

November 30, 2006

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of
DAVID GEISEN

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Docket No. IA-05-052

ASLBP No. 06-845-01-EA

NRC STAFF MOTION FOR EXTENSION OF TIME TO FILE MOTION
TO COMPEL REGARDING RESPONSE TO STAFF DOCUMENT REQUESTS

INTRODUCTION

Pursuant to 10 C.F.R. § 2.323(a), the Staff requests an extension of time in which to file a motion to compel, based on the response to the Staff's request for document production provided on behalf of David Geisen on November 29, 2006. While the parties had agreed to file motions to compel by December 1, 2006, the untimely response by Mr. Geisen on November 30, 2006, requires that the Staff seek additional time to review the response, attempt to resolve any issues with Mr. Geisen, and determine whether a motion to compel is necessary.

DISCUSSION

In accordance with the discovery schedule agreed to by the parties and provided in a joint status report of August 2, 2006, written discovery requests were concurrently submitted on September 1, 2006. The Staff's discovery requests included requests for admissions and documents and interrogatories.¹ The Staff and Mr. Geisen provided discovery responses on October 3, 2006. In response to the Staff's request for documents, Mr. Geisen stated that he

¹ "The NRC Staff's Interrogatories, Document Requests, and Requests for Admission."

would produce non-privileged documents at a reasonable date, time and place.² However, Mr. Giesen's response was not received until late on November 29, 2006, when one box of documents and a letter were hand delivered to the Staff. According to the letter, which is attached, certain documents are not being produced on the grounds that they are duplicative of documents previously produced by others and that Mr. Giesen is continuing to assess whether protections or privileges may apply to certain other documents and will provide any privilege log when this review is completed.

By joint request by the parties, approved by the Board on November 9, 2006, the deadline for motions to compel is December 1, 2006. Given the untimely and incomplete nature of Mr. Geisen's response to the Staff's document request and the time that will be required for the Staff to review the documents and document lists provided, the Staff requests an extension of until December 11, 2006, to file a motion requesting action by the Board. Counsel for Mr. Geisen has stated that he does not object to an extension until December 8, 2006, but objects to an extension until December 11, 2006. The Staff is prepared to file a motion to compel regarding Mr. Geisen's responses to the Staff's interrogatories and requests for admissions on the date due, December 1, 2006.

² "David Geisen's Objections and Responses to NRC Staff's First Request for Production of Documents," October 3, 2006, at 7.

CONCLUSION

For the reasons discussed above, the Staff requests an extension of time file any appropriate motion regarding Mr. Geisen's response to the Staff's document request until December 11, 2006.

Respectfully submitted,

/RA by Lisa B. Clark/

Lisa B. Clark
Counsel for the NRC Staff

Dated at Rockville, MD
this 30th day of November, 2006

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF MOTION FOR EXTENSION OF TIME TO FILE MOTION TO COMPEL REGARDING RESPONSE TO STAFF DOCUMENT REQUESTS" 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 30th day of November, 2006.

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