

July 16, 2006

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

STEVEN P. MOFFITT

)
)
)
)
)

ASLBP No. 06-846-02-EA
Docket No. IA-05-054

NRC STAFF'S APPLICATION FOR THE ISSUANCE OF A SUBPOENA

INTRODUCTION

Pursuant to 10 C.F.R. § 2.702(a) of the Commission's regulations, the Staff of the Nuclear Regulatory Commission (Staff) requests that the Atomic Safety and Licensing Board (Board), designated in the above-captioned proceeding, issue a subpoena, attached hereto, requiring a certain individual, named below, to attend and give testimony at a deposition.

DISCUSSION

The Staff requests the Board to issue a subpoena for Howard Bergendahl in order to ensure the Staff's ability to depose this individual on the date specified. Mr. Bergendahl is a former Site Vice-President at Davis-Besse. Mr. Bergendahl's testimony is relevant to the issues raised by this enforcement action. As Site Vice-President at Davis-Besse, Mr. Bergendahl was Mr. Moffitt's supervisor. Mr. Bergendahl was identified as a person with relevant information by Mr. Moffitt in both his initial disclosures and in responses to written discovery questions.

CONCLUSION

For the above stated reasons, the Staff requests the Board to issue the attached subpoena to Mr. Bergendahl.

Respectfully submitted,

/RA by Mary C. Baty/

Sara E. Brock
Mary C. Baty
Michael A. Spencer
Counsel for the NRC Staff

Dated at Rockville, Maryland
this 16th day of July, 2006

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of:

Steven P. Moffitt

Docket No. IA-05-054
ASLBP No. 06-847-03-EA

TO: Howard Bergendahl
[HOME ADDRESS DELETED
UNDER 10 C.F.R. 2.390]

YOU ARE HEREBY COMMANDED to appear to testify at a deposition in the
above-captioned proceeding.
to be conducted at the Embassy Suites Hotel, Huron Board Room, 5th Floor
1701 East 12th Street, Cleveland, OH 44114
on the 28th day of July, 2006 at 10:00 a.m..

BY ORDER OF THE ATOMIC SAFETY AND LICENSING BOARD

BY: _____
_____, Chairman ASLB

Date

ATTORNEY FOR THE NRC STAFF:

Michael A. Spencer/Sara E. Brock

TELEPHONE: (301) 415-4073/(310) 415-8393

10 C.F.R. 2.702(f)

On motion made promptly, and in any event at or before the time specified in the subpoena for compliance by the person to whom the subpoena is directed, and on notice to the party at whose instance the subpoena is issued, the presiding officer,

or, if he is unavailable, the Commission may:
(1) Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) Condition denial of the motion on just and reasonable terms.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

STEVEN P. MOFFITT

)
)
)
)
)

ASLBP No. 06-846-02-EA
Docket No. IA-05-054

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S APPLICATION FOR THE ISSUANCE OF A SUBPOENA" 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 16th day of July, 2006.

Michael C. Farrar * **
Administrative Judge, Chair
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop: T-3 F23
Washington, D.C. 20555-0001
E-Mail: mcf@nrc.gov

E. Roy Hawken * **
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop: T-3 F23
Washington, D.C. 20555-0001
E-Mail: erh@nrc.gov

Adjudicatory File *
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Mail Stop: T-3 F23
Washington, D.C. 20555

Nicholas G. Trikouros * **
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop: T-3 F23
Washington, D.C. 20555-0001
E-Mail: ngt@nrc.gov

Office of Commission Appellate Adjudication *
U.S. Nuclear Regulatory Commission
Mail Stop: O-16 C1
Washington, D.C. 20555

Office of the Secretary * **
Attn: Rulemaking and Adjudications Staff
U.S. Nuclear Regulatory Commission
Mail Stop: O-16 C1
Washington, D.C. 20555
E-mail: hearingdocket@nrc.gov

Jane G. Penny * **
Thomas W. Scott * **
Killian & Gephart, LLP
218 Pine Street
P.O. Box 886
Harrisburg, PA 17108-0886
E-mail: jpenny@killiangephart.com
tscott@killiangephart.com

Jonathan Rund * **
Board Law Clerk
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop: T 3-F23
Washington, D.C. 20555
E-mail: jmr3@nrc.gov

/RA/

Mary C. Baty
Counsel for the NRC Staff