

Ind. Point

From: Roger Davis
 To: Barkley, Richard; Cameron, Francis; (b)(6) Ex. 6
 Sheehan, Neil
 Date: 09/18/2007 6:03:23 PM
 Subject: Re: Confirming my understanding of our phone conversation.

Mr. Martinelli,

In response to your e-mail, please be advised that I made it clear during our telephone conversation this afternoon that I could not speak for the Commission on the matters you raised or provide any definitive legal views.

Further, I would characterize parts of your account of our conversation differently. For instance, I did not state or concede that your constitutional rights to redress were being abridged.

I did advise that I expected a decision shortly, within a day or two if not before, on multiple requests for extensions of the time for filing hearing requests regarding the Indian Point license renewal application.

I agreed to try to ascertain the status of any formal or direct response to your request for a postponement of the 9/19 scoping meeting, but I advised that I thought you should assume that the scoping meeting scheduled for 9/19 was not being postponed since it continues to be scheduled. I also suggested that if you had not received a written denial of your request, it would seem that the staff had not found reason to postpone the meeting and your request was in effect denied. I have no additional information at this time, and suggest that your further communication regarding the meeting be directed to the NRC staff contacts for this meeting.

Roger Davis

Ex. 6
 >>> (b)(6) 09/18/2007 4:31 PM >>>
 Dear Roger Davis:

First, as the legal assistant to the Chairman, I'd like to thank you for personally speaking to me on the phone this afternoon on important issues to our community. So there is no misunderstanding, I wanted to confirm the details of our call for the purpose of clarity.

1. A decision on mine, and FUSE USA's formal request for a 60 day extension of time is imminent, with release expected no later than Thursday of this week, but possibly as early as tomorrow morning, September 19th, 2007. Is my understanding of this issue and news correct?

I received a call this morning from a secretary in your office on this matter, and have to ask...was the decision made to withhold the decision on this important matter until after the public EIS Scoping meeting, and if so, for what other reason than to benefit Entergy?

2. We also spoke on my formal request for a postponement of the EIS Scoping meeting, based on my contention that the meeting was improperly noticed in the Federal Registry. A brief phone discussion with Chip Cameron led me to believe (based on his comments to that effect), that I brought up a very legitimate legal question as to proper notice. You told me first, that you were not aware of said formal request. When I further identified the content of the letter, you seemed to recollect the document, and said basically, that NO REPLY from the NRC should be interpreted as a denial...a NRC pocket veto if you

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will. Does this fit with your own recollection of our talking points this afternoon?

On this same issue, I pointed out that the Chairman's deliberate inaction was DEFACTO abridging my Constitutional Rights to redress, as any ruling after tomorrow makes my Formal Request moot. Though you conceded the point, you encouraged me to carry on as if the meeting would be held. You further committed to look into the issue, and make every effort to respond back to me on the status of that Formal Request, if possible by close of business today. Does this fit with your recollection of our conversation?

Respectfully,

Sherwood Martinelli
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