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USNRC

January 25, 2007

January 26, 2007 (8:45am)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Dale E. Klein  
Edward McGaffigan, Jr.  
Jeffrey S. Merrifield  
Gregory B. Jaczko  
Peter B. Lyons  
Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, MD 20852-2738

Re: *In the Matter of David Geisen*, docket no. IA-05-052

Dear Chairman Klein and Commissioners McGaffigan, Merrifield, Jaczko, and Lyons:

I am compelled to write in response to Gregory A. White's recent letter to the Commission in connection with your pending consideration of NRC Staff's appeal of a Licensing Board Order in the above-referenced matter. Simply, Mr. White's letter raises no new issues for the Commission's consideration and should, accordingly, carry no weight as compared to the pleadings, and more importantly, the Board's Order, already before the Commission.

Mr. White cites his position as "the chief federal law enforcement officer for the Northern District of Ohio" to the Commission in support of his argument that "the administrative depositions and hearing could impair [the prosecutors'] ability to prepare for and prosecute the criminal case successfully." But the Board heard, twice in writing and twice in person, from the prosecutors who have investigated this case and who will conduct the trial. Clearly, those individuals are more familiar with, and better able to articulate, any potential harm that might arise should these proceedings move forward. Mr. White's title is of no consequence to the Commission's evaluation of the Board's Order, especially in light of the evidence considered by the Board in reaching that Order.

Mr. White also notes that Mr. Siemaszko's case was stayed by another panel of the board. As the Commission has noted in its previous rulings, there are obviously differences between the Siemaszko and Geisen cases, most notably the fact that Mr. Geisen's Order was immediately effective, entitling him to Constitutionally-based protections not afforded to Mr. Siemaszko.

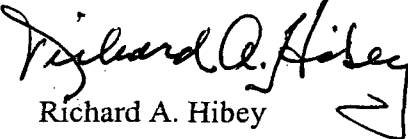
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The Commission has all of the information it needs to uphold the Board's decision. I thank the Commission for its prompt consideration of this letter and the issues raised in the party's pleadings.

Sincerely,

  
Richard A. Hibey

cc: by email:

Secretary to the Commission

Gregory A. White c/o Thomas A. Ballantine

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

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Michael A. Spencer