

June 1, 2006

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of
DALE L. MILLER

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Docket No. IA-05-053
ASLBP No. 06-846-02-EA

THE NRC STAFF'S INTERROGATORIES AND REQUEST FOR ADMISSIONS

Pursuant to 10 C.F.R. §§ 2.706(b), 2.707, 2.708, the NRC Staff (Staff) hereby requests that Mr. Dale L. Miller respond to the following requests for admissions and interrogatories and produce, for inspection and copying, the documents requested below.

Each interrogatory shall be answered separately and fully, in writing, and under oath or affirmation and shall include all pertinent information available to Mr. Miller, his counsel and individuals assisting Mr. Miller in the challenge to the NRC enforcement order applicable to Mr. Miller, based upon their personal knowledge, unless it is objected to, in which event the reasons for objection shall be stated in full. The answers shall be signed by the person making them, and the objections by the attorney making them. The production of documents requested herein shall take place at the Office of the General Counsel, 11555 Rockville Pike, Rockville, MD, unless other arrangements are made, by agreement, in this regard. Documents produced may be copies, or may be originals sent to Staff Counsel for copying and return.

GENERAL INSTRUCTIONS

1. To the extent that Mr. Miller does not have specific, complete, and accurate information with which to answer any interrogatory, Mr. Miller should so state, and the interrogatory should be answered to the extent information is available, identifying each person who is believed to have accurate information with respect thereto.

2. Each interrogatory shall be deemed to be continuing, and Mr. Miller is required seasonably to supplement answers with additional facts, documents, information, and names of witnesses which become known, in accordance with 10 C.F.R. § 2.705(e).

3. The words "and" and "or" shall be construed either conjunctively or disjunctively so as to bring within the scope of these discovery requests any information that might otherwise be construed to be outside their scope.

4. Wherever appropriate, the singular form of a word shall be interpreted in the plural, and vice versa, so as to bring within the scope of these discovery requests any information that might otherwise be construed to be outside their scope.

5. Please produce a copy of each document requested in the form and condition in which it exists on the date of service of this request, including all comments, notes, remarks, and other material that may have been added to the document after its initial preparation.

6. If Mr. Miller objects to or claims a privilege (*e.g.*, attorney-client, work product, or other) with respect to any interrogatory or document request, in whole or in part, or seeks to withhold documents or information because of the alleged proprietary or other nature of the data, please set forth all reasons and the underlying factual basis for the objection or claim of privilege in sufficient detail to permit the Atomic Safety and Licensing Board to determine the validity of the objection or claim of privilege. This description by Mr. Miller should include, with respect to any document:

- a. author, addressor, addressee, and recipients of indicated and "blind" copies together with their job titles;
- b. date of preparation;
- c. subject matter;
- d. purpose for which the document was prepared;
- e. all persons to whom distributed, shown, or explained;

- f. present custodian;
- g. all persons believed to have a copy of the document; and
- h. the nature of the privilege or objection asserted.

7. For any document or part of a document that was at one time, but is no longer, in Mr. Miller's possession, custody or control, or which is no longer in existence, or which cannot be located or produced, identify the document, state where and how it passed out of existence or why it can no longer be located or produced and the reasons therefore, and identify each person having knowledge concerning such disposition or loss and the contents of the document, and identify each document evidencing its prior existence and/or any fact concerning its nonexistence or loss.

**DEFINITIONS AND GUIDELINES TO BE USED
IN RESPONDING TO THESE DISCOVERY REQUESTS**

1. "Communication" shall mean correspondence, contact, discussion, or any other kind of written or oral exchange between two or more persons or entities including, but not limited to, all telephone conversations, face-to-face meetings or conversations, visits, conferences, and internal and external discussions, and exchange of a document or documents.

2. "Computer file" means all computer files, disks and diskettes of whatever type without regard to the manner in which the file is stored.

