

October 10, 2006

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

October 13, 2006 (10:24am)

In the Matter of  
DAVID GEISEN

**GRANTED** AS TO BOTH PARTIES  
**For the Atomic Safety and  
Licensing Board**  
*Michael C. Lanza*  
**Chairman 10-13-06**

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Docket No. IA-05-052

**SERVED October 13, 2006**

ASLBP No. 06-845-01-EA

NRC STAFF REQUEST TO EXCEED PAGE LIMITS

On October 3, 2006, the parties in the above-captioned proceeding filed responses to written discovery requests filed by the parties on September 1, 2006. Because Mr. Geisen asserted his Fifth Amendment privilege against self-incrimination to most of the discovery requests propounded to him by the Nuclear Regulatory Commission Staff (NRC Staff), the NRC Staff may renew its motion to stay the proceeding. Because of the ten day time limit on filing motions in 10 C.F.R. § 2.323, a motion to stay in response to Mr. Geisen's October 3, 2006, filing would be due on Friday, October 13, 2006.

In accordance with Section D.1 of the Standard Practice Manual, attached to "Memorandum and Order Summarizing Conference Call," dated March 27, 2006, the NRC Staff requests that it be allowed to file its motion for a stay in 25 pages or less, should the NRC Staff feel it necessary to file such a motion. The NRC Staff believes that it would take well over ten pages to support its motion due to (1) the complicated nature of the legal issues in question (including possible treatment of alternative remedies in addition to, or in lieu of, the granting of a stay); (2) the many discovery requests to which the privilege against self-incrimination was asserted; and (3) the necessity to provide full context for the motion by setting forth the history of discovery in the Davis-Besse enforcement proceedings. Because Section D.1 of the Standard Practice Manual requires page limit extensions be filed three business days prior to

the motion filing date, this extension request must be filed today.

The NRC Staff has attempted to contact counselors for Mr. Geisen regarding its concerns, and regarding this request for a page limit extension, but has been unable to reach them as of this filing. Although the NRC Staff's concerns might possibly be worked out amicably, the NRC Staff presumes that Mr. Geisen's decision to assert his privilege against self-incrimination was not taken lightly. Therefore, there is a substantial possibility that a motion to stay will be filed. Should a page limit extension be granted to the NRC Staff, it would not oppose a similar extension being granted to Mr. Geisen.

Respectfully submitted,

*/ RA by Michael A. Spencer /*

Lisa Clark  
Mary C. Baty  
Michael A. Spencer  
Counsel for the NRC Staff

Dated at Rockville, Maryland  
this 10<sup>th</sup> day of October, 2006

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
 )  
DAVID GEISEN ) Docket No. IA-05-052  
 )  
 )  
(Enforcement Action) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (GRANTING NRC STAFF REQUEST TO EXCEED PAGE LIMITS) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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[Original signed by R.L. Giitter] \_\_\_\_\_  
Office of the Secretary of the Commission

Dated at Rockville, Maryland  
this 13<sup>th</sup> day of October 2006