

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

RAS 12843

ATOMIC SAFETY AND LICENSING BOARD
Before Administrative Judges:

DOCKETED 01/09/07
SERVED 01/09/07

Michael C. Farrar, Chairman
E. Roy Hawkens
Nicholas G. Trikouros

In the Matter of
DAVID GEISEN

Docket No. IA-05-052
ASLBP No. 06-845-01-EA
January 9, 2007

ORDER

(Setting Response Time and Calendaring Oral Argument)

Yesterday evening, the Board received from the NRC Staff a renewed motion to stay this enforcement proceeding, which stems from events of several years ago involving the Davis-Besse Nuclear Power Station in northwestern Ohio, pending the outcome of the related federal criminal case against Mr. Geisen and others. By its terms, the Staff motion was filed on behalf of, and included an affidavit from, the U.S. Department of Justice (DOJ), whose interests in the criminal case, it is claimed, stand to be prejudiced by the upcoming depositions and trial in our proceeding. The government motion seeks an expeditious Board ruling, given that depositions herein are scheduled to begin on January 16, 2007.

To achieve the requested expedition, the response to the Staff motion will be DUE from Mr. Geisen by 8:00 A.M. this Thursday, January 11. Oral argument will be HELD later that day, beginning at 3:00 PM in the third-floor courtroom in the NRC's Rockville, Maryland headquarters complex. If at all possible, the Board will issue an oral ruling at the conclusion of the oral argument.

The Board would once again appreciate the participation in oral argument of a DOJ attorney, given that DOJ is the real party in interest and, in light of its familiarity with criminal

proceedings, is likely to prove better equipped than Staff counsel to address matters of that nature. In this regard, we previously indicated that the participation of DOJ at an earlier stage proved quite helpful to the Board's understanding and consideration of the matters then before it. See Tr. at 324, 372, 419 (Nov. 14, 2006).

It is so ORDERED.

THE ATOMIC SAFETY
AND LICENSING BOARD

[original signed by]
Michael C. Farrar, Chairman
ADMINISTRATIVE JUDGE

[original signed by]
E. Roy Hawkens
ADMINISTRATIVE JUDGE

[original signed by]
Nicholas G. Trikouros
ADMINISTRATIVE JUDGE

Rockville, Maryland
January 9, 2007

Copies of this Order were sent this date by e-mail transmission to counsel for the parties.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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DAVID GEISEN) Docket No. IA-05-052
)
)
(Enforcement Action))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (SETTING RESPONSE TIME AND CALENDARING ORAL ARGUMENT) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 9th day of January 2007