

December 18, 2003

The Honorable Dennis J. Kucinich  
United States House of Representatives  
Washington, D.C. 20515

Dear Congressman Kucinich:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of October 15, 2003, about the Davis-Besse Nuclear Power Station (Davis-Besse). You expressed concerns about NRC policies, specifically those used in the risk assessment performed by the NRC for the problems found at Davis-Besse and about the objectivity of the NRC's Reactor Oversight Process (ROP). Your letter also expresses concerns about the final Director's Decision concerning your 2.206 petition. In response to your concerns, NRC staff met with Mr. Auke Mahar-Piersma of your staff on November 17, 2003, to discuss how the NRC has assessed the issues at Davis-Besse and the performance of the licensee.

The current ROP is a significant improvement over the previous NRC oversight process, and the NRC will continue to improve and refine it, based on study and experience. For example, the Davis-Besse Lessons-Learned Report dated September 30, 2002, noted several weaknesses in the ROP that the NRC is addressing as we move forward.

Under the ROP, the NRC uses risk assessment in determining the appropriate level of agency response to certain issues, including supplemental inspection and pertinent regulatory actions. The NRC's risk assessments utilize the methodology described in NRC Inspection Manual Chapter (IMC) 0609, "Significance Determination Process" (SDP), and its appendices. The SDP uses risk insights to characterize the safety significance of reactor safety inspection findings for the ROP, to provide an objective and common framework for communicating the potential safety significance of inspection findings, to provide a basis for assessment and/or enforcement actions, and to provide inspectors with plant-specific risk information for use in risk-informing the inspection program. The SDP is a useful approach for making an objective assessment of safety significance, but, as described in IMC 0305, "Operating Reactor Assessment Program," it is not the only consideration in the ROP.

The SDP involves vigorous, open discussion and even debate among informed experts. We believe this is healthy for a technical and scientific process. The ideas, experiences, and views of numerous experts are welcome and useful in making decisions on complex technical matters. This type of peer review process, questioning and testing both approaches and results, is used extensively in the scientific community and is well recognized for contributing to objectivity. With regard to the staff's assessment of the Davis-Besse reactor vessel head degradation, the NRC e-mails presented in your letter, are examples of the open internal discussion and debate necessary to reach a sound technical basis for NRC's findings. Those e-mails indicate a staff committed to doing the right thing, committed to finding the best, most objective, and most appropriate characterization of the significance of the issues in accordance with the SDP guidelines. These efforts resulted in a well founded and thoroughly documented

basis for the significance of the Davis-Besse inspection findings. The SDP was correctly implemented and rendered the staff's best informed assessment of the safety significance of the issue, as documented in letters dated February 25, and May 29, 2003.

One of your specific concerns stems from the SDP's treating every inspection finding separately, as if the other inspection findings did not exist. When the SDP was under development, the NRC staff recognized the potential complexity of determining the safety significance of concurrent, multiple equipment or functional degradations and provided guidelines for addressing those situations in IMC 0609, Appendix A. The SDP considers inspection findings separately to allow the ROP action matrix to identify clearly the number and significance of discrete findings and the need for timely disposition. The ROP action matrix considers the number and severity of the individual equipment or functional degradations collectively to reach an overall assessment of the significance of all the individual findings. The appropriate level of agency response is then determined from the ROP action matrix, which does consider multiple inspection findings.

Your comments regarding the ROP were generally addressed in the Director's Decision dated September 12, 2003, denying the petition that you filed under 10 CFR 2.206 requesting revocation of the operating license for Davis-Besse. As noted in the Director's Decision, the need for improvements in the ROP is not a basis for revoking a facility operating license since the existence of a flawless NRC oversight program is not a prerequisite for a licensee to be granted or to retain a facility operating license.

Your letter also refers to information that may have been known by NRC technical staff, but not by NRC management, at the time of the decision to allow Davis-Besse to continue to operate beyond December 31, 2001. These concerns have been forwarded to the Office of the Inspector General for appropriate action.

I hope that you find this information as well as the information provided to Mr. Mahar-Piersma during the November 17, 2003 meeting useful. The NRC's decisions in the matter of Davis-Besse are based on sound reasoning and judgment, and are focused on maintaining the health and safety of the public. If you or your staff have further questions, please contact me or Mr. Dennis Rathbun, Director of the NRC's Office of Congressional Affairs, at your convenience. Mr. Rathbun can be reached by telephone at 301-415-1776.

Sincerely,

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Nils J. Diaz