

August 1, 2003

Mr. David A. Lochbaum
Union of Concerned Scientists
1707 H Street, NW, Suite 600
Washington, DC 20006-3919

Dear Mr. Lochbaum:

In your letter to me dated June 25, 2003, you requested that I not authorize restart of the Davis-Besse facility before completion of the investigation being conducted by the Office of Investigations (OI) and making the investigation report synopsis public. Absent completion of that effort and the restart recommendation by the Davis-Besse Oversight Panel, you stated your view that I would not have sufficient information to determine that Davis-Besse is ready for restart and that I would lack sufficient assurance that Davis-Besse would be operated in accordance with applicable regulations and requirements.

I assure you that I won't make a decision to authorize restart of the Davis-Besse facility without sufficient information, including recommendations from the Oversight Panel, the Director of the Office of Nuclear Reactor Regulation, and a briefing from the Office of Investigations. Specific to your concern, the Davis-Besse Oversight Panel has developed and regularly updated a Restart Checklist that includes issues that require resolution before a restart decision could be considered by the NRC. Included in the Restart Checklist are three items addressing the root cause assessments, corrective action development, and corrective action effectiveness in the area of organizational effectiveness and human performance. Inspections of these items are ongoing.

In addition, the Panel and I have been regularly briefed on the progress of the OI investigation. The Panel will continue to monitor investigation progress and will evaluate the investigation results prior to making a recommendation for restart of the Davis-Besse facility to ensure that due consideration is given to any matter that could affect public health and safety. If any individuals are implicated in wrongdoing, the NRC will consider whether the individual is in, and if so should remain, in a position of responsibility at Davis-Besse.

In accordance with the NRC's Enforcement Manual, in cases where the results of the OI investigation identify potential wrongdoing, those results are provided to the U. S. Department of Justice, in accordance with the Memorandum of Understanding between the Nuclear Regulatory Commission and Department of Justice. In addition, my staff is briefed and required to review the evidence to determine if immediate action is necessary to ensure that public health and safety will not be compromised if the individuals in question remain in a position of responsibility at Davis-Besse. Wrongdoing by an individual may result in civil sanctions taken against that individual. The NRC's Enforcement Manual, which can be viewed at the NRC's web page, describes the processes involved in actions against individuals and the relationship

between the NRC and Department of Justice. These matters will be appropriately handled consistent with NRC policies for enforcement and interface with the U.S. Department of Justice. This may or may not result in the release of a synopsis publicly prior to restart.

Should you have any questions regarding our efforts, please contact Mr. Jack Grobe of my staff at (630) 829-9637.

Sincerely,

/RA/

J. E. Dyer
Regional Administrator

D. Lochbaum

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Sincerely,

/RA/

J. E. Dyer
Regional Administrator

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* - Per e-mail from J. Fitzgerald. + - Per e-mail from D. Nelson. ** - Per e-mail.

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