



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION III
2443 WARRENVILLE ROAD, SUITE 210
LISLE, IL 60532-4352

September 10, 2009

EA 03-214

Mr. Barry Allen
Site Vice President
FirstEnergy Nuclear Operating Company
Davis-Besse Nuclear Power Station
5501 North State Route 2, Mail Stop A-DB-3080
Oak Harbor, OH 43449-9760

**SUBJECT: COMPLETION OF REQUIREMENTS OF 2004 CONFIRMATORY ORDER
MODIFYING LICENSE**

Dear Mr. Allen:

This letter is in response to your May 12, 2009, letter, informing the U.S. Nuclear Regulatory Commission (NRC) that FirstEnergy Nuclear Operating Company (FENOC) had completed all actions required by the March 8, 2004, Confirmatory Order Modifying License (Order) issued to the Davis-Besse Nuclear Power Station. The Order was a condition of the NRC's approval for the restart of Davis-Besse stemming from the identification of significant reactor pressure vessel head degradation in 2002. The NRC had issued a Confirmatory Action Letter to Davis-Besse confirming the Licensee's agreement that NRC approval was required for restart.

An effective licensee self-assessment process is a key element in preventing the recurrence of safety-significant events, such as the reactor pressure vessel head degradation. Given the magnitude, scope, and duration of problems identified during the extended outage at Davis-Besse, and, during the same time frame, that Davis-Besse's internal self-assessments had not been fully effective, additional assurance regarding the effectiveness of the self-assessment program was essential in allowing Davis-Besse to restart. To that end, the Order required FENOC to:

1. Contract with independent outside organizations to conduct comprehensive assessments of the Davis-Besse operations performance; organizational safety culture (SC), including safety-conscious work environment (SCWE); the corrective action program implementation; and the engineering program effectiveness.
 - a. Ninety days prior to each assessment, FENOC was to inform the Regional Administrator of Region III of the identity of its outside assessment organizations, and the scope and depth of the assessment plans;
 - b. The outside independent assessments were to be completed before the fourth calendar quarter of 2004 and annually thereafter for five years; and

- c. Within 45 days of completion of the assessments, the licensee was to submit all assessment results and any action plans necessary to address areas for improvement raised by the assessments.
2. Conduct a visual examination of the reactor pressure vessel upper head bare metal surface, including the head-to-penetration interfaces; the reactor pressure vessel lower head bare metal surface, including the head-to-penetration interfaces; and the control rod drive mechanism flanges during the Cycle 14 midcycle outage.

Beginning in 2004 and continuing into 2009, the NRC monitored, through our inspection program, FENOC's implementation of the Order requirements. Our inspections included reviews of each independent assessment's plan, including the independence of the outside organization; observation, where reasonable, of the independent team's in-process activities; and a review of each assessment's results and FENOC's action plans to address areas identified as needing improvement. In addition, during the first three years of the Order-required assessments, the NRC conducted independent assessments of Davis-Besse's organizational SC/SCWE. The additional NRC assessments were conducted to validate the inputs FENOC and its independent teams were using to assess the SC/SCWE area. Further, these additional inspections allowed the NRC to more effectively assess the effectiveness of FENOC's actions to address areas for improvement in the SC/SCWE area. The NRC documented the results of its monitoring activities in publicly available inspection reports identified in Enclosure 1 to this letter. Enclosure 1 identifies the Report Number and Report Section in which our reviews and observations for each of FENOC's independent assessments are documented. Enclosure 2 identifies the ADAMS ML Number for each report.

With regard to the Order required visual examinations during the Cycle 14 midcycle outage, NRC inspectors observed portions of those examinations during the January 2005 outage. The results of those observations were documented in NRC Inspection Report 050000346/2005003, Sections 4OA5.2 through .4.

