September 2, 2009

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

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

NRC STAFF'S MOTION FOR EXTENSION OF TIME TO FILE
PETITION FOR REVIEW OF LBP-09-24 AND APPLICATION FOR STAY

Pursuant to 10 C.F.R. § 2.323, the NRC Staff ("Staff") hereby requests that the Commission grant the Staff an extension of time, until September 21, 2009, in which to file a petition for review of the Atomic Safety and Licensing Board's ("ASLB" or "Board") initial decision in *David Geisen*, LBP-09-24, and an application for a stay of the effectiveness of that decision pending a decision on the petition for review.

On August 28, 2009, the Board filed LBP-09-24, which consists of a 145-page majority opinion and a 66-page dissent. Pursuant to 10 C.F.R. § 2.342(a), an application for a stay of the effectiveness of LBP-09-24 pending filing of and a decision on a petition for review must be filed by September 8, 2009.[1] Furthermore, in accordance with 10 C.F.R. § 2.341(b)(1), a petition for Commission review of LBP-09-24 must be filed by September 14, 2009.[2]

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[1] 10 C.F.R. § 2.342(a) allows 10 days for filing of an application for a stay. In this case, the 10th day falls on Monday, September 7, which is a federal holiday. Therefore, an application for a stay must be filed by Tuesday, September 8. 10 C.F.R. § 2.306.

[2] 10 C.F.R. § 2.341(b)(1) allows 15 days to file a petition for Commission review. In this case, because the 15th day is Saturday, September 12, a petition for review must be filed by Monday, September 14. 10 C.F.R. § 2.306.

The Staff requests an extension of time until September 21, 2009, to file both of these pleadings, due to the extensive length of the initial decision, the voluminous information in the record, and Staff counsel's planned end-of-summer leave from September 3 through September 8, 2009. Further, in making this request, the Staff notes that, of the three attorneys who prepared for and participated in the hearing in this case, two of them – Lisa Clark, who was lead attorney, and Shahram Ghasemian – are no longer in the Office of the General Counsel.

Pursuant to 10 C.F.R. § 2.323(b), Staff counsel has consulted on this matter with Mr. Andrew Wise, counsel for Mr. Geisen, who has indicated that he does not oppose the extension of time for either the application for a stay or the petition for review.

Based on the foregoing, the Staff respectfully requests an extension until September 21, 2009, for the filing of a petition for review of LBP-09-24 and an application for a stay of the effectiveness of the decision pending a decision on the petition for review.

Respectfully submitted,

/RA/

Kimberly A. Sexton
Counsel for the NRC Staff

Dated at Rockville, Maryland
This 2nd day of September, 2009

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S MOTION FOR EXTENSION OF TIME TO FILE A PETITION FOR REVIEW OF LBP-09-24" 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 2nd day of September, 2009.

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