 090100 ES: dms
Facts (EATS): Contrary to 10 CFR 50.5(a)(2), the Technical Services Director at Davis-Besse deliberately provided incomplete and inaccurate information at FENOC's (the licensee) presentation, concerning Davis-Besse's reactor pressure vessel head inspection efforts, given to the NRC Commissioners' Technical Assistants on October 11, 2001, and in the licensee's October 17, 2001, supplemental response to NRC Bulletin 2001-001.

Discussion (if required):
SDP [x] No [ ] Yes
Assessment: [ ] [ ] White [ ] Yellow [ ] NOV [ ] Yes [ ] No
Wrongdoing [ ] No [x] Yes OI Rpt. No.: 3-2002-06
DOJ Referral? [ ] No [x] Yes Ref. Date 1-17-03 Action Date [ ] Decline [x] Accept
[ ] Awaiting DOJ [x] Needs coordination with DOJ
Resolution: Does not meet the NRC [ ] Legal [ ] Policy threshold for taking enforcement action regarding
[x] Deliberate Misconduct [ ] Careless Disregard [ ] Non-willful violator(s)

Escalated Action
Consequence: [ ] Actual [ ] Potential [ ] Reg. Impact [ ] Willfulness
Prior Esc. Action? [ ] No [ ] Yes EA: \_\_\_\_\_ Date: \_\_\_\_\_
ID Credit? [ ] No [ ] Yes [ ] TBD SL: [ ]
CA Credit? [ ] No [ ] Yes [ ] TBD Supp: [ ]
CP? [ ] No CP [ ] Base [ ] Double Base [ ] Other: \_\_\_\_\_

Discretion or Order? [ ] No [x] Yes Explain: 5 year ban (Order). See below

Future Action
Conference? [x] No [ ] Yes [ ] Open [ ] Closed Additional Info: \_\_\_\_\_
Action? [ ] No Violation [ ] Re-panel [ ] PEC Letter [ ] Choice Letter [ ] Choice Call [ ] SL IV [ ] Re-caucus
[ ] Region Issue Esc. [x] Full Package Review by [x] DEDR Review [ ] Commission [ ] NCV [ ] Offer ADR
Other Action? Issuance of ORDER to former Technical Services Director prohibiting involvement in NRC-licensed activities for 5 years

Participants: Region M. Satorius, C. Lipa, B. Berson, K. O'Brien, C. Colantoni, M. Phillips, K. Lambert, C. Weil
OE J. Luehman, D. Starkey, M. Johnson OGC/OI T. Campbell, S. Brock, M. Duffy / R. Paul, C. Hayden
Program Office P. Bonnett, J. Hopkins Other

Remarks/Comments/Lessons Learned:

ML053470089

W/H in Ent-5
Approved, Dir. OE: [Signature]
Date: 12/7/05

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8-18-05 - The October 11, 2001, presentation to the NRC Commissioner's technical assistants was materially inaccurate in that the build-up of boric acid deposits was so significant that FENOC could not inspect all of the nozzles. As a result, FENOC did not have a basis for stating that no visible evidence of nozzle leakage was detected. Although the Technical Services Director was aware at the end of Refueling Outage 12 that not all the head had been cleaned, and therefore, not all the control rod drive mechanism (CRDM) nozzles could be inspected, he failed to correct the inaccurate information on the presentation slides during an October 10, 2001, meeting that he attended, where the slides were being developed or at the October 11<sup>th</sup> presentation.

The October 17, 2001, Bulletin response was materially inaccurate, in that all the CRDM nozzles were not viewed during the outages. Specifically, the Technical Services Director was aware that at only 80 percent of the reactor pressure vessel head was cleaned at the end of the 12<sup>th</sup> refueling outage, therefore, FENOC could not view all of the control rod drive mechanism nozzles.

Based on the above, the panel proposed issuing an Order banning involvement in all NRC-licensed activities for a period of 5 years for violations of 10 CFR 50.5 (a)(2). The panel determined that a ban of 5 years is appropriate based on the significance of the events at Davis-Besse and the fact that a 5 year ban was previously issued to another former Davis-Besse employee for equally significant acts of deliberate misconduct.

This enforcement action is being proposed prior to the Department of Justice completing its review of the OI investigation results

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