

December 7, 2006

Charles F.B. McAleer, Jr.
Miller & Chevalier
665 15th St. N.W., Suite 900
Washington, D.C. 20005

Dear Chas:

This responds to your letter of November 30, 2006, in which you detail the issues you have with our interrogatory responses. Generally, we believe that our responses are adequate in form and substance. Specifically, with regard to these specific issues, we note the following:

1. Verification of Interrogatory Answers: Pursuant to 10 C.F.R. § 2.705((g), signatures on discovery responses constitutes certification that to the best of the signer's knowledge, information and belief, formed after reasonable inquiry, that the responsive disclosure is complete and correct, as of the time it is made. The signatures provided by the Staff individuals on the affidavits were intended to comply with and satisfy that requirement. The individuals identified in response to interrogatory five as having supplied information and participating in the preparation of the interrogatory responses all necessarily have knowledge relating to the claims in the enforcement order.

2. Insufficiency of Answers to Interrogatories and Responses to Document Requests Generally: The Staff identified or produced all responsive documents within the possession of the Staff at the time the responses were filed. The Staff will supplement its responses as additional information becomes known to the Staff. Our responses to your interrogatories are adequate and fully consistent with NRC practice for Staff discovery responses. Therefore, we will not address the "deficiencies" you have identified in the table attached to your response.

3. Asserted Objections: The Staff has not answered certain questions based on stated objections. If the Staff has withheld documents properly requested, the Staff has identified them and the reasons for withholding with the exception of attorney-client or attorney work product. We have not logged these communications or documents since the time when you identified that this was your practice in your mandatory disclosures.

In response to your discovery requests for information from the NRC Office of Inspector General, we explained the grounds for our objection and our reasons. See, response to Interrogatory five. The Staff did not identify any other responsive documents that were in the control or possession of any entity or subpart within the NRC but not under the possession or control of the Staff as defined in our interrogatory responses.

The Staff has searched for information on our NRC document management system, ADAMS, and on individual computer hard drives and e-mail archives. However, the Staff has not attempted to retrieve documents which have been deleted from our document record systems or hard drives. In response to your questions relating to the retention of documents, we note

that documents related to the development and drafting of the enforcement order were deleted by Staff consistent with the Staff's practice with regard to documents which are not required to be official agency records. With regard to your request that you be provided documents for inspection and copying, we note that pursuant to 10 C.F.R. § 2.705(b)(1), when any document is available from another source, such as the NRC web site, it is a sufficient response to an interrogatory for the Staff to identify the document. Therefore, the Staff is not required to produce documents for inspection and copying. However, should you identify specific documents you would like to inspect and copy please let me know and I will endeavor to accommodate your request.

We have determined that none of the documents for which we claim deliberative privilege was shared with any individual outside the Staff and, therefore, that we have not waived our privilege. Therefore, additional information such as you have requested is not necessary to determine whether our privilege has been waived.

4. Supplementation: The Staff will supplement its discovery responses as required of it pursuant the Commission's rules and regulations. We expect to supplement some time within the next two weeks.

5. Personal Privacy Privilege Assertions. The Staff is preparing to provide the redacted portions of the August 2003 OI Report under the Protective Order and will produce them within the next couple of days. In addition, the Staff will produce all documents listed on our personal privacy logs as soon as practicable. We hope to have all of this information to you by the end of this week.

Pursuant to the Board Order issued November 29, 2006, the Staff is attaching a copy of the August 2003 OI Report from which the personal privacy redactions have been removed. The attached document is identified by Bates numbers Redacted - 30235 to Redacted - 30468. We are currently working on providing you unredacted versions of the remainder of the documents listed on our personal privacy log and will produce them to you as soon as practicable. Please let me know if you have any questions regarding to foregoing.

Sincerely,

/RA/

Lisa B. Clark

Attachment: as stated