3. "Concerns," "Concerning," or any other derivative thereof, includes referring to, responding to, relating to, pertaining to, in connection with, comprising, memorializing, commenting on, regarding, discussing, showing, describing, reflecting, analyzing, supporting, contradicting, and constituting.

4. "Document" or "writing" as used herein shall mean any written matter, whether

produced, reproduced or stored on paper, cards, tapes, disks, belts, charts, film, computer file, computer storage devices or any other medium and shall include, without limitation, matter in the form of books, reports, studies, statements, speeches, notebooks, agreements, appointment calendars, working papers, manuals, memoranda, notes, procedures, orders, instructions, directions, training materials, records, correspondence, electronic mail, diaries, plans, diagrams, drawings, periodicals, lists, telephone logs, minutes, photographs, and any published materials and shall also include, without limitation, originals, copies (with or without notes or changes thereon) and drafts.

5. "Identify" when used in reference to a natural person means to set forth the following:

- a. his/her name;
- b. his/her last known residential address;
- c. his/her last known business address;
- d. his/her current employer (if no current employer, his/her last employer);
- e. his/her employer at the time relevant to the interrogatory;
- f. his/her title or position;
- g. his/her area of responsibility;
- h. his/her business, professional, or other relationship with Mr. Miller; and
- i. If any of the information is changed subsequent to the time period referenced in a particular interrogatory, then set forth in the answer, and label appropriately, current information as well as the information applicable to the time period referenced in the interrogatory.

6. "Identify" when used in reference to a document shall mean to set forth the following:

- a. its title;

- b. its subject matter;
 - c. its date;
 - d. its author;
 - e. its addressee;
 - f. its file designation or other identifying designation; and
 - g. its present location and present custodian.
7. "Identify" with respect to a contact or communication shall set forth the following:
- a. the date of the communication;
 - b. the place of the making and the place of receipt of the communication;
 - c. the type and means of communication;
 - d. the substance of the communication;
 - e. each person making the communication, and his/her location at the time the communication was made;
 - f. each person to whom the communication was made, and his/her location at the time the communication was made;
 - g. all other persons present during, participating in, or receiving the communication and the location of each such person at the time;
 - h. each document concerning such communication; and
 - i. each document upon which the communication is based or which is referred to in the communication.
8. Documents produced in compliance with this request are to be accompanied with a specific indication as to the particular paragraph(s) of the Staff's discovery request under which the particular document(s) are being produced.

INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS

INTERROGATORY 1

Identify all individuals likely to have discoverable information relative to disputed issues and who were not listed in Mr. Miller's initial disclosures dated April 26, 2006.

INTERROGATORY 2

Identify every position held by Mr. Miller at DBNPS.

- a. For each position identified, describe the duties/responsibilities of that position including supervisory responsibilities.
- b. For each position identified, state whether the position is considered a management level position.
- c. For each position identified, describe Mr. Miller's interactions, if any, with other offices of the DBNPS organization, with industry groups (including, but not limited, to EPRI, MRP, B&W Owners Group), and the NRC.
- d. For each position identified, describe the subject matter expertise required to fill the position and the training Mr. Miller received while in that position.
- e. For each position identified, state whether Mr. Miller's duties/responsibilities included drafting or reviewing condition reports (CRs), modification requests (MODs), work orders, possible condition adverse to quality reports (PCAQRs), licensee event reports (LERs), INPO reports, NRC Bulletins, or NRC Generic Letters (GLs), either in the ordinary course of his position or under special circumstances. If while in a particular position Mr. Miller was responsible for reviewing or drafting the aforementioned documents only in special circumstances, identify those circumstances.

INTERROGATORY 3

Describe Mr. Miller's education and training with regard to metallurgy, circumferential and axial cracking in CRDM nozzles, boric acid corrosion control, and reactor vessel head inspection methods/procedures at DBNPS and at other plants, including, but not limited to, VT-2 examinations.

