

United States v. First Energy Nuclear Operating Company *et al.*

**Statement of David M. Uhlmann, Chief
United States Department of Justice
Environmental Crimes Section**

Cleveland, Ohio – January 20, 2006

I am pleased to be here today with United States Attorney Greg White as we conclude a two-year joint investigation of the Davis-Besse Nuclear Power plant. The indictment and deferred prosecution agreements that we are announcing today stand for a single fundamental proposition: companies that operate nuclear power plants have a solemn obligation to be truthful in all of their dealings with the Nuclear Regulatory Commission.

First Energy Nuclear Operating Company (“FENOC”) violated that solemn duty at the Davis Besse plant and, in the process, FENOC breached the public trust. Where issues of nuclear safety are involved, there is no

room for shading the truth or hiding the facts. Nuclear power plants owe a duty of candor not only to government officials but to the public at large.

FENOC today admits that, if the company had been indicted, the United States would have been able to prove that FENOC made false statements to the Nuclear Regulatory Commission so that the Davis Besse plant could continue operating until its next scheduled outage, rather than shutting down earlier for a critical safety inspection. In so doing, FENOC violated its duty of candor to the NRC and substituted its view of what constituted a legitimate safety concern for that of the NRC. For its misleading conduct and its brazen arrogance in the light of serious safety concerns, FENOC now must pay \$28 million, a

penalty that should send the message that it does not pay to mislead the NRC.

Fortunately, the FENOC that has entered today's deferred prosecution agreement is not the same company that lied and misled regulators in 2001. The company, along with the NRC and the entire nuclear industry, has done the kind of critical self-analysis that is essential to safe and effective nuclear power. Based on our investigation, we have determined that the corporate culture at FENOC is a very different one today than it was four years ago, and we are confident that the misconduct of the past will not be repeated.

Under our deferred prosecution agreement with FENOC, however, the company will face criminal indictment for its misconduct during 2001 if it engages in similar misconduct in the future or

otherwise fails to honor its obligations to the United States. We take at face value the promises that FENOC has made about the company it has become and how it will conduct itself in the future. But if FENOC breaks those promises, it will pay an even heavier price than it has today.

I would like to thank the United States Attorney's Office and the Office of Investigations at the Nuclear Regulatory Commission for working so closely with us on this matter. I also want to commend each of the members of the prosecution team, many of whom are here today. Your work is not done, as today we also announce the indictment of three individuals allegedly involved in the scheme to conceal information from the NRC, but the success of this prosecution

has been and will be the result of your collective efforts and your steadfast commitment to the pursuit of justice.

Our Nation must move past the day when some corporations view the government as an adversary to be rebuffed by lies and misleading statements. We appreciate the efforts made by law-abiding companies to comply with regulatory requirements. The people of the United States deserve nothing less and, where nuclear safety is concerned, they rightfully demand more.

Thank you very much.