

August 21, 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

NRC STAFF SUPPLEMENTATION OF RESPONSES TO DALE L. MILLER'S
DISCOVERY REQUESTS DATED JUNE 1, 2006

INTRODUCTION

Pursuant to 10 C.F.R. § 2.705(e) of the Commission's regulations, the Staff of the Nuclear Regulatory Commission (Staff) hereby supplements its responses to the interrogatories and requests for admission contained in "Dale L. Miller's Discovery Requests Addressed to NRC Staff," dated June 1, 2006. The Staff reserves the right to further supplement its responses contained herein pursuant to 10 C.F.R. § 2.705(e) of the Commission's regulations.

A. NRC Staff Responses to Mr. Miller's Interrogatories

INTERROGATORY 1

State the name, business address, and position or title of each person who was consulted or supplied information in answering the Interrogatories set forth below. Designate the Interrogatory or the part of each Interrogatory, for which the identified person was consulted or supplied information.

RESPONSE

In accordance with 10 C.F.R. § 2.706(b)(2) of the Commission's regulations, Eugene Richards has signed an affidavit identifying the supplemented responses to interrogatories and responses to requests for admission he assisted in preparing and attesting to that assistance. An affidavit from Mr. Richards is attached.

INTERROGATORY 8

Do you contend that Dale Miller, Compliance Supervisor in FENOC's Regulatory Affairs unit, had greater responsibility for the review of Serial No. 2731 than Dale R. Wuokko, Licensing Supervisor in FENOC's Regulatory Affairs unit? If so, state all facts in support of the contention with references to specific testimony or documents relied upon.

RESPONSE

The Staff contends that Dale Miller had a greater responsibility for the review of Serial No. 2731 than Dale Wuokko. Facts in support of this contention include the following:

1. Mr. Wuokko stated that the Bulletin response was turned over to Dale Miller's group. (Exhibit 114 at 17 (NRC002-1627)). He further stated that his involvement dropped off after it was turned over to Mr. Miller's group. (Exhibit 114 at 55 (NRC002-1655)). Mr. Wuokko stated that since Serial No. 2731 was prepared by Rod Cook, it was Mr. Miller's role, as the supervisor of Mr. Cook, to review his work. (Exhibit 114 at 69 (NRC002-1669)).
2. Mr. Cook stated that he was working for Mr. Miller when he became involved in the drafting of Serial No. 2731. (Exhibit 108 at 31-32 (NRC002-1474 to NRC002-1475)).
3. Mr. Miller stated that Mr. Cook's function was to assemble information from engineering into a letter. Since Mr. Miller was the supervisor of compliance his function was to review the letter before it went out. (Exhibit 113 at 21 (NRC003-0421)). Mr. Miller stated that Mr. Cook's contract was under Mr. Miller. (Exhibit 113 at 23 (NRC003-0423)). Mr. Miller further stated that Mr. Cook was reporting to Mr. Miller on the bulletin response. (Exhibit 113 at 86 (NRC003-0486)).
4. Mr. Siemaszko stated that Mr. Miller and Mr. Cook were the actual creators of Serial No. 2731 (Exhibit 49 at 97-98 (NRC001-0760 to NRC001-0761)), (Exhibit 49 at 100 (NRC001-0763)), (Exhibit 49 at 118 (NRC001-0781)), (Exhibit 116 at 34-35 (NRC004-1403 to NRC004-1404)), (Exhibit 49 at 188 (NRC004-1557)). Mr. Siemaszko stated that everyone supplied information to Mr. Miller. (Exhibit 49 at 98, (NRC001-0761)).

5. Both Mr. Wuokko and Mr. Miller were copied on at least four e-mails in August 2001 regarding the content of the Bulletin response. Mr. Miller was copied on at least three e-mails regarding the content of the bulletin response that Mr. Wuokko was not copied on. The NRC Staff is unaware of any e-mails regarding the content of the Bulletin response that Mr. Wuokko was copied on that Mr. Miller was not also copied on. (Exhibits 97 (NRC008-0188), 99 (NRC017-1465), 100 (NRC020-0099), 102 (NRC017-2128), 103 (NRC017-0753), 110 (NRC008-1165), 145 (NRC0007-1754)).
6. Mr. Wuokko stated that Dale Miller was assigned to supervise Rod Cook during the preparation of Serial No. 2731 during a meeting with David Lockwood. (July 28, 2006 Wuokko transcript at 22-23).
7. Mr. Wuokko stated that he did his last meaningful review of Serial No. 2731 on August 28, 2001. His review was only for typos and format. (July 28, 2006 Wuokko transcript at 36-37).
8. Mr. Wuokko stated that Dale Miller was the approving official of Serial No. 2731 per procedure because Mr. Miller was the responsible supervisor. (July 28, 2006 Wuokko transcript at 38).
9. Mr. Wuokko stated that he told Mr. Miller he would look at "the format of the letter" because this was the first time Mr. Miller had worked on a Bulletin response. (July 28, 2006 Wuokko transcript at 66).

INTERROGATORY 9

If you contend that Regulatory Affairs Contractor Rodney M. Cook did not report to Dale Wuokko during the preparation of Serial No. 2731, state all facts in support of the contention with references to the specific testimony or documents relied upon.

RESPONSE

The Staff contends that Mr. Cook reported primarily to Mr. Miller during the preparation of Serial No. 2731. Facts in support of the contention are those facts stated in the answer to Interrogatory No. 8.