INTERROGATORY 4

Describe Mr. Miller's employment situation as a Compliance Supervisor with regard to the following:

- a. promotions/opportunities for advancement;
- b. raises (increases in salary);
- c. incentive/performance-based pay and criteria for receipt; and
- d. performance evaluations, including but not limited to, criteria to evaluate performance and individuals evaluating Mr. Miller.

INTERROGATORY 5

Provide copies of all documents not previously disclosed concerning the subject matter of Interrogatory 4.

INTERROGATORY 6

State whether Mr. Miller, as Compliance Supervisor, ever drafted/created or reviewed the following types of documents, photographs, and videos: CRs, LERs (including other licensees' event reports), INPO reports, PCAQRs, work orders, MODs, videos or photographs of the condition of the RVH, videos or photographs of the service structure, videos of photographs of past inspections, NRC Bulletins, GLs, or NRC information notices.

- a. For each type of document, photograph, or video, state whether Mr. Miller drafted or reviewed that type of document, photograph, or video in the ordinary course as a Compliance Supervisor.
- b. If Mr. Miller did not draft or review the types of documents, photographs, and videos listed above in the ordinary course as a Compliance Supervisor, identify any special circumstances in which he did draft or review these types of documents, photographs and videos. In so doing:
 1. identify the document, photograph, or video; and
 2. identify the special circumstances involved.
- c. Was Mr. Miller briefed on or otherwise made aware of the contents of these types of documents, photographs, or videos? If so, identify:
 1. the documents, photographs, or videos;
 2. how Mr. Miller learned about the documents, photographs, or videos; and
 3. when Mr. Miller learned about them.
- d. If Mr. Miller was not briefed on or otherwise made aware of the types of documents, photographs, and videos listed above in the

ordinary course of his position as a Compliance Supervisor, identify any special circumstances in which he was briefed on or was otherwise made aware of the contents of the types of documents, photographs, and videos listed above.

INTERROGATORY 7

Identify all documents not disclosed which provide support to Mr. Miller's position on the validity of the Order. As to each such document, state what fact or opinion Mr. Miller intends to establish if the document is admitted into evidence.

INTERROGATORY 8

Identify Mr. Miller's role(s) in outages during his entire career at Davis-Besse, including, but not limited to: planning outages (e.g. scheduling maintenance activities), drafting or approving work orders, writing or reviewing CRs, writing or reviewing PCAQRs, writing or reviewing modification requests, writing/reviewing LERs, and/or reviewing photos/videos of inspections. For each role identified, specify the appropriate outage.

INTERROGATORY 9

There were two events involving significant boric acid degradation at DBNPS prior to 2002. One of these two events concerned a discovery in 1998 that reactor coolant system pressure spray valve two (RC-2) was degraded, two of eight carbon-steel body to bonnet nuts had been dissolved by boric acid, and a third body to bonnet nut was significantly corroded. Describe Mr. Miller's involvement in the RC-2 event and its aftermath.

- a. Identify any documents that Mr. Miller drafted, reviewed, or was otherwise made aware of the content thereof concerning this event.
- b. Identify any training Mr. Miller received concerning/related to this event.
- c. Identify any videos or photographs reviewed by Mr. Miller or of which he was otherwise made aware of concerning this event.

INTERROGATORY 10

DBNPS had boric acid corrosion control procedures (BACC) in 2001.

- a. Identify what Mr. Miller knew about DBNPS' BACC procedures and compliance therewith as of August 2001.
- b. Identify what Mr. Miller learned about DBNPS' BACC procedures and DBNPS' compliance with those procedures during August

2001.

- c. Identify what Mr. Miller knew about DBNPS' BACC procedures and DBNPS' compliance with those procedures as of August 30, 2001.

INTERROGATORY 11

Identify Davis-Besse's "normal" procedure for responding to NRC bulletins/communications.

INTERROGATORY 12

If Davis-Besse departed from the procedure identified above in preparation of Serial 2731, explain how and why the normal procedure was not followed.