In the final independent assessments, i.e., those conducted in 2008, each independent team concluded that Davis-Besse's performance in its area of review continued to be adequate and effective to support continued safe facility operation. The NRC has also concluded, as noted in our most recent End-of-Cycle report (ML090630180), that Davis-Besse's performance continues to be adequate to support safe facility operations. Further, the NRC has concluded that Davis-Besse's performance has improved over the past five years, based on trending the results from the independent assessments, the results from our special oversight inspection activities, and the results from our Reactor Oversight Process (ROP) Base Line inspections completed.

As noted previously, the Order required that FENOC contract for independent comprehensive assessments for a fixed period of time. Independent NRC inspections between 2004 and 2009 have confirmed that each of the required assessments was completed. In addition, the inspections verified that the Order required milestones for each assessment regarding the identity of the assessment organizations, the scope and depth of the assessment plans, the assessment results, and action plans necessary to address issues raised by the assessments, were completed as required. In-process assessment observations by NRC inspectors confirmed that the assessment team's activities were of sufficient scope and depth. It should be

noted that the visual examinations described in Section 2 of the Order were required to be performed only once.

In summary, based on our review of the Order requirements and the results of our inspections conducted between the second calendar quarter of 2004 and the first calendar quarter of 2009, we conclude that FENOC has met all of the requirements contained in the March 8, 2004, Confirmatory Order Modifying License issued to the Davis-Besse Nuclear Power Station. No additional independent assessments are required by this Order.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Website at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Sincerely,

/RA/

Mark A. Satorius
Regional Administrator

Docket No. 50-346; 72-014
License No. NPF-3

Enclosures: As stated

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Letter to B. Allen from M. Satorius dated September 10, 2009

SUBJECT: COMPLETION OF REQUIREMENTS OF 2004 CONFIRMATORY ORDER
MODIFYING LICENSE

cc w/encl: The Honorable Dennis Kucinich
J. Hagan, President and Chief
Nuclear Officer - FENOC
J. Lash, Senior Vice President of
Operations and Chief Operating Officer - FENOC
Manager - Site Regulatory Compliance - FENOC
D. Pace, Senior Vice President of
Fleet Engineering - FENOC
K. Fili, Vice President, Fleet Oversight - FENOC
P. Harden, Vice President, Nuclear Support
D. Jenkins, Attorney, FirstEnergy Corp.
Director, Fleet Regulatory Affairs - FENOC
Manager - Fleet Licensing - FENOC
C. O'Claire, State Liaison Officer, Ohio Emergency Management Agency
R. Owen, Administrator, Ohio Department of Health
Public Utilities Commission of Ohio
President, Lucas County Board of Commissioners
President, Ottawa County Board of Commissioners

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Sincerely,

/RA/

Mark A. Satorius
Regional Administrator

Docket No. 50-346; 72-014
License No. NPF-3

Enclosures: As stated

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DATE	08/10/09 - per email		09/10/09				

