

August 9, 2006

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matters of	)	
	)	
DALE L. MILLER	)	Docket No. IA-05-053
	)	ASLBP No. 06-846-02-EA
&	)	
	)	
STEVEN P. MOFFITT	)	Docket No. IA-05-054
	)	ASLBP No. 06-847-03-EA
	)	

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 proceedings<sup>1</sup>, 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 David Geisen in order to ensure the Staff's ability to depose this individual on the date specified. Mr. Geisen is a former manager of Design Engineering at Davis-Besse, and his testimony is relevant to the issues raised by these enforcement actions. Mr. Geisen (1) was directly supervised by Mr. Moffitt; (2) took part with Mr. Moffitt in presentations to the NRC on October 3 and October 11, 2001, for which presentations Mr. Moffitt is the subject of an enforcement action claiming he deliberately submitted information material to the NRC that was known to be incomplete and inaccurate; (3)

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<sup>1</sup>The Staff recognizes that these proceedings have not been consolidated. However, for administrative convenience the Staff desires a subpoena covering both proceedings since Mr. Geisen has been identified as a person with information relevant to both proceedings.

concluded on Serial 2731, submitted September 4, 2001, for which submission Mr. Miller is the subject of an enforcement action claiming he deliberately submitted information material to the NRC that was known to be incomplete and inaccurate; and (4) concluded on Serial 2735, submitted October 17, 2001, for which submission Mr. Moffitt is the subject of an enforcement action claiming he deliberately submitted information material to the NRC that was known to be incomplete and inaccurate. Furthermore, Mr. Geisen was also identified as a person with relevant information on disputed issues by both Mr. Moffitt and Mr. Miller in their initial disclosures.

CONCLUSION

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

Respectfully submitted,

***/RA by Michael A. Spencer/***

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

Dated at Rockville, Maryland  
this 9th day of August, 2006

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matters of:

DALE L. MILLER

and

STEVEN P. MOFFITT

TO: David Geisen

c/o Charles F.B. McAleer

Miller & Chevalier

655 Fifteenth Street, N.W.

Suite 900

Washington, D.C. 20005-5701

Docket No. IA-05-053

ASLBP No. 06-846-02-EA

Docket No. IA-05-054

ASLBP No. 06-847-03-EA

YOU ARE HEREBY COMMANDED to appear to testify at a deposition in the  
above-captioned proceeding  
to be conducted at the U.S. Nuclear Regulatory Commission Headquarters,  
One White Flint North Building, Room O16-B2  
11555 Rockville Pike, Rockville, MD 20852  
on the 11th day of September, 20 06 at 9:30 AM .

BY ORDER OF THE ATOMIC SAFETY AND LICENSING BOARD

BY: \_\_\_\_\_  
Michael Farrar, Chairman ASLB

\_\_\_\_\_  
Date

ATTORNEY FOR THE NRC STAFF:

Sara E. Brock/Mary C. Baty/Michael A. Spencer

TELEPHONE: 301-415-8393/301-415-1324/301-415-4073

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.*

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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 9th day of August, 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](mailto:mcf@nrc.gov)

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](mailto:ngt@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](mailto:erh@nrc.gov)

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

Adjudicatory File \*  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Mail Stop: T-3 F23  
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](mailto: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](mailto:jpenny@killiangephart.com)  
[tscott@killiangephart.com](mailto:tscott@killiangephart.com)

Richard A. Hilbey, Esq. \*\*  
Charles F. B. McAleer  
Andrew T. Wise  
Mathew T. Reinhard  
Miller & Chevalier  
655 Fifteenth Street, N.W., Suite 900  
Washington, D.C. 20005-5701  
E-Mail: [rhibey@milchev.com](mailto:rhibey@milchev.com)  
[cmcaleer@milchev.com](mailto:cmcaleer@milchev.com)  
[awise@milchev.com](mailto:awise@milchev.com)  
[mreinhard@milchev.com](mailto:mreinhard@milchev.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](mailto:jmr3@nrc.gov)

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