INTERROGATORY 13

Identify every meeting/gathering/briefing (formal or informal, scheduled or unscheduled), including teleconferences, attended/participated in by Mr. Miller during August 2001 concerning Bulletin 2001-01.

- a. For each meeting identified, provide copies of all documents related thereto, such as agendas, notes, and attendance sheets.
- b. For each meeting identified, identify everyone involved, including those attending via telephone.

INTERROGATORY 14

Identify every communication involving Mr. Miller and concerning boric acid corrosion control, circumferential cracking, DBNPS' reactor vessel service structure, or reactor coolant leakage at DBNPS prior to August 2001.

INTERROGATORY 15

Identify every communication involving Mr. Miller and concerning boric acid corrosion control, circumferential cracking, DBNPS' reactor vessel service structure, or reactor coolant leakage at DBNPS during August 2001.

INTERROGATORY 16

Identify all documents (including the responses of other plants), videos, photographs, and persons consulted by Mr. Miller in:

- a. preparing for utility response group teleconferences;
- b. reviewing drafts of Serial 2731; and
- c. concurring on Serial 2731.

INTERROGATORY 17

Describe how information for Serial 2731 was supplied to Rodney Cook.

INTERROGATORY 18

Did Mr. Miller at any time question the completeness and accuracy of Serial 2731 or any part thereof, including, but not limited to, questions about the meaning of terms and DBNPS' ability to prove factual assertions contained therein?

- a. If Mr. Miller had questions/concerns:
 1. identify Mr. Miller's questions/concerns;
 2. identify the person or persons to whom he addressed his concerns; and
 3. explain how Mr. Miller's concerns were resolved to his satisfaction. If his concerns were not resolved to his satisfaction, explain why not.
- b. If Mr. Miller never questioned the completeness and accuracy of the Serial 2731, explain why not.

INTERROGATORY 19

Identify all changes, and all suggestions for changes, made by Mr. Miller to Serial 2731. For each suggestion or change:

- a. explain why he suggested it or made it;
- b. when he suggested it or made it; and
- c. state whether it appears in the final version of Serial 2731.

INTERROGATORY 20

Provide copies of documents and notes containing Mr. Miller's comments, suggestions, and/or changes to Serial 2731 not previously disclosed.

INTERROGATORY 21

Identify all changes, and all suggestions for changes, made by others to Serial 2731 and of which Mr. Miller was aware. For each change/suggestion:

- a. identify the person(s) making or suggesting the change;
- b. identify when the change or suggestion was made;
- c. identify what Mr. Miller thought of the change; and
- d. state whether the change or suggestion was incorporated into the draft of Serial 2731 on which Mr. Miller concurred.

INTERROGATORY 22

Can Mr. Miller explain why the drafts of Serial 2731 he received between August 20, 2001 and August 30, 2001 were so different? If not, why not?

INTERROGATORY 23

Can Mr. Miller explain why the draft Serial 2731 on which Mr. Miller concurred provided less detailed information about the scope of past inspections than previous drafts of Serial 2731. If not, why not?

INTERROGATORY 24

At the time he was reviewing drafts of Serial 2731, and at the time he concurred on Serial 2731 on August 30, 2001, did Mr. Miller believe Serial 2731 was fully and completely responsive to Bulletin 2001-01?

- a. If Mr. Miller believed that Serial 2731 was fully and completely responsive to Bulletin 2001-01, identify with specificity the factual basis for Mr. Miller's belief.
- b. If Mr. Miller believed that Serial 2731 was not fully and completely responsive to Bulletin 2001-01, identify with specificity the basis for Mr. Miller's belief and identify the portion(s) of the response Mr. Miller believed were not fully and completely responsive to Bulletin 2001-01.
- c. If Mr. Miller was not sure whether Serial 2731 was fully and completely responsive to Bulletin 2001-01, identify the basis for Mr. Miller's

uncertainty and identify the portion(s) of Serial 2731 about which Mr. Miller was uncertain.

