

December 5, 2006

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

Dear Chas:

This letter concerns your document production on November 29, 2006. As you explain in your letter, you produced documents that you determined were not duplicates of "documents that were previously produced by others, including the NRC, in this matter or other proceedings." For those documents that you have deemed "duplicates" you have provided a listing of Bates numbers. As I have informed you, some of those Bates numbers - namely those beginning with the designation "DOJ" and "UCS" - are not recognizable to the Staff. Therefore, I am asking again that you explain the origin of those documents.

It is not acceptable to us that you have declined to produce the documents that you have described as duplicative. While the Staff would agree that you need not produce documents that we have already produced in this proceeding, provided that we can determine that is the case by virtue of your description, we strongly disagree with your determination not to produce documents that have been produced by other parties and/or in other proceedings. We ask that you provide us with a complete description of the documents on your list so that we can determine whether they have been produced by the Staff in this proceeding and that you produce all other documents, *i.e.*, those you have identified as having been produced in other proceedings or by other parties.

You have also stated that you are not conceding that the documents you have produced are responsive to our discovery requests. However, you have not stated whether you have produced all responsive non-privileged documents. We request that you state whether you have provided all responsive documents. Further, this response, as all portions of your document disclosure, must be certified to be correct and complete by affidavit as required by 10 C.F.R. § 2.705(g). Please let me know if you intend to correct these deficiencies.

In your letter, you also state that you are not aware of any responsive privileged documents in Mr. Geisen's possession that fall outside the scope of the categories listed in Section D of your initial disclosures, dated July 28, 2006. However, in that section of your initial disclosures, you represented that you would not produce or log documents falling under (1) the attorney client privilege, (2) the attorney work product privilege, (3) the joint defense or common interest privilege, or (4) any other applicable statutory or common law privilege. Because these cover every conceivable privilege, you are now stating in effect that you will simply not produce a privilege log. This is unacceptable. Regarding the joint defense privilege, you represented in your initial disclosures that you will not produce or log any document sent to or received from counsel for persons that are the subject of any criminal, civil or administrative indictment, charges, investigations, allegations or claims that are similar to or relate to those of which

Mr. Geisen is or was the subject of. We believe that your description goes well beyond those communications that would be covered by attorney client privilege in this proceeding and, further, note that the attorney client privilege does not attach to every document that is transmitted between an attorney and client. Therefore, we ask that you log each and every document that you claim is privileged with the necessary information required for a privilege log.

Regarding the privilege log, we look forward to receiving information from you regarding the documents identified in 2(b) of your letter. Specifically, we expect to either receive the identified documents or a proper privilege log should you decide that the documents cannot be produced because of privilege. Please let me know when I can expect to receive this information.

Please let me know if you have any questions regarding the above.

Sincerely,

/RA by Lisa B. Clark/

Lisa B. Clark