

October 7, 2003

Mr. James P. Riccio
Nuclear Policy Analyst
Greenpeace
702 H Street, NW, Suite 300
Washington, DC 20001

Dear Mr. Riccio:

The petition dated August 25, 2003, submitted by Greenpeace on behalf of the Nuclear Information & Resource Service and the Union of Concerned Scientists (collectively, the Petitioners), and addressed to Dr. William D. Travers, has been referred to me pursuant to 10 CFR 2.206 of the Commission's regulations. The Petitioners requested that the Nuclear Regulatory Commission (NRC) take enforcement actions against FirstEnergy Nuclear Operating Company (FirstEnergy), the licensee for Davis-Besse Nuclear Power Station in Oak Harbor, Ohio, and the Petitioners also requested that the NRC suspend the Davis-Besse license and prohibit plant restart until certain conditions have been met. As bases for the request to have the NRC take enforcement actions against the licensee, the Petitioners state that FirstEnergy has failed to complete commitments related to the NRC's 50.54(f) design basis letter (issued on October 9, 1996), and refer to numerous design basis violations dating back to plant licensing. The petitioners requested that the NRC suspend the Davis-Besse license and prohibit plant restart until all design basis deficiencies identified in response to the NRC's 50.54(f) design basis letter are adequately addressed, the plant probabilistic risk assessment (PRA) is updated to reflect design flaws, and no systems are in a "degraded but operable" condition. It should be noted that the information supplied by the Petitioners as the bases for the petition was obtained from publicly available correspondence between the NRC and FirstEnergy.

A copy of the petition has been made publicly available on the NRC's Web site via the NRC's Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room under the Accession No. ML032400435.

NRC Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions," establishes the process and framework for evaluating and reviewing petitions under 10 CFR 2.206. This document, along with other general information on the process by which any member of the public may raise potential health and safety issues in a petition to the NRC, is available on our website at <http://www.nrc.gov/what-we-do/regulatory/enforcement/petition.html>. In accordance with MD 8.11, we established a Petition Review Board (PRB) to review the Petitioners' request. In response to our offer, the Petitioners' representatives met with our PRB on September 17, 2003, to provide additional details in support of this request. This meeting was transcribed and the transcript is publicly available as a supplement to the petition (<http://www.nrc.gov/reactors/operating/ops-experience/vessel-head-degradation/controlled-correspondence.html>). The results of that discussion have been considered in the PRB's

determination regarding the request for immediate action and in establishing the schedule for the review of the petition. After this meeting, the PRB also made the final determination that the Petitioners' letter meets the criteria of MD 8.11 and will be treated as a 10 CFR 2.206 petition.

FirstEnergy may complete all necessary restart activities, and the NRC staff may complete all necessary oversight activities, before the staff can finalize its actions on all aspects of this petition. Therefore, we consider the requests to suspend the Davis-Besse license and preclude plant restart until certain conditions have been met to be equivalent to "immediate action" requests. The NRC will supplement this response with our findings on the Petitioners' "immediate action" requests before the Davis-Besse plant is allowed to restart.

I would like to express my appreciation for the Petitioners' interest in Davis-Besse. As provided by Section 2.206, we will fully evaluate and document the staff's decision in a Director's Decision within a reasonable time. I have assigned Mel Fields to be the petition manager for your petition. Mr. Fields can be reached at (301) 415-3062. I have enclosed for your information a copy of the notice that is being filed with the Office of the Federal Register for publication.

Sincerely,

/RA/

J. E. Dyer, Director
Office of Nuclear Reactor Regulation

Enclosure: Notice

cc w/encl: See next page

determination regarding the request for immediate action and in establishing the schedule for the review of the petition. After this meeting, the PRB also made the final determination that the Petitioners' letter meets the criteria of MD 8.11 and will be treated as a 10 CFR 2.206 petition.

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/RA/

J. E. Dyer, Director
Office of Nuclear Reactor Regulation

Enclosure: Notice

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***For previous concurrences see attached ORC**

Incoming: ML032400435

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ACCESSION NO.: ML032690314

NRR-106

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2.206 ACKNOWLEDGMENT LETTER TO JAMES P. RICCIO (EDO-20030508)

DATED: October 7, 2003

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Davis-Besse Nuclear Power Station, Unit 1

cc:

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Washington, D.C. 20515

The Honorable Dennis J. Kucinich, Member
United States House of Representatives
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Paul Gunter
Director Nuclear Watchdog Project
Nuclear Information & Resource Service
1424 16th Street NW Suite 401
Washington, DC 20009

cc w/incoming dated August 25, 2003:
Mr. Lew Myers
Chief Operating Officer
FirstEnergy Nuclear Operating Company
Davis-Besse Nuclear Power Station
5501 North State Route 2
Oak Harbor, OH 43449-9760

U.S. NUCLEAR REGULATORY COMMISSION

DOCKET NO. 50-346

LICENSE NO. NPF-3

FIRSTENERGY NUCLEAR OPERATING COMPANY

DAVIS-BESSE NUCLEAR POWER STATION, UNIT 1

RECEIPT OF REQUEST FOR ACTION UNDER 10 CFR 2.206

Notice is hereby given that by petition dated August 25, 2003, submitted by Greenpeace on behalf of the Nuclear Information & Resource Service and the Union of Concerned Scientists (collectively, the Petitioners), the U.S. Nuclear Regulatory Commission (NRC) has been requested to take enforcement actions against FirstEnergy Nuclear Operating Company (FirstEnergy), the licensee for Davis-Besse Nuclear Power Station in Oak Harbor, Ohio, and the NRC has also been requested to suspend the Davis-Besse license and prohibit plant restart until certain conditions have been met.

As bases for requesting the NRC to take enforcement actions against the licensee, the Petitioners state that FirstEnergy has failed to complete commitments related to the NRC's 50.54(f) design basis letter (issued on October 9, 1996), and refer to numerous design basis violations dating back to plant licensing. The petitioners request that the NRC suspend the Davis-Besse license and prohibit plant restart until all design basis deficiencies identified in response to the NRC's 50.54(f) design basis letter are adequately addressed, the plant probabilistic risk assessment (PRA) is updated to reflect design flaws, and no systems are in a "degraded but operable" condition.

The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The request has been referred to the Director of the NRC's Office of Nuclear Reactor

Regulation (NRR). As provided by Section 2.206, appropriate action will be taken on this petition within a reasonable time.

A copy of the petition is available in the Agencywide Documents Access and Management System (ADAMS) for inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and from the ADAMS Public Library component on the NRC's Web site, <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room), using Accession No. ML032400435. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff by telephone at 1-800-397-4209 or 301-415-4737 or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland this 7th day of October 2003.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

J. E. Dyer, Director
Office of Nuclear Reactor Regulation