- d. If Mr. Miller was not sure whether Serial 2731 was fully and completely responsive to Bulletin 2001-01, explain why Mr. Miller concurred on the document.

INTERROGATORY 25

Why is DBNPS' answer to Item 1.d in drafts of Serial 2731 written in terms of future inspections (i.e. "will not impede" vs. "does not impede")? If Mr. Miller does not know why, was Mr. Miller aware that the answer to item 1.d of Serial 2731 in the drafts he reviewed and the draft he concurred upon was written in terms of future inspections?

INTERROGATORY 26

Did Mr. Miller believe he had a duty to ensure the completeness and accuracy of Serial 2731? If not:

- a. Did Mr. Miller believe that someone else was responsible for assuring completeness and accuracy?
- b. Identify the person or persons Mr. Miller believed were responsible for assuring completeness and accuracy.
- c. Did Mr. Miller verify that those he believed to be responsible for assuring completeness and accuracy were in fact so doing?

INTERROGATORY 27

Identify when and how Mr. Miller learned that DBNPS planned to replace the RVH and the service structure during 14RFO.

INTERROGATORY 28

Why did Mr. Miller focus on the word "impede" and why did he look it up in the dictionary?

INTERROGATORY 29

Identify industry (EPRI, NEI, MRP, INPO, etc) publications read by Mr. Miller during his time as a Compliance Supervisor at DBNPS.

INTERROGATORY 30

Mr. Miller asserts that he had minimal involvement in preparing Serial 2731. Identify all other activities and responsibilities occupying Mr. Miller's time in August 2001.

INTERROGATORY 31

Mr. Miller asserts he had minimal preparation for his involvement in Serial 2731. Identify all deficiencies in Mr. Miller's preparation and the causes of those deficiencies.

INTERROGATORY 32

Identify what Mr. Miller knew about flange leakage problems both at DBNPS and at other facilities as of August 2001.

INTERROGATORY 33

Identify what Mr. Miller learned about flange leakage problems at DBNPS and at other facilities during August 2001. In so doing:

- a. identify the source of the information; and
- b. identify when Mr. Miller acquired the information.

INTERROGATORY 34

Identify what Mr. Miller knew as of August 2001 about the scope of past flange inspections both at DBNPS and at other facilities, including, but not limited to, Mr. Miller's knowledge of: gasket replacement, number of flanges found to be leaking during each outage, number of gaskets replaced each outage, and efforts to correlate flange leakage with boron deposits on the head.

INTERROGATORY 35

Identify what Mr. Miller learned between August 1, 2001, and October 31, 2001, about the scope of past flange inspections at both at DBNPS and at other facilities, including, but not limited to, what Mr. Miller learned about: gasket replacement, number of flanges found to be leaking during each outage, number of gaskets replaced each outage, and efforts to correlate flange leakage with boron deposits on the head. In so doing:

- a. identify the source of the information; and
- b. identify when the information was acquired.

INTERROGATORY 36

Identify who asked Mr. Miller to organize utility response group teleconferences.

INTERROGATORY 37

Explain why Mr. Miller was asked/selected to organize and lead industry response group teleconferences.

INTERROGATORY 38

On page 5 of his Answer, Mr. Miller mentions communicating with a technical expert from ANO.

- a. Identify the ANO technical expert.
- b. Identify and provide, if not previously disclosed, the information this individual provided to Mr. Miller.
- c. Describe communications between the ANO technical expert and Mr. Miller.

INTERROGATORY 39

Explain why Mr. Miller continued to be involved in DBNPS' response to Bulletin 2001-01 after submission of Serial 2731 to the NRC given his asserted lack of preparation and expertise for such involvement.

INTERROGATORY 40

At the time he was reviewing drafts of Serial 2731, and at the time he concurred on Serial 2731, did Mr. Miller anticipate that the NRC would request additional/supplemental information? If yes, what additional information did he anticipate that the NRC would request. If he did not anticipate that the NRC would request supplemental information, why not?

