

June 30, 2003

Mr. Lew W. Myers
Chief Operating Officer
FirstEnergy Nuclear Operating Company
Davis-Besse Nuclear Power Station
5501 North State Route 2
Oak Harbor, OH 43449-9760

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
DRAFT DAVIS-BESSE SAFETY CULTURE EVALUATION REPORT AND
PRESENTATION SLIDES

Dear Mr. Myers:

I am writing in response to your March 21, 2003, letter submitting FirstEnergy Nuclear Operating Company's (FENOC) draft report and presentation slides titled "Safety Culture Evaluation of the Davis-Besse Nuclear Power Station" (draft report). An affidavit executed on the same date, by Mr. Fredrick A. Giese, requested that the draft report be withheld from public disclosure pursuant to Title 10 of the Code of Federal Regulations (10 CFR) Section 2.790.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for several reasons, including the following:

1. The information is confidential and has been held in confidence by FENOC.
2. The information is of a type customarily held in confidence by FENOC in that the report contains information regarding a unique methodology and process for performing the assessment.
3. The information was transmitted to the NRC in confidence and, to the best of FENOC's knowledge, is not available in public sources.
4. Public disclosure of the information would likely cause substantial harm to the competitive position of FENOC in that FENOC may use the methodology and process reflected in the draft report to perform assessments of the safety culture at its nuclear plants in the future.

By letter dated April 15, 2003, NRC requested additional information from FENOC in order to assess the proprietary claim. FENOC responded through its attorney by letter dated May 6, 2003. FENOC's supplemental response expanded upon its reasons to withhold the draft report from public disclosure. First, FENOC noted the discussion in NRC's recent rulemaking that for voluntarily submitted documents, the only factor to be considered in determining whether the information should be considered proprietary is whether the information is customarily held in confidence by the submitter. Second, FENOC noted that a draft report lacks the reliability of a final report and may contain errors and could be prone to

misuse or misinterpretation. Finally, FENOC stated that the site-specific application of the methodology was produced at FENOC's expense, is owned by FENOC, and that the site-specific data produced is of a type that FENOC would routinely maintain as confidential and is maintained confidential by FENOC's contractor who produced the report.

We have reviewed your application, the draft report, and the additional information submitted in accordance with the requirements of 10 CFR 2.790. Based on our review, and particularly in light of the fact that the draft report was submitted voluntarily, we have determined that the submitted information sought to be withheld contains proprietary information and should be withheld from public disclosure.

Therefore, the material described above and identified as proprietary, will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103b. of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. We have provided copies of the report to our consultants working in this area and they or their employers have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You should also understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

If you have any questions regarding this matter, I may be reached at 630-829-9637.

Sincerely,

/RA/

John A. Grobe, Chairman
Davis-Besse Oversight Panel

See attached distribution

L. Myers

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John A. Grobe, Chairman
Davis-Besse Oversight Panel

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