

Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. If a person other than Mr. Geisen requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309.

If a hearing is requested by Mr. Geisen or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Goyal, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be effective immediately and shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

Dated this 4th day of January 2006.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

Deputy Executive Director for Materials, Research, State and Compliance Programs, Office of the Executive Director for Operations.

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NUCLEAR REGULATORY COMMISSION

[IA-05-055]

Prasoon Goyal; Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

I

Mr. Prasoon Goyal was previously employed, at times relevant to this Order, as a Senior Engineer at the Davis-Besse Nuclear Power Station (Davis-Besse) operated by FirstEnergy Nuclear Operating Company (FENOC or licensee). The licensee holds License No. NPF-3 which was issued by the

Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 50 on April 22, 1977. The license authorizes the operation of Davis-Besse in accordance with the conditions specified therein. The facility is located on the licensee's site near Oak Harbor, Ohio.

II

On August 3, 2001, the NRC issued Bulletin 2001-001, "Circumferential Cracking of Reactor Pressure Vessel Head Penetration Nozzles," (Bulletin). In the Bulletin, the NRC requested that all holders of operating licenses for pressurized water nuclear power reactors (PWR), including FENOC for the Davis-Besse facility, provide information to the NRC relating to the structural integrity of the reactor pressure vessel (RPV) head penetration nozzles at their respective facilities. The information requested from the licensees included the extent of RPV head penetration nozzle leakage and cracking that had been found to date, a description of the inspections and repairs undertaken to satisfy applicable regulatory requirements, and the basis for concluding that a licensee's plans for future inspections would ensure compliance with applicable regulatory requirements. The NRC also required that all Bulletin addressees, including FENOC, submit a written response to the NRC in accordance with the provisions of 10 CFR 50.54(f). That regulation provides, in part, that upon request of the NRC, an NRC-licensee must submit written statements, signed under oath or affirmation, to enable the NRC to determine whether the license should be modified, suspended, or revoked.

On September 4, October 17, and October 30, 2001, the licensee provided written responses to the Bulletin. Additionally, the licensee met with the NRC staff on numerous occasions during October and November of 2001 to provide clarifying information. Based, in part, on the information provided by FENOC in its written responses to the Bulletin and during meetings with the NRC staff, the NRC staff allowed the licensee to continue operation of the Davis-Besse facility until February 2002, rather than requiring FENOC to shut the unit down to perform inspections by December 31, 2001, as provided in the Bulletin.

On February 16, 2002, FENOC shut down Davis-Besse for refueling and inspection of control rod drive mechanism (CRDM) RPV head penetration nozzles. Using ultrasonic testing, the licensee found cracks in three CRDM RPV head penetration

nozzles and on March 6, 2002, the licensee discovered a cavity in the RPV head in the vicinity of CRDM Penetration Nozzle No. 3. The cavity measured approximately 5 to 7 inches long, 4 to 5 inches wide, and penetrated through the 6.63 inch-thick low-alloy steel portion of the RPV head, leaving the stainless steel cladding material (measuring 0.202 to 0.314 inches-thick) as the sole reactor coolant system (RCS) pressure boundary. A smaller cavity was also found near CRDM Penetration Nozzle No. 2.

The licensee conducted a root cause evaluation and determined, contrary to the earlier information provided to the NRC, that the cavities were caused by boric acid from the RCS released through cracks in the CRDM RPV head penetration nozzles. The root cause evaluation found that the licensee conducted limited cleaning and inspections of the RPV head during the Twelfth Refueling Outage (12RFO) that ended on May 18, 2000. However, neither the limited RPV head cleaning nor the resultant inspections during 12RFO were sufficient to ensure that the significant boric acid deposits on the RPV head were only a result of CRDM flange leakage, as supposed, and were not a result of RCS pressure boundary leakage.

On March 6 and March 10, 2002, the licensee provided information to the NRC concerning the identification of a large cavity in the RPV head adjacent to CRDM Penetration Nozzle No. 3. The NRC conducted an Augmented Inspection Team (AIT) inspection at Davis-Besse from March 12 to April 5, 2002, to determine the facts and circumstances related to the significant degradation of the RPV head. The results of the AIT inspection were documented in NRC Inspection Report No. 50-346/2002-03, issued on May 3, 2002. A follow-up Special Inspection was conducted from May 15 to August 9, 2002, and on October 2, 2002, the NRC issued the AIT Follow-up Special Inspection Report No. 50-346/2002-08 documenting ten apparent violations associated with the RPV head degradation.

