

January 22, 2007

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
DAVID GEISEN)	Docket No. IA-05-052
)	
)	ASLBP No. 06-845-01-EA

NRC STAFF'S APPLICATION FOR THE ISSUANCE OF A SUBPOENA
TO KEN BYRD

INTRODUCTION

Pursuant to 10 C.F.R. § 2.702(a) of the Commission's regulations, the Staff of the Nuclear Regulatory Commission (Staff) requests that the Atomic Safety and Licensing Board (Board), designated in the above-captioned proceedings, issue a subpoena, attached hereto, requiring Ken Byrd, to attend and give testimony at a deposition.

DISCUSSION

The Staff requests the Board to issue a subpoena for Ken Byrd in order to ensure the Staff's ability to depose this individual on the date specified. In 2001, Mr. Byrd was a Nuclear Engineering Supervisor at Davis-Besse. Mr. Byrd's testimony is relevant to the issues raised by this enforcement action. Mr. Byrd was involved in the development of presentations made by Davis-Besse to the NRC in the Fall of 2001, and was specifically involved in the development and review of calculational assessments of crack growth used by Davis-Besse in the Fall of 2001 to justify continued operation.

CONCLUSION

In light of the foregoing, the Staff requests the Board to issue the attached subpoena to Mr. Byrd.

Respectfully submitted,

/RA by Mary C. Baty/

Mary C. Baty
Counsel for the NRC Staff

Dated at Rockville, MD
this 22nd day January, 2007

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of:

David Geisen

Docket No. IA-05-052
ASLBP No. 06-845-01-EA

TO: Ken Byrd
c/o Donald P. Ferraro
Timothy P. Matthews
1111 Pennsylvania Ave, N.W.
Washington, D.C. 20004

YOU ARE HEREBY COMMANDED to appear to testify at a deposition in
the above captioned proceeding
to be conducted at the U.S. Nuclear Regulatory Commission Headquarters,
11555 Rockville Pike, Rockville, MD 20852
on the 9th day of February, 2007 at 8:30 AM.

BY ORDER OF THE ATOMIC SAFETY AND LICENSING BOARD

BY: _____
Michael C. Farrar, Chairman ASLB

Date

ATTORNEY FOR THE NRC STAFF:

Michael A. Spencer/Mary C. Baty

TELEPHONE: 301-415-4073/301-415-1324

10 C.F.R. 2.702(f)

On motion made promptly, and in any event at or before the time specified in the subpoena for compliance by the person to whom the subpoena is directed, and on notice to the party at whose instance the subpoena is issued, the presiding officer,

or, if he is unavailable, the Commission may: (1) Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) Condition denial of the motion on just and reasonable terms.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S APPLICATION FOR ISSUANCE OF A SUBPOENA TO KEN BYRD" 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 22nd day of January, 2007.

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/RA by Mary C. Baty/

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