

September 1, 2006

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matters of)

DALE L. MILLER)

STEVEN P. MOFFITT)

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

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

NRC STAFF'S APPLICATION FOR THE ISSUANCE OF A SUBPOENA
FOR MARK MCLAUGHLIN

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,¹ 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 Mark McLaughlin in order to ensure the Staff's ability to depose this individual on the date specified. Mr. McLaughlin was a former project manager at Davis-Besse, and his testimony is relevant to the issues raised by these enforcement actions. Furthermore, Mr. McLaughlin was identified as a person with relevant information on disputed issues by both Mr. Moffitt and Mr. Miller in their initial disclosures. The Staff previously applied for a subpoena for Mr. McLaughlin, but never served it after Counsel to Mr. Moffitt requested a new date for the deposition. The attached subpoena

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

reflects the new date agreed to by all parties.

CONCLUSION

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

Respectfully submitted,

/RA by Sara E. Brock/

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

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

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matters of:

DALE L. MILLER

and

STEVEN P. MOFFITT

TO: Mark McLaughlin
c/o Dave Dickman
Venable LLP
545 7th St., N.W.
Washington, D.C. 20004

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 proceedings
to be conducted at Venable LLP, 575 7th Street, NW
Washington, D.C. 20004
on the 18th day of September, 20 06 at 10:00 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.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S APPLICATION FOR THE ISSUANCE OF A SUBPOENA FOR MARK MCLAUGHLIN" 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 18th day of August, 2006.

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

Office of Commission Appellate Adjudication *
U.S. Nuclear Regulatory Commission
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E. Roy Hawkens * **
Chief Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
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Office of the Secretary * **
Attn: Rulemaking and Adjudications Staff
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Mail Stop: O-16 C1
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Adjudicatory File *
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/RA by Sara E. Brock/

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