

July 10, 2006

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

| | | |
|-------------------|---|------------------------|
| In the Matters of |) | |
| |) | |
| DALE L. MILLER |) | Docket No. IA-05-053 |
| |) | ASLBP No. 06-846-02-EA |
| & |) | |
| |) | |
| STEVEN P. MOFFITT |) | ASLBP No. 06-846-02-EA |
| |) | Docket No. IA-05-054 |
| |) | |

NRC STAFF'S APPLICATION FOR THE ISSUANCE OF A SUBPOENA

INTRODUCTION

Pursuant to 10 C.F.R. § 2.702(a) of the Commission's regulations, the Staff of the Nuclear Regulatory Commission (Staff) requests that the Atomic Safety and Licensing Board (Board), designated in the above-captioned proceedings¹, issue a subpoena, attached hereto, requiring a certain individual, named below, to attend and give testimony at a deposition.

DISCUSSION

The Staff requests the Board to issue a subpoena for Rodney Cook in order to ensure the Staff's ability to depose this individual on the date specified. Mr. Cook is a former contract employee of the Regulatory Affairs Department at Davis-Besse. Mr. Cook's testimony is relevant to the issues raised by this enforcement action. Mr. Cook was the contractor primarily responsible for assembling Davis-Besse's response to NRC Bulletin 2001-01. Mr. Cook was identified as a person with relevant information by both Mr. Moffitt and Mr. Miller both in their

¹The Staff recognizes that these proceedings have not been consolidated. However, for administrative convenience the Staff desires a subpoena covering both proceedings since Mr. Cook has been identified as a witness in both proceedings.

initial disclosures and in responses to written discovery questions.

CONCLUSION

For the above stated reasons, the Staff requests the Board to issue the attached subpoena to Mr. Cook.

Respectfully submitted,

/RA by Sara E. Brock/

Sara E. Brock
Mary C. Baty
Michael A. Spencer
Counsel for the NRC Staff

Dated at Rockville, Maryland
this 10th day of July, 2006

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matters of:

DALE L. MILLER

&

STEVEN P. MOFFITT

Docket No. IA-05-053
ASLBP No. 06-846-02-EA

Docket No. IA-05-054
ASLBP No. 05-8457-03-EA

TO: Rodney Cook
c/o John F. Conroy, Esq.
Gordon & Ermer
Two Lafayette Center
1133 21st St. NW, Suite 450
Washington, D.C. 20036-3354

YOU ARE HEREBY COMMANDED to appear to testify at a deposition in the
above captioned proceedings
to be conducted at the United States Nuclear Regulatory Commission
Headquarters, One White Flint Building, 11555 Rockville Pike, Room O 14-B10
in the city of Rockville, Maryland
on the 21st day of August, 2006 at 10:00 A.M. .

BY ORDER OF THE ATOMIC SAFETY AND LICENSING BOARD

BY: _____
Michael Farrar, Chairman ASLB

ATTORNEY FOR THE NRC STAFF:

Sara E. Brock

TELEPHONE: 301-415-8393

10 C.F.R. 2.702(f)

On motion made promptly, and in any event at or before the time specified in the subpoena for compliance by the person to whom the subpoena is directed, and on notice to the party at whose instance the subpoena is issued, the presiding officer,

or, if he is unavailable, the Commission may:

(1) Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) Condition denial of the motion on just and reasonable terms.

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NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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| |) | Docket No. IA-05-054 |
| |) | |

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S APPLICATION FOR THE ISSUANCE OF A SUBPOENA" 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 10th day of July, 2006.

Michael C. Farrar * **
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/RA/

Sara E. Brock
Counsel for the NRC Staff