On April 22, 2002, the NRC Office of Investigations (OI) initiated an investigation at Davis-Besse to determine, among other matters, whether FENOC and individual employees at the Davis-Besse facility failed to provide complete and accurate information to the NRC in its September 4, October 17, and October 30, 2001, responses to the Bulletin and during numerous conference calls and meetings in violation of 10 CFR 50.9 and 10 CFR 50.5(a)(2). The OI report (No. 3-2002-

006) was issued on August 22, 2003. A copy of the OI report was provided to the U. S. Department of Justice (DOJ), Office of the United States Attorney, Northern District of Ohio for review. The matter remains under continued Federal investigation.

Mr. Goyal, through the performance of his engineering duties, through his direct involvement in the licensee's 1996 RPV head inspection and cleaning activities, and through oral and written communications with other FENOC employees was aware of the results of previous RPV head inspections.

- Mr. Goyal was the engineer responsible for performing the 1996 reactor head inspection during the Tenth Refueling Outage (10RFO). During a sworn, transcribed interview with OI, Mr. Goyal stated that he could not see the top of the RPV head during 10RFO due to the limited access through the mouseholes and the accumulation of boric acid on the RPV head.

- Mr. Goyal wrote Potential Condition Adverse to Quality Report (PCAQR) 96-0551 documenting that the accumulation of boric acid on the head and the size of the mouseholes limited the extent of the inspection. Mr. Goyal documented in PCAQR 96-0551, in part:

"Since the boric acid deposits are not cleaned it is difficult to distinguish whether the deposits occurred because of the leaking flanges or the leaking CRDM."

"This PCAQR is the quality document which recorded the boric acid deposit on the RV head. The deposits were discovered during the visual inspection of the RV head performed through the mouseholes utilizing a video camera. The extent of the inspection was limited to approximately 50 to 60% of the head areas because of the restrictions imposed by the location and sized of mouseholes. The inspection showed varying sizes of boric acid mounds scattered in various areas of head. It is extremely difficult to develop an estimate of the amount of boric acid deposit because of the deposit scatter and limited inspection."

- Mr. Goyal authored a "White" paper, distributed to other Davis-Besse staff on May 8, 1996, that discussed control rod drive nozzle cracking within the nuclear power industry. Mr. Goyal documented in the "White" paper, in part:

"All plants, except Davis-Besse and Arkansas Nuclear 1, have large access holes in the skirt area of the service structure to view/clean the entire head. Davis-Besse's access is limited to about 50 percent of the head area."

Several FENOC employees, including Mr. Prason Goyal, were responsible for the information provided to the NRC by FENOC in response to the Bulletin.

III

Prason Goyal was employed by FENOC as a senior engineer in the Design Basis Engineering organization at Davis-Besse at the time the responses to the Bulletin were developed and transmitted to the NRC. Mr. Goyal was a design engineer and the individual who reviewed the licensee's 1996 inspection of the CRDM flanges, and conducted the licensee's inspection of the RPV head and CRDM nozzles during 10RFO.

Mr. Goyal reviewed the October 17, 2001 supplemental response to the bulletin. On October 17, 2001, Mr. Goyal concurred as "Design Basis Engrg—Mech" [Design Basis Engineering—Mechanical] in the issuance of the licensee's October 17, 2001 supplemental response to the Bulletin.

Item 1.d of the Bulletin requested each pressurized water reactor (PWR) licensee, including FENOC for Davis-Besse, to provide a description of the RPV head penetration nozzles and RPV head inspection (including type, scope, qualification requirements, and acceptance criteria) that were performed at PWRs in the 4 years preceding the date of the Bulletin, and the findings resulting from the inspections. The licensees were requested to include a description of any limitations (insulation or other impediments) to accessibility of the bare metal of the RPV head for visual examinations.

On September 4, 2001, FENOC submitted its written response to the Bulletin for Davis-Besse. On October 17, 2001, FENOC submitted a supplemental response to the Bulletin for Davis-Besse and included information not provided in the September 4, 2001, response with regard to RPV inspections and cleaning conducted during 10RFO. Attachment 1 to the licensee's October 17, 2001, supplemental response to the Bulletin stated under the section entitled, "Summary," in part:

"In May 1996, during a refueling outage, the RPV head was inspected. No leakage was identified, and these results have been recently verified by a re-review of the video tapes obtained from that inspection."

