

BEYOND NUCLEAR
CITIZENS ENVIRONMENT ALLIANCE OF SOUTHWESTERN ONTARIO
DON'T WASTE MICHIGAN
GREEN PARTY OF OHIO

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**Nuclear Regulatory Commission Violates Its Own Environmental Protection
Mandate**

Rejects Consideration of Renewables as Alternative to Davis-Besse License Extension

Oak Harbor, OH – Yesterday, on the eve of today's 33rd anniversary of the Three Mile Island meltdown (March 28, 1979), the five member U.S. Nuclear Regulatory Commission (NRC) has voted unanimously to reject a hearing into the potential for renewable sources of electricity, such as wind and solar power, as an alternative to a 20 year license extension at the problem-plagued Davis-Besse atomic reactor near Toledo. The environmental coalition, represented by Toledo attorney Terry Lodge, intervening against FirstEnergy Nuclear Operating Company's (FENOC) application for the Davis-Besse license extension, has vowed to appeal NRC's decision at the earliest opportunity.

"NRC's own mandate requires it to protect the environment, something they have just violated by gutting the National Environmental Policy Act," said Kevin Kamps of Beyond Nuclear, a watchdog group based in Takoma Park, Maryland. "NEPA requires NRC to take a 'hard look' at alternatives to FENOC's proposal for 20 more years at Davis-Besse, which the agency has now refused to do."

The intervening coalition's expert witness, Dr. Al Compaan, an Emeritus Professor of Physics at the University of Toledo, has argued in various affidavits since 2010 that the solar photovoltaic (PV) potential of northwest Ohio could readily replace the Davis-Besse atomic reactor's 908 Megawatts-electric of power generation. Toledo is a hotbed of solar PV panel manufacture, home to such industry leaders as First Solar and Xenergy. The coalition also argued that wind power, especially offshore on Lake Erie – some of the best wind power potential in the United States – could itself readily replace Davis-Besse.

"If unchallenged, NRC's decision would set a horrible precedent not only for environmental challenges to nuclear licenses, but for any challenges whatsoever," said Terry Lodge, the environmental coalition's attorney. "The NRC Commissioners have effectively ruled that intervenors must completely prove their case at the very beginning of the proceeding, before the trial has even begun, an impossible task."

NRC's Atomic Safety and Licensing Board (ASLB) had ruled on April 26, 2011 (the 25 year commemoration of the Chernobyl nuclear catastrophe) that the environmental intervenors' renewables alternative contention deserved a hearing on the merits. FENOC immediately appealed the ASLB ruling to the five Commissioners who head the NRC. By a 5 to 0 vote, the NRC Commissioners have sided with FENOC, rejecting a hearing on the merits regarding the potential for renewables to replace Davis-Besse by the expiration of its original 40 year operating license on Earth Day (April 22), 2017.

"We fully intend to appeal this violation of NEPA to the federal courts at our earliest opportunity," Lodge added.

Because the NRC Commissioners preserved a small portion of another contention, that appeal may have to wait for many months, or even years. A part of the coalition's contentions, on Severe Accident Mitigation Alternatives (SAMA) analyses, remains intact, bound for a hearing on the merits.

In addition, extensive cracking has been discovered in the containment structure, which is supposed to stop the release of radiation in the event of an accident. The coalition filed a new contention based on the cracking on January 10th of this year. The ASLB has scheduled an oral pre-hearing in the Toledo area for May 18th to consider the worthiness of the contention for hearings on the merits.

"Given its long history of near-misses with disaster, and now its cracked containment, Davis-Besse is a catastrophic accident waiting to happen," said Joe DeMare, a Green Party candidate for U.S. Senate in Ohio. "It should be shut down for good, and replaced with safer, cleaner, ever more cost effective and reliable renewables, such as wind and solar power."

Beyond Nuclear has prepared a backgrounder about Davis-Besse's many close calls with catastrophe. It is posted online at http://www.beyondnuclear.org/storage/Davis_Besse_Backgrounder.pdf.

The new cracked containment contention was filed on January 10th: http://www.beyondnuclear.org/storage/Davis-Besse_Contention_5_Cracked_Shield_Building1.pdf.

The coalition supplemented the contention on February 27th when it was revealed that the cracking is so extensive and severe that the outer steel reinforcement rebar layer of the concrete shield building no longer fulfills its structural purpose: <http://www.beyondnuclear.org/safety/2012/2/27/environmental-coalition-supplements-davis-besse-cracked-cont.html>.

The environmental intervenors have dubbed FENOC's claim that the Blizzard of 1978 caused the concrete containment cracking a "Snow Job of Convenience." On March 3rd, they published a joint media release with U.S. Representative Dennis Kucinich

(Democrat-Ohio), questioning FENOC's "root cause analysis" for the containment cracking: <http://kucinich.house.gov/news/email/show.aspx?ID=OLH3TP7XI3J3BFKTB27GKZVYD4>.

"Only when the entire licensing proceeding has concluded, and the NRC has finally granted FENOC's requested license extension, can the environmental intervenors appeal to the federal court system. Considering the capricious ruling by the industry-captured regulator, Intervenors vow to challenge the NRC in federal court," stated Intervenor Michael Keegan.

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