

September 27, 1989

Docket No. 50-346

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Mr. Donald C. Shelton  
Vice President - Nuclear  
Toledo Edison Company  
Edison Plaza - Stop 712  
300 Madison Avenue  
Toledo, Ohio 43652

Dear Mr. Shelton:

SUBJECT: DAVIS-BESSE - AMENDMENT TO INDEMNITY AGREEMENT

Enclosed is an amendment to your indemnity agreement reflecting the changes to 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements," effective July 1, 1989. The amendments to Part 140 reflect the increase from \$160 million to \$200 million in the primary layer of nuclear energy liability insurance provided by American Nuclear Insurers and Mutual Atomic Energy Liability Underwriters. The amendments also conform to changes made to the Price-Anderson Act by "The Price-Anderson Amendments Act of 1988," which was enacted on August 20, 1988.

Please signify your acceptance of the amendment to your indemnity agreement in the space provided and return one signed copy to the Document Control Desk, ATTN: Ira Dinitz, Senior Insurance/Indemnity Specialist, U.S. Nuclear Regulatory Commission, Mail Stop 12E-4, Washington, D.C. 20555. If you have any questions about the foregoing, please contact Mr. Dinitz at 301-492-1289.

Sincerely,

Thomas V. Wanbach, Sr. Project Manager  
Project Directorate III-3  
Division of Reactor Projects - III,  
IV, V and Special Projects  
Office of Nuclear Reactor Regulation

Enclosure:  
Amendment to Indemnity  
Agreement

DF01  
1/1

cc w/enclosure:  
See next page

DOCUMENT NAME: DAVIS-BESSE LETTER

Office: LA/PDIII-3  
Surname: PKreutzer  
Date: 9/23/89

PM/PDIII-3  
TWanbach/mw  
9/27/89

PD/PDIII-3  
JHannon  
9/27/89

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Mr. Donald C. Shelton  
Toledo Edison Company

Davis-Besse Nuclear Power Station  
Unit No. 1

cc:

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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

Docket No. 50-346

Amendment to Indemnity Agreement No. B-79  
Amendment No. 6

Effective July 1, 1989, Indemnity Agreement No. B-79, between Toledo Edison Company, Cleveland Electric Illuminating Company, and the Nuclear Regulatory Commission, dated June 16, 1976, as amended, is hereby further amended as follows:

The amount "\$160,000,000" is deleted wherever it appears and the amount "\$200,000,000" is substituted therefor.

The amount "\$124,000,000" is deleted wherever it appears and the amount "\$155,000,000" is substituted therefor.

The amount "\$36,000,000" is deleted wherever it appears and the amount "\$45,000,000" is substituted therefor.

Paragraph 1, Article I is modified to read as follows:

1. "Nuclear reactor," "byproduct material," "person," "source material," "special nuclear material," and "precautionary evacuation" shall have the meanings given them in the Atomic Energy Act of 1954, as amended, and the regulations issued by the Commission.

The definition of "public liability" in paragraph 7, Article I is deleted, and the following is substituted therefor:

"Public liability" means any legal liability arising out of or resulting from a nuclear incident or precautionary evacuation (including all reasonable additional costs incurred by a State or a political subdivision of a State, in the course or responding to a nuclear incident or precautionary evacuation), except (1) claims under State or Federal Workmen's Compensation Acts of employees of persons indemnified who are employed (a) at the location or, if the nuclear incident occurs in the course of transportation of the radioactive material, on the transporting vehicle, and (b) in connection with the licensee's possession, use or transfer of the radioactive material; (2) claims arising out of an act of war; and (3) claims for loss of, or damage to, or loss of use of (a) property which is located at the location and used in connection with the licensee's possession, use, or transfer of the radioactive material, and (b) if the nuclear incident occurs in the course of transportation of the radioactive material, the transporting vehicle, containers used in such transportation, and the radioactive material.

Paragraph 4(c), Article II is revised to read as follows:

- (c) Any issue or defense based on any statute of limitations if suit is instituted within three years from the date on which the claimant first knew, or reasonably could have known, of his injury or damage and the cause thereof.



In paragraph 1, Article VIII, the amount "\$5,000,000" is deleted and the amount "\$63,000,000" is substituted therefor.

Item 2a of the Attachment to the indemnity agreement is deleted in its entirety and the following substituted therefor:

Item 2 - Amount of financial protection

- a. \$1,000,000 (From 12:01 a.m., June 16, 1976, to 12 midnight, April 21, 1977, inclusive)
- \$125,000,000 (From 12:01 a.m., April 22, 1977, to 12 midnight, April 30, 1977, inclusive)
- \$140,000,000\* (From 12:01 a.m., May 1, 1977, to 12 midnight, April 30, 1979,
- \$160,000,000\* (From 12:01 a.m., May 1, 1979, to 12 midnight, June 30, 1989 inclusive)
- \$200,000,000\* (From 12:01 a.m., July 1, 1989)

FOR THE UNITED STATES NUCLEAR REGULATORY COMMISSION

*Cecil O. Thomas*

Cecil O. Thomas, Chief  
Policy Development and Technical Support Branch  
Program Management, Policy Development  
and Analysis Staff  
Office of Nuclear Reactor Regulation

Accepted \_\_\_\_\_, 1989

Accepted \_\_\_\_\_, 1989

By \_\_\_\_\_  
Toledo Edison Company

By \_\_\_\_\_  
Cleveland Electric  
Illuminating Company

\*and, as of August 1, 1977, the amount available as secondary financial protection.