

August 18, 2006

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of
DALE L. MILLER

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

JOINT MOTION TO AMEND DISCOVERY SCHEDULE

The Atomic Safety and Licensing Board's April 18, 2006, Initial Scheduling Order established a schedule for discovery in the above-captioned proceeding. The NRC Staff and Mr. Miller jointly move to amend the Initial Scheduling Order to move the discovery completion date to October 13, 2006.

BACKGROUND

The Board's Initial Scheduling Order established the following discovery schedule:

1. All parties will make initial disclosures on or before April 26, 2006.
2. All written discovery (interrogatories, requests for admissions, document requests) will be served on or before June 1, 2006.
3. Replies to written discovery will be served on or before June 15, 2006¹.
4. Discovery will be completed on or before September 15, 2006.

In accordance with the Board's Order, the parties made initial disclosures by April 26, 2006 and served written discovery requests on June 1, 2006. The parties responded to written discovery on June 30, 2006.

¹ This date was later altered to June 30, 2006.

DISCUSSION

The parties have been actively engaged in discovery in this case. Both parties have acquired information that they did not possess at the beginning of the proceeding. At this point in time both parties believe that engaging in alternative dispute resolution (ADR) might be helpful. The parties are attempting to schedule an ADR session as soon as both parties are available (potentially in the first few weeks of September). Thus, the parties will not be able to complete discovery by September 15, 2006. If the parties settlement discussions are successful, a joint motion to settle the case and dismiss the proceeding will be presented to the Board. If the attempts are unsuccessful, the parties would like have the option to continue discovery until October 13, 2006. The parties believe that extending discovery until October 13, 2006 will allow sufficient time to engage in settlement negotiations and complete discovery if those negotiations prove unsuccessful.

CONCLUSION

Therefore, the parties request that the Board amend the Initial Discovery Order to reflect that discovery will be completed on or before October 13, 2006.

Respectfully Submitted,

/RA by Sara E. Brock/

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

/RA by Jane G. Penny/

Jane Gowen Penny
Thomas W. Scott
Counsel for Mr. Miller

Dated at Rockville, Maryland
this 18th day of August, 2006

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CERTIFICATE OF SERVICE

I hereby certify that copies of "JOINT MOTION TO AMEND DISCOVERY SCHEDULE" 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 18th day of August, 2006.

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