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MODIFYING LICENSE

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Mary Ann Ashley

Holly Harrington

Hubert Bell

Guy Caputo

Mona Williams

James Lynch

Viktoria Mitlyng

Prema Chandrathil

Paul Pelke

Patricia Lougheed

OEMAIL Resource

	A	B	C	D	E	F	G	H	I	J	K	L	M
1		<u>Assessment</u>		2004		2005		2006		2007		2008	
2		<u>Year</u>											
3													
4	2004 Confirmatory Order												
5	Area												
6	ENGINEERING												
7													
8		Engineering Plan Review		2004-015 4OA5.3		2005-008 4OA5.4 and 2005-009 4OA5.1		2006-004 4OA5.4		2007-003 4OA5.3.c and 2007-004 4OA5.3		2008-004 4OA5.2	
9													
10		Engineering In-Process Observation		2004-015 4OA5.3		2005-009 4OA5.1		2006-004 4OA5.4		2007-004 4OA5.3		2008-005 4OA5.6	
11													
12		Engineering Final Assessment Report Review		2004-016 4OA5.1		2006-002 4OA5.6		2006-005 4OA5.2		2008-002 4OA5.4		2008-005 4OA5.6	
13													
14		OPERATIONS											
15													
16		Operation Plan Review		2004-008 4OA5.2		2005-005 4OA5.3		2006-003 4OA5.4.a		2007-003 4OA5.3.a		2008-003 4OA5.4	
17													
18		Operations In-Process Observation		2004-015 4OA5.1		2005-007 4OA5.3		2006-003 4OA5.4.b		2007-003 4OA5.3.b		2008-003 4OA5.5	
19													
20		Operations final Assessment Report Review		2004-015 4OA5.1 and 2004-016 4OA5.2		2005-008 4OA5.3		2006-004 4OA5.2		2007-004 4OA5.2		2008-004 4OA5.5	
21													
22		CORRECTIVE ACTION PROGRAM											
23													
24		CAP Plan Review		2004-012 4OA5.4		2005-006 4OA5.1 2005-008 4OA5.1		2006-005 4OA5.5		2007-005 4OA5.3		2008-004 4OA5.4	
25													
26		CAP In-Process Observation		2004-017 4.4 (p.23)		2005-008 4OA5.2		2006-005 4OA5.6		2007-005 4OA5.3		2008-004 4OA5.4	
27													
28		CAP Final Assessment Report Review		2004-017 4.4 (p.23)		2005-008 4OA5.5		2007-002 4OA5.7		2007-005 4OA5.3		2008-004 4OA5.4	
29													

	A	B	C	D	E	F	G	H	I	J	K	L	M
1		Assessment		2004		2005		2006		2007		2008	
30		Year											
31	SAFETY CULTURE/SAFETY CONSCIOUS WORK ENVIRONMENT												
32	SC/SCWE Plan Review		2004-015 4OA5.2		2005-008 4OA5.6		2006-004 4OA5.3		2008-003 4OA5.6		2008-005 4OA5.3		
33	SC/SCWE In-Process Observation		2004-015 4OA5.2		2005-009 4OA5.2		2006-005 4OA5.4		2007-005 4OA5.2		2008-005 4OA5.3		
34													
35	SC/SCWE Final Assessment Review		2005-006 4OA5.3		2006-003 4OA5.4.c		2007-003 4OA5.3.d 2006 Final Report Review		2008-003 4OA5.6		2009-002 4OA5.4		
36													
37													
38													
39	Independent NRC Assessment of SC/SCWE		2004-013 NRC Independent SC/SCWE Inspection		2005-016 NRC Independent SC/SCWE Inspection		2006-011 NRC Independent SC/SCWE Inspection		None		None		
40													
41	STATUS SUMMARY OF ALL 2004 ORDER REQUIREMENTS		Not Applicable		2005-012 Status of all areas		Not Applicable		Not Applicable		Not Applicable		
42													
43													
44	VISUAL INSPECTION OF UPPER & LOWER PRESSURE VESSEL PENETRATIONS AND CRD FLANGES		Not Applicable		2005003 4OA5.2,3 & 4		Not Applicable		Not Applicable		Not Applicable		
45													
46													
47													
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Davis-Besse
Confirmatory Order EA-03-214
Report Number/ML Number
Index

Davis-Besse Report Number 05000346/	ADAMS ML Number
2004-008	ML042150150
2004-012	ML042720142
2004-013	ML042960187
2004-015	ML043550256
2004-016	ML050480651
2004-017	ML050310426
2005-005	ML051240115
2005-006	ML051640125
2005-007	ML052100103
2005-008	ML053000247
2005-009	ML060340155
2005-012	ML051400049
2005-016	ML053390362
2006-002	ML061250202
2006-003	ML062230354
2006-004	ML062920233
2006-005	ML070310182
2006-011	ML062780065
2007-002	ML071240115
2007-003	ML072060137
2007-004	ML072990514
2007-005	ML080360447
2008-002	ML081270558
2008-003	ML082040478
2008-004	ML082970783
2008-005	ML090220196
2009-002	ML091180141