



Union of Concerned Scientists

Citizens and Scientists for Environmental Solutions

October 30, 2003

Mr. Hubert Bell, Inspector General
Office of the Inspector General
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT: NRC OVERSIGHT OF THE DAVIS-BESSE NUCLEAR PLANT

Dear Mr. Bell:

Before I get to the subject of this letter, let me commend the Office of the Inspector General for the recently released event inquiry, "NRC's Oversight of Davis-Besse Boric Acid Leakage and Corrosion During the April 2000 Refueling Outage." Senior Special Agent Cheryl Montgomery-White, Team Leader Rossana Raspa, Assistant Inspector General for Investigations Brian C. Dwyer, and Senior Level Assistant for Investigative Operations George A. Mulley, Jr. produced a solid report identifying problems that should allow the Nuclear Regulatory Commission staff to perform better in the future. Among the many insights I gained from the report was the discussion about the NRC enforcement action in 1999 for the licensee's poor performance in its boric acid control program for the 1998 RC-2 valve problem. This enforcement action should have provided both the plant staff and NRC staff with the level of awareness necessary to properly react to the many boric acid warning signals received in summer and fall 1999, but it did not. The report's discussion of the many inputs on boric acid problems to the NRC's plant performance review (PPR) process with no discernible outputs is also very valuable. I greatly appreciate the time and effort that culminated in this report.

I have monitored activities as Davis-Besse prepares for restart. The Manual Chapter 0350 process provides both an effective tool for the NRC to use in the oversight of these activities and an effective vehicle for communicating its assessment of progress to the licensee and all interested stakeholders. The NRC staff has done a very fine job of public communications on the Davis-Besse restart effort, including (a) making presentation slides and handouts available on the NRC website before the applicable public meetings begin, (b) conducting monthly public meetings in the evening in the community, (c) transcribing the public meetings and promptly posting the transcripts on the NRC website, and (d) fielding numerous inquiries from many stakeholders about issues and progress towards their resolution.

The missing element of the Manual Chapter 0350 process as applied at Davis-Besse is accountability for false information provided by FirstEnergy to the NRC in 2001 regarding the CRDM nozzle conditions and prior head inspections. The NRC has not publicly released its determinations on this important matter. It's by no means academic. By letter dated April 23, 2003, FirstEnergy submitted to the NRC staff a report on safety culture prepared by its consultant. Page 15 of the report stated:

Many personnel interviewed perceive that Senior Management has not acknowledged their accountability and responsibility for the reactor head vent. These personnel expressed disappointment and frustration that this has not taken place. Staff point out that some of the managers directly involved in the event remain in the organization and have been reassigned to other sites and positions. These reassignments are perceived as indicating that the managers have not been held accountable by the organization.

If workers at Davis-Besse do not believe there has been accountability, no reasonable member of the public should think so. The NRC should not allow Davis-Besse to restart until it has publicly released the results from its investigation into wrong-doing and sanctioned those individuals determined to have been responsible for the wrong-

doing. As a minimum, the trustworthiness and reliability of individuals responsible for providing false information to the NRC is questionable and 10 CFR Part 26 does not allow workers who are not trustworthy and reliable to be badged for unescorted access inside US nuclear power plants. I would like NRC to enforce 10 CFR Part 26 for the Davis-Besse wrong-doers.

I am also concerned that the NRC has not benefited from close scrutiny itself by anything resembling an 0350 panel process. In the NRC's eyes, Davis-Besse was an all Green performer under the Reactor Oversight Process in March 2002. The plant has not generated a single megawatt of electricity since then, but it has become the first reactor in the US to collect a Green, White, Yellow, and Red finding from the NRC in a year. The problems producing such colorful results were not introduced after Davis-Besse shut down in February 2002 – they had been there unknown to and/or unrecognized by NRC for some time as the recent OIG report clearly documents. The NRC's own Lessons Learned Task Force (LLTF) report identified 51 recommendations to NRC's practices, 49 of which were accepted by the Commission. But few of those recommendations have been implemented a year later. These are areas of improvement or remediation that will benefit NRC oversight at Davis-Besse and at the 102 other operating reactors in the US, yet the NRC is in no hurry to implement these fixes. If NRC staff had anything resembling an 0350 Panel monitoring its reforms, the agency would be more likely to work off the many recommendations in a timely manner and to resolve these recommendations in such a way as to not merely swap problems (e.g., fixing the lack of attention to assuring generic correspondence commitments were still valid by diverting all resources away from fire protection inspections). But the Commission's interest in oversight of this vital reform effort appears non-existent.

The NRC's schedule for addressing the 49 LLTF recommendations is open-ended. Contrast that cavalier approach to the NRC's approach to reviewing license renewal applications. In the latter case (which has zero safety nexus), the NRC established a 30-month deadline and makes sure it devotes sufficient resources to the effort to meet the deadline. On the LLTF recommendations (which have a huge safety nexus), the NRC allows its staff to work on the issues in their spare time. It may not quite be this bad, but it's closer than it should be. Chairman Diaz recently reminded me in writing that the NRC staff expended nearly 7,000 person-hours developing the LLTF report. Perhaps, but the NRC would have been wise to save some of those resources to facilitate fixing the problems found.

Lastly, Davis-Besse makes the 27th reactor to have been shut down for year-plus repairs in the past 19 years. There's hardly been a day in the past two decades where there has not been at least one US reactor wallowing in a year-plus outage to restore missing safety margins. If you examine those 27 cases (and UCS would be happy to provide OIG with a full listing of which reactors and when they were down), you'll find that there share a common denominator – replacing senior managers with people brought in from the outside. Management changes were part of the necessary reforms. Managers brought in from outside could make decisions without implicitly conceding they were mistaken in the past. This lack of baggage fostered fundamental changes instead of incremental change (i.e., band-aid fixes). Considering that management change-out was an essential part of the reform package in each case, I find it unusual that the NRC has not brought managers in from the outside. The NRC's performance over the past two decades is far from exemplary, yet it promotes from within using the same flawed management mold over and over. By doing so, the NRC is basically putting new faces on the same old problems. The NRC cannot really reform because it is led by people with the same mindset and worldview as the agency has had since its inception in 1975. The NRC's effectiveness will not really change until after it brings in managers from outside the agency. Not a wholesale replacement, but a few new faces at key positions. The agency's cadre of talented, dedicated staffers coupled with capable management would be transform the NRC into a truly effective regulator.

Sincerely,

<ORIGINAL SIGNED BY>

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