

Case No.: 2014-0203
 Date Rec'd: 4/4/14
 Specialist: [Signature]
 Related Case: 2013-0348

FOIA Resource

From: Kevin Kamps <kevin@beyondnuclear.org>
Sent: Friday, April 04, 2014 10:36 AM
To: Graff, Mark
Cc: McClellan, Gerald; Harris, Brian; Tibbetts, John; Kanatas, Catherine; Sealing, Donna; FOIA Resource; Lodge/Terry J.
Subject: FOIA Request re: Davis-Besse Shield Building cracking, for an updated FOIA response covering the date range Jan. 27, 2012 to April 4, 2014

April 4, 2014

Freedom of Information Act (FOIA) Staff

U.S. Nuclear Regulatory Commission

Washington, DC 20555-0001

BY EMAIL: foia.resource@nrc.gov

FREEDOM OF INFORMATION ACT REQUEST

To Whom It May Concern:

(Please note: This FOIA request is separate and distinct from FOIA-2012-0121, which I filed myself on January 26, 2012. This current FOIA request is for informational materials dated January 27, 2012 to the present, April 3, 2014.

Also, this FOIA request comes in response to NRC's decision to simply "administratively close" out my FOIA request submitted on September 13, 2013 – which NRC designated as FOIA 2013-0348. Please see below, for pre-emptive answers to NRC FOIA office questions, in hopes of avoiding a repeat of NRC FOIA office's "administrative closure" of FOIA 2013-0348 without answering it.)

Pursuant to the Freedom of Information Act (FOIA), U.S.C. 552, Beyond Nuclear hereby requests from the U.S. Nuclear Regulatory Commission (NRC) information for the subject matter described as follows. This request covers, but is not limited to, all calendars and schedules, draft and final reports, correspondence, memoranda, handwritten notes, records of telephone contacts, receipts, electronic communications, including fax transmissions and Email, or otherwise written records, whether in paper or computer files, preserved via the use of any medium (e.g., paper documents, final notes, or word processors or computer discs, diskettes, hard drives, or network systems). In addition, this request includes studies, photographs (print and digital), analyses,

work papers, internal or external communications of any sort, testimony, press releases, reports, data, memoranda or the like, concerning, recording, or in any way related to:

- 1) The cracking in the concrete shield building/secondary radiological containment structure at the Davis-Besse atomic reactor in Oak Harbor, Ohio, reportedly first discovered by sub-contractors working for FirstEnergy Nuclear Operating Company (FENOC) on October 10, 2011;**
- 2) All communications to and from the U.S. Nuclear Regulatory Commission (NRC), including its Region III Office, and FENOC that reference the cracking in the concrete shield building mentioned above;**
- 3) All communications to and from NRC, including its Region III Office, and FENOC, having to do with NRC's early December 2011 decision to authorize the restart of Davis-Besse, despite the cracked concrete shield building;**
- 4) All communications to and from NRC, including its Region III Office, and FENOC, having to do with the root cause analysis, the extent, and the corrective actions associated with the cracking in the concrete shield building;**
- 5) All communications to and from NRC, including its Region III Office, and the Office of U.S. Representative Dennis Kucinich (Democrat-Ohio), Subcommittee Ranking Member on the U.S. House of Representatives Oversight and Government Reform Committee, requesting, referencing or relating to any and all of the issues raised by requests numbered 1 to 4 immediately above.**

Pursuant to this request, please provide all documents and communications prepared or utilized by, in the possession of, or routed through the NRC related to items 1-5 above.

For any portion of the request that you deem appropriate to deny, Beyond Nuclear requests that you describe the information that is denied, identify the exception to the FOIA on which you rely, and explain how that exception applies to the withheld information.

Pursuant to federal regulations at 10 CFR 9.41, Beyond Nuclear requests that any searching and copying fees incurred as a result of this search be waived, and provides the following information in response to the eight criteria listed in Section 9.41(b):

1) Purpose of request:

The purpose of the request is to gather information on interactions, communications, and meetings between NRC and FENOC, and/or any NRC officials or staff persons and their counterparts at FENOC. The requested information is currently not publicly available through the agency's public document room.

2) Extent to which Beyond Nuclear will extract and analyze the substantive content of the records:

Beyond Nuclear is qualified to make use of the requested information. The staff has demonstrated the ability to interpret information and communicate that information in a form comprehensible to the general public. Beyond Nuclear staff is quoted as a reliable source of information on nuclear issues in newspapers and magazines across the country, including the *New York Times*, *Washington Post*, *Los Angeles Times*, *Chicago Tribune*, and many others, as well as major television and radio outlets. Beyond Nuclear staff is frequently quoted in electronic as well print media resources, and is also published in journals of national repute.

Beyond Nuclear has a working relationship with attorneys, experts on transparency in government, nuclear engineers and other respected professionals who contribute to a fuller understanding of the influence of the nuclear power industry upon, and its involvement in, federal policy making and regulatory decision-making.

In addition, Beyond Nuclear is a party in good standing to the Atomic Safety and Licensing Board (ASLB) proceeding on FENOC's request for a 20-year license extension at Davis-Besse, and thus has a particular interest in this subject matter.

3) Nature of the specific activity or research in which the records will be used and Beyond Nuclear qualifications to utilize the information for the intended use in such a way that it will contribute to public understanding:

Beyond Nuclear seeks the requested information solely to contribute to and help shape the public debate on the influence of the nuclear power industry upon, and its involvement in, federal policy making and regulatory decision-making. Beyond Nuclear intends to use the information in order to advance the concerns for public understanding of transparency in government, or lack thereof.

4) Likely impact on the public understanding of the subject as compared to the level of understanding of the subject prior to disclosure:

The public understanding of the influence of the nuclear power industry upon, and its involvement in nuclear promotional activity or a production agenda in federal policy making and regulatory decision-making, will be enhanced by the contribution of this information.

5) Size and nature of the public to whose understanding a contribution will be made:

Beyond Nuclear has a membership of nearly 20,000 throughout the United States. Nearly 15,000 members periodically receive mailings from Beyond Nuclear. Beyond Nuclear provides resource material to electronic and print media outlets with very broad outreach to our constituency and interested public. Additionally, Beyond Nuclear has a web site (www.beyondnuclear.org) where postings on this issue will be made available.

6) Means of distribution of the requested information:

Beyond Nuclear will use its own newsletter publication resources and our media contacts in both the electronic and print media outlets to provide very broad outreach to the public. Beyond Nuclear will also share information with other interested parties concerned about the influence of the nuclear power industry upon, and its involvement in nuclear promotional activity and a production agenda in federal policy making and regulatory decision-making. Additionally, Beyond Nuclear will post information on its web site (www.beyondnuclear.org).

7) Whether free access to information will be provided:

Beyond Nuclear will provide the information without charge to all members of the public. Information prepared from the FOIA requested will be posted on the web site for downloading free of charge. Beyond Nuclear will also provide a copy of information to all interested parties without charge.

8) No commercial interest by Beyond Nuclear or any other party:

Beyond Nuclear has no commercial interest in obtaining the requested information. This information is provided to all public requests without charge. The sole interest of Beyond Nuclear is to promote a policy debate on the influence of the nuclear power industry upon, and its involvement in, nuclear promotional activity and a production agenda in federal policy making and regulatory decision-making.

NRC's Mark Graff sent me two emails re: FOIA 2013-0348: