

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Alex S. Karlin, Chairman
Michael M. Gibson
Dr. Gary S. Arnold

In the Matter of JAMES CHAISSON (Enforcement Action)
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Docket No. IA-14-025-EA
ASLBP No. 14-932-02-EA-BD01
October 16, 2014

REQUEST FOR CLARIFICATION
(Concerning Proposed Protective Order)

On October 10, 2014, the NRC Staff submitted a proposed protective order to this Board.¹ While we are generally amenable to issuing a protective order if necessary, since such orders are issued by the Board, the Board needs to understand the legal basis for the order to be able to interpret and apply its terms in some objectively determinable fashion.² In this regard, we request that, by October 20, 2014, the NRC Staff provide information on the following:

1. Please identify and explain the specific legal basis (statute, regulation, or case law) for the Staff's claim that "Personal Privacy Materials" (PPM) are legally protected, privileged, or otherwise exempt from mandatory disclosure and/or discovery.

¹ NRC Staff's Report of Consultation Between the Parties, attach. 1, Proposed Protective Order (Governing Personal Privacy Materials) at 3 (Oct. 10, 2014) (Staff Report).

² See generally Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2), LBP-11-5, 73 NRC 131 (2011).

2. The proposed definition of PPM states that PPM is whatever the Staff says it is.³ This is not acceptable. Please provide a definition of PPM that both demonstrably comports with a specific legal basis, as specified in response to paragraph 1, and that provides objectively determinable criteria for the Board to use if a dispute arises as to whether certain material constitutes PPM.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Alex S. Karlin, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
October 16, 2014

³ Staff Report at 4 (“The term ‘Personal Privacy Materials’ means and includes: (i) materials designated by the Staff as Personal Privacy Materials.”)

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Mr. James Chaisson) IA-14-025-EA
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **REQUEST FOR CLARIFICATION (Concerning Proposed Protective Order)** have been served upon the following persons by Electronic Information Exchange.

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[Original signed by Herald M. Speiser _____]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 16th day of October, 2014