REQUEST FOR ADMISSIONS¹

- A. Mr. Miller was Rodney Cook's supervisor for purposes of drafting Serial 2731.
- B. At the time he was reviewing drafts of Serial 2731, Mr. Miller knew that Rodney

¹ This request for admissions may be supplemented or enlarged upon completion of discovery.

Cook was getting inconsistent/conflicting information from Andrew Siemaszko concerning the scope of his (Siemaszko's) inspection of the RVH in 2000.

C. At the time he concurred on Serial 2731, Mr. Miller knew that Rodney Cook had received inconsistent/conflicting information from Andrew Siemaszko concerning the scope of his (Siemaszko's) inspection of the RVH in 2000.

D. Mr. Miller received drafts of Serial 2731 on:

1. August 20, 2001 (draft dated August 18, 2001);
2. August 22, 2001;
3. August 23, 2001;
4. August 24, 2001;
5. August 27, 2001;
6. August 28, 2001;
7. August 29, 2001.

E. How to respond to Item 1.d of NRC Bulletin 2001-01 was discussed during the August 23, 2001 utility response group teleconference conducted by Mr. Miller.

F. What constituted a "qualified visual inspection" was discussed during the August 23, 2001 utility response group teleconference conducted by Mr. Miller.

G. Prior to concurring on a draft of Serial 2731 on August 30, 2001, Mr. Miller discussed Davis-Besse's bulletin response or scope of inspections or limitations on inspections with:

1. Prasoona Goyal;
2. Rodney Cook;
3. an ANO technical expert; and/or
4. the utility response group teleconference participants.

H. When he was reviewing drafts of Serial 2731 and when he concurred on Serial

2731 on August 30, 2001, Mr. Miller knew that Andrew Siemaszko was unable to inspect all 69 nozzles during 12RFO.

I. When he was reviewing drafts of Serial 2731 and when he concurred on Serial 2731 on August 30, 2001, Mr. Miller knew that *past* inspections of the RVH had been limited because of the size and location of the mouse/weep holes.

J. When he was reviewing drafts of Serial 2731 and when he concurred on Serial 2731 on August 30, 2001, Mr. Miller knew that the RVH was not free of boron deposits.

K. When he was reviewing drafts of Serial 2731 and when he concurred on Serial 2731 on August 30, 2001, Mr. Miller knew about RFM 94-0025 (a.k.a. Mod 94-0025).

L. When he was reviewing drafts of Serial 2731 and when he concurred on Serial 2731, Mr. Miller knew that DBNPS and ANO-1 were the only B&W plants that had not cut larger holes in the service structure for cleaning and inspection.

M. Mr. Miller was aware of filter clogging problems and the need for frequent filter changes when he was reviewing drafts of Serial 2731 and when he concurred on Serial 2731 on August 30, 2001.

N. Mr. Miller received drafts of D.B. Robinson's, ANO's, Crystal River's, TMI's, Oconee's, Beaver Valley's, and Braidwood's responses to NRC Bulletin 2001-01 in August 2001.

O. Mr. Miller knew in August 2001 that Davis-Besse had unidentified reactor coolant system leakage.

Respectfully Submitted,

/RA by Mary C. Baty/

Sara E. Brock
Mary C. Baty
Counsel for NRC Staff

Dated at Rockville, Maryland
this 1st day of June, 2006

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
DALE L. MILLER) Docket No. IA-05-053
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) ASLBP No. 06-846-02-EA
)

CERTIFICATE OF SERVICE

I hereby certify that copies of "THE NRC STAFF'S INTERROGATORIES AND REQUESTS FOR ADMISSIONS" in the above captioned proceeding have been served on the following persons by deposit in the United States mail; through deposit in the Nuclear Regulatory Commission internal mail system as indicated by an asterisk (*); and by electronic mail as indicated by a double asterisk (**) on this 1st day of June, 2006.

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/RA/

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