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July 16, 1979

\*NOT ADMITTED IN D. C.

Mr. Harold R. Denton, Director  
Office of Nuclear Reactor Regulation  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Re: Davis-Besse Nuclear Power Station,  
Unit No. 1, Docket No. 50-346

Dear Mr. Denton:

We have before us four letters from the Toledo Coalition for Safe Energy--one to James G. Keppler, Director, Region III, dated April 24, 1979, one to Stephen Burns, OELD, dated May 23, 1979, and two to you dated June 12 and July 9, 1979--related to operation of the Davis-Besse Nuclear Power Station, Unit No. 1. The July 9 letter forwarded to you a document entitled "Motion for Preliminary Injunction," with an accompanying "Complaint and Memorandum of Particulars," in which the Coalition asks that the Davis-Besse plant be shut down until certain actions are taken with respect to the emergency plan associated with the plant.

The May 23 and June 12 letters make it clear that the Coalition, pursuant to 10 C.F.R. §2.206, is requesting the Director of Nuclear Reactor Regulation to institute a proceeding under 10 C.F.R. §2.202 by serving on the Licensees an order to show cause "why the emergency and evacuation procedures for Davis-Besse and the State of Ohio should not be modified prior to any startup of Davis-Besse." Although the Coalition's Motion and Complaint are captioned as if they were before the Commission, they were directed to you,

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119

SHAW, PITTMAN, POITS & TROWBRIDGE

Mr. Harold R. Denton, Director

July 16, 1979

Page Two

rather than the Commission, under cover of the July 9 letter, and each of the two documents indicates on its face that it is being filed within the context of the request to you under section 2.206. This is consistent with your two letters of June 1 and June 27 in which you informed the Coalition that its request would be acted upon by you as a section 2.206 request concerning matters within the jurisdiction of your office.

Accordingly, we believe the four letters taken together should properly be construed, and were intended to be construed, as a request for action by the Director of Nuclear Reactor Regulation pursuant to section 2.206, with the July 9 Motion and Complaint constituting a specific request for the issuance of an immediately effective show cause order mandating shutdown of the plant pursuant to section 2.202. The Licensees' response to the Coalition's section 2.206 request has been prepared on this basis and is enclosed for your consideration.

As shown in our response, the Coalition's Complaint is characterized by error, omission, and misinformation to the extent that it provides no basis for the issuance of a show cause order. A major thrust of the Coalition's argument apparently lies in its allegation that the Licensees' emergency plan fails to comply in certain respects with an NRC/EPA planning basis document. In attempting the comparison between the Davis-Besse emergency plan and the planning basis document, however, the Coalition (a) used the wrong document as the Licensees' emergency plan, and is apparently unaware of the newer and more comprehensive document which contains the emergency plan, (b) attempted to compare a plant emergency plan document with a planning basis document, NUREG-0396 (EPA 520/1-78-016), which is applicable only to state and local government plans, and (c) mischaracterized the planning basis document, an interagency report providing guidance to government agencies, as a book of NRC requirements.

Much of the Coalition's confusion seems to arise from a misunderstanding of the regulatory distinction between a state government emergency plan and a plan developed by a reactor licensee, and the Coalition seems to be unaware of the existence of the State of Ohio Emergency Plan. Most of the Coalition's concerns should be, and are, covered in the Ohio plan.

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SHAW, PITTMAN, POTTS & TROWBRIDGE

Mr. Harold R. Denton

July 16, 1979

Page Three

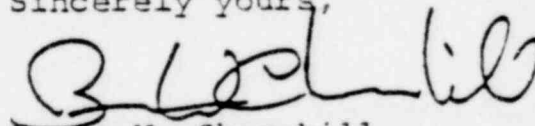
The Davis-Besse emergency plan is in full compliance with all NRC regulatory requirements. The Coalition's allegations to the contrary are based on misinformation and a misunderstanding of NRC regulations. The Coalition has failed to note, or is unaware, that compliance has been demonstrated by continuing and recent inspections by NRC's Office of Inspection and Enforcement. The Coalition has also failed to note, or is unaware of, the extensive efforts that have been undertaken by both the State of Ohio and the Licensees in the upgrading and enhancement of emergency preparedness.

Almost without exception, the Coalition's many allegations of inadequacy of the emergency plan are incorrect. For convenience, these allegations, and the Licensees' responses, are summarized in an appendix to our response.

The Coalition has not mentioned the extensive and ongoing NRC programs related to emergency planning, and of course could not have known of the Commission's recent advance notice of proposed expedited rulemaking for increased emergency readiness. In its June 12 letter, however, the Coalition has petitioned the Commission for rulemaking with respect to some of the same points it is attempting to make in this case. Any concerns the Coalition may have about the Davis-Besse emergency plan--a plan which meets existing NRC regulatory requirements--should be taken up in the context of the NRC's generic consideration of emergency preparedness.

For all of the above reasons, as more completely discussed in the accompanying response, the Coalition's request for issuance of a show cause order should be denied.

Sincerely yours,



Bruce W. Churchill

BWC:cp

Enclosure

cc: Terry Lodge, Esq.

Leonard Bickwit, Esq.

James P. Murray, Jr., Esq.

1243-003