

RAS 12144  
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DOCKETED  
USNRC

August 15, 2006 (3:54pm)

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matters of

DALE L. MILLER

STEVEN P. MOFFITT

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

Docket No. IA-05-054  
ASLBP No. 06-847-03-EA

DALE MILLER'S ANSWER TO MOTION TO QUASH

Pursuant to the Board's Order dated August 9, 2006, Dale L. Miller responds as follows to Rodney M. Cook's August 3, 2006 Motion to Quash:

1. Admitted.
2. It is admitted that the January 4, 2006 Enforcement Order directed to Dale L. Miller states that Mr. Miller supervised Mr. Cook during the preparation of Davis-Besse's September 4, 2001 response to the NRC's August 3, 2001 Bulletin. By Answer dated February 23, 2006, Mr. Miller denied that (1) he was initially responsible for supervising Mr. Cook; (2) he drafted or made any material changes to the response; (3) he was responsible for technical content material to the NRC, and (4) he reviewed and approved the final version of the response submitted to the NRC on September 4, 2001.
3. Is admitted that Mr. Cook may assert all rights and privileges to which he is entitled by law.
4. No answer required.
5. Admitted. By way of further Answer, Mr. Cook's testimony is essential to Mr.

Miller's effort, through this proceeding, to vindicate himself of the Enforcement Order's charges

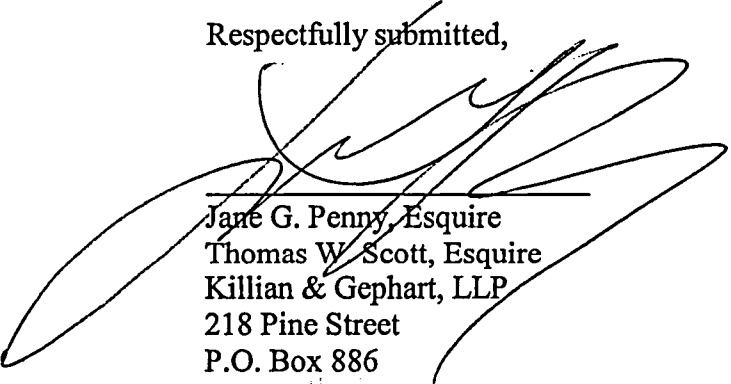
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SECY-02

that Mr. Miller knew Davis-Besse's written response to the NRC Bulletin was incomplete and inaccurate, and he was responsible for the information provided to the NRC in response to the Bulletin. In his Initial Disclosures filed on April 26, 2006, Mr. Miller notified the NRC Staff that Mr. Cook had relevant information on disputed issues including the extent of Mr. Miller's involvement in the Bulletin response, his reliance upon engineers assigned responsibility for technical input, and the significance of August 2001 e-mail correspondence forwarded to Mr. Miller and Mr. Cook. Based upon counsel's current knowledge, Mr. Cook may be the only reliable source of the above-stated information, which is necessary to a proper decision in Mr. Miller's case. Depending upon the Board's resolution of Mr. Cook's Motion, Mr. Miller may be required to make further application to the Board concerning his initial request for an expedited hearing.

6. No answer required.

Respectfully submitted,



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CERTIFICATE OF SERVICE

On August 15, 2006, copies of the attached "Answer to Motion to Quash" were served on the following persons through the U. S. mail, and electronic mail (where indicated\*):

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