

Reading

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001



OFFICE OF THE
GENERAL COUNSEL

October 31, 2008

Andrew T. Wise
Miller & Chevalier Chartered
655 15th Street, N.W., Suite 900
Washington, D.C. 20005

Dear Mr. Wise,

I am writing with regard to your supplemental answers to interrogatories provided on October 29, 2008. As I explained today, your supplemental answers do not comply with the applicable regulatory requirements and are not responsive to our interrogatories. Although we have tentatively scheduled a deposition for Mr. Geisen on November 17, I will need full and complete answers to written discovery sufficiently in advance of that date in order to proceed with the deposition. Therefore, please advise me as to the earliest date that you will be able to provide supplemental written discovery.

As I explained, the form of your answers is unacceptable. It is not an acceptable response to simply refer to sworn testimony that Mr. Geisen has to the NRC Office of Investigations or in the criminal trial. If you believe that his testimony is responsive to our interrogatories, it would be acceptable to identify the specific testimony in response to a specific interrogatory. Further, to the extent that an interrogatory is addressed by our stipulations, it would be acceptable to so state. I believe that our stipulations should substantially reduce the time and effort that will be necessary to respond to our discovery.

As written, however, it is not possible to determine which interrogatories you are answering, which interrogatories you are objecting to, and which interrogatories you believe have been addressed by stipulation. Further, it is not possible to determine which objections you are raising for any interrogatories you are not answering. While I appreciate your desire to expedite discovery, Mr. Geisen is obligated to answer our interrogatories separately and fully in writing under oath. Any narrative answers you provide must comply with these fundamental requirements of discovery.

With regard to your narrative responses, they are overly broad and general, and provide limited information that falls far short of an acceptable response. For example, Staff Interrogatory 6 asks questions concerning Mr. Geisen's knowledge of the condition of the vessel head 1998, during which the 10RFO head inspection was conducted. Your narrative provides an unacceptable answer to these questions. Essentially, your narrative states that Mr. Geisen did not discuss the inspection with Mr. Goyal and first saw the videotape of the inspection in October 2001. However, you have not answered the portions of Interrogatory 6 that ask (1) how much of the inspection tape he saw, (2) whether he saw any other documentation of the inspection or condition of the head, (2) whether he spoke with anyone other than Mr. Goyal about the condition of the head, or (3) whether he saw videos or other evidence of flange inspections.

All of these questions within Interrogatory 6 are within the proper scope of discovery and directly relevant to the case. Further, the questions should not take an extensive amount of time to answer. For example, if Mr. Geisen had no knowledge of the RPV head condition in 1996, he simply needs to answer no to each question. Notably, in your original answer, filed on October 6, 2006, the only objection raised to this interrogatory was the invocation of Mr. Geisen's fifth amendment rights. Based on your representation that Mr. Geisen will no longer invoke his fifth amendment rights, I expect that a complete answer will be provided.

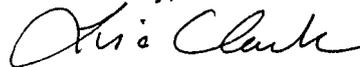
Staff Interrogatories 7 and 8 ask Mr. Geisen to specify what he knew about the condition of the head during the 1998 and 2000 inspections. Your narrative is inadequate to answer the Staff's questions; providing only limited and selective information. These interrogatories could also easily be answered in the negative if in fact Mr. Geisen did not have any knowledge. Again, because your original answer objected only on fifth amendment grounds, I expect that you will provide a complete answer at this time.

Interrogatories 9 through 22 and 25 through 41 ask Mr. Geisen to specify his knowledge and involvement in the written submittals and presentations that were the subject of the NRC enforcement order. These are the fundamental issues that will be the subject of the hearing and therefore appropriate matters for discovery. However, they are not adequately addressed in your narrative response. Again, to cite a specific example, your narrative states that Mr. Geisen believes he collected information for the October 3, 2001, conference call from a variety of sources, including Serial Letter 2731, Framatome engineers and Glenn McIntyre. From that answer, the Staff cannot know whether this list of sources is all inclusive, which engineers he got information from, in what form he got the information, what information he got, and whether any documentation of that information exists. These are all matters the Staff is entitled to learn through discovery and are asked in Interrogatory 9.

Finally, I note that these supplemental discovery answers have not been provided under oath or affirmation by Mr. Geisen as required under 10 C.F.R. § 2.706(10)(2). I was pleased to learn that this was merely an oversight and will be corrected. However, I would like to emphasize that, absent answers under oath or affirmation from Mr. Geisen, I consider any discovery response to be wholly inadequate.

I look forward to hearing from you soon as to how you expect to address these issues and am hopeful that we can complete written discovery expeditiously.

Sincerely,



Lisa Clark

cc:	Michael C. Farrar	Libby Perch
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