

November 9, 2006

Charles F. B. McAleer, Jr.  
Miller & Chevalier  
655 15<sup>th</sup> St. N.W. Suite 900  
Washington, D.C. 20005

Dear Mr. McAleer,

This letter is to follow up on our conversations regarding the status of your responses to our written discovery which was filed on September 1, 2006. In your responses filed October 3, 2006, you objected to each of our requests for admissions, invoking your Fifth Amendment rights. As we advised you, we believe that a number of our requests for admissions would not require a response that satisfies the constitutional standard for the proper invocation of the Fifth Amendment privilege. It is our understanding that you have or will be reconsidering your responses to those requests and advising us whether you will answer any of our requests for admissions.

In addition, we have not yet received any documents in response to our discovery requests. Although I had expected that you would be prepared to provide us the documents by now, given the deadline of October 3, 2006, or at very least some listing of documents and those you intend to withhold in a privilege log, I understand from our conversation yesterday that you are not prepared to provide us that information and, further, cannot advise us as to when you will be prepared to do so. While we would prefer to address any discovery questions or disputes expeditiously, we note that it has now been over a month since the time when discovery responses were due, and as we have expressed to you we will require some time to review any documents or privilege log you do produce before we are able to file any necessary and appropriate motions.

On this point, we note that, even though you have indicated that you will identify issues regarding our discovery produced to you on October 3, 2006, you have not to date provided us with any specification of alleged deficiencies in our discovery responses. Again, unless we receive information detailing any issues you may have regarding our discovery production soon, it will be difficult to come to any resolution before the current deadline for filing motions, which is now December 1, 2006. We look forward to working to resolve these issues through mutual agreement before resorting to asking the Board to intervene in the discovery process.

Sincerely,

***/RA by Lisa B. Clark/***

Lisa Clark  
Counsel for the NRC Staff