

Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Avenue, NW  
Washington, DC 20004  
Tel: 202-739-3000  
Fax: 202-739-3001  
www.morganlewis.com

**Morgan Lewis**  
C O U N S E L O R S   A T   L A W

**Timothy P. Matthews**  
202.739.5527  
tmatthews@morganlewis.com

August 24, 2012

**Via Electronic Information Exchange**

Terry J. Lodge, Esq.  
316 N. Michigan St., Suite 520  
Toledo, OH 43604

Brian G. Harris, Esq.  
Office of the General Counsel  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

RE: Ninth Update to Mandatory Disclosures Pursuant to 10 C.F.R. § 2.336; FirstEnergy Nuclear Operating Co., License Renewal for Davis-Besse Nuclear Power Station, Docket No. 50-346

Dear Counsel:

Pursuant to 10 C.F.R. § 2.336, the Board's Initial Scheduling Order dated June 15, 2011, and the Board's Order modifying the Initial Scheduling Order dated November 2, 2011, FirstEnergy Nuclear Operating Company (FENOC) is providing the enclosed disclosures for Intervenors' Contention 4 as affirmed by the Commission on March 27, 2012 (CLI-12-18).

FENOC's disclosures consist of the following:

- Enclosure 1 is reserved for the names, addresses, and telephone numbers of the persons upon whose opinion FENOC will base its positions on the contention and upon whom FENOC may rely as witnesses, and a copy of the analyses and authorities upon which they base their opinions. FENOC has not yet identified witnesses for any hearing on the contention, and will update Enclosure 1 when it has identified its witnesses.
- Enclosure 2 provides a description, by category and location, of the documents, data compilations, and tangible things in the possession, custody, or control of FENOC that may be relevant to the admitted contention. Per the Scheduling Order and our agreement, these

Terry J. Lodge, Esq.  
Brian G. Harris, Esq.  
August 24, 2012  
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disclosures do not include privileged documents, or publicly-available documents unless FirstEnergy expects to rely on them at hearing. If you determine that you would like a copy of any of these documents, please inform me of which documents you would like, and I will provide a copy to you.

- Enclosure 3 is reserved for an index of documents, data compilations, or tangible things that may be relevant to the contention but that contain proprietary information, Sensitive Unclassified Non-Safeguards Information (SUNSI), or otherwise protected information. FENOC did not identify any new relevant documents, data compilations, or tangible things that contain proprietary information, SUNSI, or otherwise protected information.

In order to compile Enclosures 2 and 3, a search was conducted of documents in FENOC's possession, custody, or control. The attached affidavit attests that all relevant materials identified by this search that are required to be disclosed under the Scheduling Order have been disclosed.

When FENOC identifies additional relevant documents or the witnesses for any hearing on the contention, FENOC will update these disclosures as required by the Board's Scheduling Order.

FENOC has been conservative in identifying documents for inclusion in Enclosures 2 and 3. By identifying documents in those Enclosures, FENOC does not necessarily concede that the documents are in fact relevant or material to the admitted contention.

Sincerely,

Executed in Accord with 10 C.F.R. § 2.304(d)

Signed (electronically) by Timothy P. Matthews

Timothy P. Matthews  
1111 Pennsylvania Ave. NW  
Washington, DC 2004  
(202) 739-5527  
tmatthews@morganlewis.com

*Counsel for FirstEnergy Nuclear Operating Co.*

Enclosures

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**BEFORE THE ATOMIC SAFETY AND LICENSING BOARD**

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In the Matter of )

FIRSTENERGY NUCLEAR OPERATING COMPANY )

(Davis-Besse Nuclear Power Station, Unit 1) )

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Docket No. 50-346-LR

**AFFIDAVIT OF CLIFF CUSTER**

1. My name is Cliff Custer. I am the Project Manager, License Renewal, at FirstEnergy Nuclear Operating Company (“FENOC”). Working with the attorneys for FENOC, I have been responsible for managing the collection of documents, data compilations, and tangible things to comply with the mandatory disclosure requirements in 10 C.F.R. § 2.336 and the Atomic Safety and Licensing Board’s Initial Scheduling Order dated June 15, 2011 (“Scheduling Order”) in this proceeding, and the Licensing Board’s Order Granting Motion for Modification of Initial Scheduling Order dated November 2, 2011 in this proceeding.
2. FENOC conducted a search of documents, data compilations, and tangible things in its possession, custody, and control for information relevant to the admitted contention as modified by the Commission (CLI-12-08), and in the possession, custody, and control of its affiliated companies, as specified in 10 C.F.R. § 2.336(a). As provided in 10 C.F.R. § 2.336(c), this search encompassed information and documents reasonably available to FENOC and its affiliated companies, including:
  - a. Both electronic and paper documents;