INTERROGATORY 13

If you contend that Mr. Miller wrote, inserted, or deleted any language included in any draft of Serial 2731, state all facts that support the contention with references to the specific testimony or documents relied upon.

RESPONSE

The NRC Staff contends that Mr. Miller was involved in the process of drafting Serial 2731. FE706-0042-0060 (NRC035-0041 to NRC035-0059) is a draft copy of Serial No. 2731 with comments, corrections, and deletions in the handwriting of Mr. Dale Miller. The cover sheet reads: "Rod, I looked this over again Tues. Night. Dale." Moreover, according to the documents and testimony listed below, Mr. Miller was involved in every aspect of the drafting process and also in the final review of Serial 2731.

Testimony

1. Miller Interview Transcript, Exhibit 113 at pages 51 (NRC003-0451), 57-58 (NRC003-0457 to NRC003-0458), 74-81 (NRC003-0474 to NRC003-0481), and 82-87 (NRC003-0482 to NRC003-0487) (demonstrating Mr. Miller's intimate knowledge of the drafting and reviewing of Serial 2731).
2. Cook Interview Transcript, Exhibit 108 at pages 31-32 (NRC002-1587 to NRC002-1598); 154-155 (NRC002-1474 to NRC 002-1475) (indicating that Mr. Miller was involved in discussion involving the content of Serial 2731).
3. Siemaszko Interview Transcript, Exhibit 49 at pages 97-99 (NRC001-0760 to NRC001-0762).
4. Interview of Mr. Miller by Randy Rossomme dated 06-26-2002 (NRC026-3014 to NRC026-3021; DLM 00000559).

Documents

1. E-Mail dated 08-22-2001, From Rodney Cook to Mr. Miller et al., Re: Serial 2731 Revisited (NRC008-0189) (transmitting new version of Serial 2731).
2. E-Mail dated 08-27-2001, From Rodney Cook to Mr. Miller et al., Re: Serial 2731 8-27-01 Version 1b (NRC017-2678).

3. E-Mail dated 08-30-2001, From Prasoon Goyal to Messrs. Siemaszko and McLaughlin, with carbon copy to Messrs. Miller and Cook, Re: Head Inspection (NRC010-0503; 05738).
4. E-Mail dated 08-27-2001, From Prasoon Goyal to Rodney Cook, with carbon copy to Mr. Miller Re: Serial 2731 8-27-2001 Version 1b (NRC0170-2705).
5. E-Mail dated 08-27-2001, From Rodney Cook to Mr. Miller et al., Re: Telephone Conference Call to Discuss Response to NRC Bulletin 2001-01 (NRC016-0753).
6. E-Mail dated 08-2001, From Rodney Cook to Mr. Miller et al., Re: 12 RFO RV Head Inspection-Bulletin 2001-01 Response (NRC008-2335).
7. E-Mail dated 08-24-2001, From Rodney Cook to Mr. Miller et al., Re: Serial 2731 8-24-01 Draft Version 1a (NRC020-0099).
8. E-Mail dated 08-22-2001, From Rodney Cook to Mr. Miller et al., Re: Serial 2731 Revisited (NRC008-2032).
9. E-Mail dated 08-22-2001, From Gary Miller to Mr. Miller Re: Telephone Conference Call to Discuss Response to NRC Bulletin 2001-01 (NRC008-0508).
10. E-Mail dated 08-22-2001, From Erdal Caba to Mr. Miller et al., Re: Telephone Conference Call to Discuss Response to NRC Bulletin 2001-01 (NRC007-2595).
11. E-Mail dated 08-22-2001, From Rodney Cook to Mr. Miller et al., Re: New Draft on CRDM Cracking (NRC007-2075).
12. E-Mail dated 08-30-2001, From Andrew Siemaszko to Mr. Miller et al., Re: Simpkins Inquiry (NRC016-2698 to 1700).

REQUEST FOR ADMISSION 57

Dale Miller did not write or add any words, sentences, or paragraphs to any of the Bulletin response drafts generated during August and September 2001.

RESPONSE

Denied. FE706-0042-0060 (NRC035-0041 to NRC035-0059) is a draft copy of Serial No. 2731 with comments, corrections, and deletions in the handwriting of Mr. Dale Miller. The cover sheet reads: "Rod, I looked at this again Tues. night. Dale."

Respectfully submitted,



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

Dated at Rockville, Maryland
this 21st day of August, 2006

AUGUST 21, 2006

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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Docket No. 1A-05-053

ASLBP No. 06-846-02-EA

AFFIDAVIT OF EUGENE R. RICHARDS, JR.

I, Eugene R. Richards, Jr., being first duly sworn, do hereby state as follows:

1. I am currently employed as Special Agent, Region III Office of Investigations.
2. I have supplemented the attached NRC Staff answers to interrogatories numbers 8, 9 and 13 and response to request for admission number 57 filed by counsel for Mr. Miller in the above-captioned proceeding.

Eugene R. Richards, Jr.
EUGENE R. RICHARDS, JR.

Subscribed and sworn to before me
this ___ day of August ___, 2006

Notary Public

My Commission Expires:

UNITED STATES OF AMERICA
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Docket No. IA-05-053

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S SUPPLEMENTATION OF RESPONSES TO DALE L. MILLER'S DISCOVERY REQUESTS DATED JUNE 1, 2006" 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 21st day of August, 2006.

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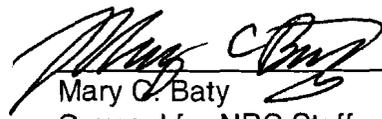
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