The October 17, 2001, supplemental response to the Bulletin also stated under the section entitled, "Previous Inspection Results," in part:

"The inspections performed during the 10th, 11th, and 12th Refueling Outage (10RFO, conducted April 8 to June 2, 1996; 11RFO, conducted April 10, to May 23, 1998; and, 12RFO, conducted April 1 to May 28, 2000) consisted of a whole head visual inspection of the RPV head in accordance with the DBNPS Boric Acid Control Program

pursuant to Generic Letter 88-05, 'Boric Acid Corrosion of Carbon Steel Reactor Pressure Boundary Components in PWR Plants.' The visual inspections were conducted by remote camera and included below insulation inspections of the RPV bare head such that the Control Rod Drive Mechanism (CRDM) nozzle penetrations were viewed. During 10RFO, 65 of 69 nozzles were viewed, during 11RFO, 50 of 69 nozzles were viewed, and during 12 RFO, 45 of 69 nozzles were viewed."

Information included under Column 6 of Attachment 2 of the licensee's October 17, 2001, supplemental response stated, in part, that 24 nozzles have a "flange leak evident." Note 1 on the same table stated, in part:

"In 1996 during 10 RFO, the entire RPV head was inspected. Since the video was void of head orientation narration, each specific nozzle view could not be correlated."

The licensee's October 17, 2001, supplemental response was materially incomplete and inaccurate in that the licensee did not view the stated number of RPV head penetration nozzles during the referenced outages, and the licensee believed that only five RPV head control rod drive mechanism flanges were leaking instead of the 24 RPV head control rod drive mechanism flanges noted in the response. Mr. Goyal was aware that the licensee's October 17, 2001, supplemental response was materially incomplete and inaccurate and concurred on the response, thereby allowing it to be submitted to the NRC.

Based on the above information, the NRC concludes that Mr. Goyal had sufficient knowledge of the condition of the RPV head and the limitations experienced during the RPV head inspections conducted during 10RFO, and notwithstanding that knowledge, he deliberately provided materially incomplete and inaccurate information, when on October 17, 2001, he concurred on the licensee's October 17, 2001, supplemental response to the NRC.

The information provided by the licensee under oath in the Bulletin supplemental response was material to the NRC because the NRC used the information, in part, to allow FENOC to operate Davis-Besse until February 2002 rather than requiring the plant to shut down by December 31, 2001, to conduct inspections of the head as discussed in Item 3.v.1. of the Bulletin.

Based on the above information, Mr. Prason Goyal, while employed by the licensee, engaged in deliberate misconduct by deliberately providing incomplete or inaccurate information that he knew was not complete and accurate in all material respects to the NRC, a violation of 10 CFR 50.5(a)(2).

Mr. Goyal's actions also placed FENOC in violation of 10 CFR 50.9. The NRC determined that these violations were of very high safety and regulatory significance because they involved a pattern of deliberate documentation of inaccurate or incomplete information that was required to be submitted to the NRC. Had the NRC been aware of this incomplete and inaccurate information, the NRC would likely have taken immediate regulatory action to shut down the plant and require the licensee to implement appropriate corrective actions.

IV

The NRC must be able to rely on the licensee and its employees to comply with NRC requirements, including the requirement to provide information and maintain records that are complete and accurate in all material respects. Mr. Goyal's deliberate actions raise serious doubt as to whether he can be relied upon to comply with NRC requirements and to provide complete and accurate information to the NRC.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Mr. Goyal is permitted to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Mr. Goyal be prohibited from any involvement in NRC-licensed activities for a period of one year effective immediately. Additionally, Mr. Goyal is required to notify the NRC of his first employment in NRC-licensed activities for a period of one year following the prohibition period.

V

Accordingly, pursuant to sections 103, 104, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 50.5, and 10 CFR 150.20, *It is hereby ordered* that effective immediately:

1. Mr. Prasoan Goyal is prohibited for one year from the date of this Order from engaging in NRC-licensed activities. The NRC considers NRC-licensed activities to be those activities that are conducted pursuant to a specific or general license issued by the NRC, including those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

2. If Mr. Goyal is currently involved with another licensee in NRC-licensed activities, he must immediately cease

those activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer.

3. For a period of one year after the one-year period of prohibition has expired, Mr. Goyal shall, within 20 days of acceptance of his first employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in NRC-licensed activities. In the notification, Mr. Goyal shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Goyal of good cause.

VI

In accordance with 10 CFR 2.202, Prasoan Goyal must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order within 20 days of the date of this Order, consideration may be given to extending the response time for submitting an answer as well as the time for requesting a hearing, for good cause shown. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Goyal or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at

the same address, to the Regional Administrator, NRC Region III, 2443 Warrenville Road, Lisle, IL 60532-4352, and to Mr. Goyal if the answer or hearing request is by a person other than Mr. Goyal. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. If a person other than the Mr. Goyal requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309.

If a hearing is requested by Mr. Goyal or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Goyal, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be effective immediately and final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

Dated this 4th day of January 2006.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

Deputy Executive Director for Materials, Research, State, and Compliance Programs, Office of the Executive Director for Operations.

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