- b. Corporate records, Davis-Besse license renewal project files, and documents in the possession and control of individuals who have worked on the Davis-Besse license renewal project or on matters potentially relevant to the admitted contention; and
  - c. Documents, data compilations, and tangible things in the possession and control of AREVA, Inc. (“AREVA”), which assisted FENOC in preparing portions of the Davis-Besse Environmental Report.
- 3. Consistent with the Board’s Scheduling Order, Enclosure 2 to this Affidavit provides an index of relevant, non-privileged, non-protected documents, data compilations, and tangible things that were located as a result of this search.
- 4. FENOC did not identify any new relevant documents, data compilations, and tangible things containing information that FENOC believes are proprietary to FENOC or its affiliated companies or third parties, or falls within the category of Sensitive Unclassified, Non-Safeguards Information (“SUNSI”).
- 5. FENOC has been conservative in identifying documents for inclusion in the Enclosures. Accordingly, FENOC is not suggesting that just because a document is listed on the Enclosure that it is indeed relevant to the admitted contention.
- 6. These disclosures are reasonably accurate and complete as of July 31, 2012.

The statements made above are true to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Accord with 10 C.F.R. § 2.304(d)

*Signed (electronically) by Cliff Custer*

Cliff Custer

License Renewal Project Manager

FirstEnergy Nuclear Operating Company

Beaver Valley Nuclear Power Station

Route 168

Shippingport, PA 15077

Phone: 724-682-7139

E-mail: [custercl@firstenergycorp.com](mailto:custercl@firstenergycorp.com)

Executed this 22nd day of August 2012.

**Enclosure 1**  
**(Reserved)**

## **Enclosure 2**

First Energy-Davis-Besse License Renewal Proceeding  
Mandatory Disclosure Log  
Ninth Update, August 31, 2012

Log No.	Category	Location*	Document Title	Date	Contentions
FEDB-000008340	Standard file-Standard file without attachment	Morgan, Lewis & Bockius	L-12-244 Amd 29 & ER SAMA Update_FINAL 2012-07-16.pdf	7/17/2012	Contention 4

\*Morgan Lewis is located at 1111 Pennsylvania Avenue, NW Washington, DC 20004



**Enclosure 3**  
**(Reserved)**

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD**

In the Matter of

FIRSTENERGY NUCLEAR OPERATING COMPANY

(Davis-Besse Nuclear Power Station, Unit 1)

Docket No. 50-346-LR

August 24, 2012

**CERTIFICATE OF SERVICE**

I hereby certify that, on this date, a copy of FENOC's Ninth Update to Mandatory Disclosures Pursuant to 10 C.F.R. § 2.336 was filed with the Electronic Information Exchange in the above-captioned proceeding on the following recipients:

Administrative Judge  
William J. Froehlich, Chair  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
E-mail: [wjfl@nrc.gov](mailto:wjfl@nrc.gov)

Administrative Judge  
Dr. Nicholas G. Trikouros  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
E-mail: [nicholas.trikouros@nrc.gov](mailto:nicholas.trikouros@nrc.gov)

Administrative Judge  
Dr. William E. Kastenberg  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
E-mail: [wek1@nrc.gov](mailto:wek1@nrc.gov)

Office of the General Counsel  
U.S. Nuclear Regulatory Commission  
Mail Stop O-15D21  
Washington, DC 20555-0001  
Edward L. Williamson  
Lloyd B. Subin  
Brian G. Harris  
Brian P. Newell  
Catherine E. Kanatas  
[edward.williamson@nrc.gov](mailto:edward.williamson@nrc.gov);  
[lloyd.subin@nrc.gov](mailto:lloyd.subin@nrc.gov);  
[brian.harris@nrc.gov](mailto:brian.harris@nrc.gov);  
[brian.newell@nrc.gov](mailto:brian.newell@nrc.gov);  
[catherine.kanatas@nrc.gov](mailto:catherine.kanatas@nrc.gov)

Office of the Secretary  
U.S. Nuclear Regulatory Commission  
Rulemakings and Adjudications Staff  
Washington, DC 20555-0001  
E-mail: [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov)

Office of Commission Appellate Adjudication  
U.S. Nuclear Regulatory Commission  
Mail Stop: O-16C1  
Washington, DC 20555-0001  
E-mail: ocaamail@nrc.gov

Kevin Kamps  
Paul Gunter  
Beyond Nuclear  
6930 Carroll Avenue, Suite 400  
Takoma Park, MD 20912  
E-mail: kevin@beyondnuclear.org;  
paul@beyondnuclear.org

Michael Keegan  
Don't Waste Michigan  
811 Harrison Street  
Monroe, MI 48161  
E-mail: mkeeganj@comcast.net

Terry J. Lodge  
316 N. Michigan St., Ste. 520  
Toledo, OH 43604  
E-mail: tjlodge50@yahoo.com

*Signed (electronically) by Jane T. Accomando*

Jane T. Accomando  
Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Avenue, N.W.  
Washington, DC 20004  
Phone: 202-739-3000  
Fax: 202-739-3001  
E-mail: jacomando@morganlewis.com