

May 4, 2001

Mr. Robert H. Ihde
President and CEO
Duke Cogema Stone & Webster
P.O. Box 31847
Charlotte, NC 28231-1847

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
(MIXED OXIDE FUEL FABRICATION FACILITY)

Dear Mr. Ihde:

In the Duke Cogema Stone & Webster (DCS) application dated February 28, 2001, you requested authorization for construction of a mixed oxide (MOX) fuel fabrication facility. In this application, you submitted two affidavits dated February 28, 2001, in which you requested that documents be withheld from public disclosure pursuant to 10 CFR 2.790. The first affidavit related to facility process information and the second affidavit related to financial statements for the period March 22, 1999, to December 31, 1999. Your February 28, 2001, application also contained nonproprietary versions of these documents, which have been placed in NRC public document room and added to the Agency-wide Documents Access and Management Systems Publically Available Records System (ADAMS PARS Library).

In your affidavit applicable to facility process information in the document, "Mixed Oxide Fuel Fabrication Facility Construction Authorization Request," February 28, 2001, you stated that this information should be withheld from public disclosure for the following reasons:

1. It has substantial commercial value to DCS, its partners, and/or affiliates.
2. It allows DCS to reduce vendor and consultant expenses associated with supporting the licensing of fuel fabrication plants.
3. DCS may sell the information to nuclear utilities, vendors, and consultants for the purpose of supporting the licensing of fuel fabrication plants.
4. The subject information could only be duplicated by competitors at similar expense to that incurred by DCS, its partners, and/or affiliates.

In your affidavit applicable to the financial information, you stated that this information should be withheld from public disclosure for the following reasons:

1. It has substantial commercial value to DCS, its partners, and/or affiliates.
2. It discusses elements of cost that are controlled as commercially proprietary by DCS, its partners, and/or affiliates, and details of which are currently protected commercially from disclosure to competitors of DCS' partners and/or affiliates.

We have reviewed the DCS application and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information.

Therefore, the versions of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

Sincerely,

/RA/

Michael F. Weber, Director
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Docket: 70-3098

cc: Mr. James Johnson, DOE
Mr. Henry Potter, SC Dept of Health
& Environmental Control
Mr. John T. Conway, DNFSB

We have reviewed the DCS application and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information.

Therefore, the versions of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

Sincerely,
/RA/
 Michael F. Weber, Director
 Division of Fuel Cycle Safety
 and Safeguards
 Office of Nuclear Material Safety
 and Safeguards

Docket: 70-3098

cc: Mr. James Johnson, DOE
 Mr. Henry Potter, SC Dept of Health
 & Environmental Control
 Mr. John T. Conway, DNFSB

DISTRIBUTION: Docket 70-3098 ADAMS PUBLIC FSPB R/F
 FCSS Office File JHull, OGC AFernandez, OGC; AMurray
 McAlpine, RII DAyres, RII WGleaves MPSiemien, OGC
 ADAMS Accession Number: ML011300536

G:\SPB\TCJ\MOX2.790RESPONSE.WPD *SEE PREVIOUS CONCURRENCE

OFC	SPB*		SPB*		SPB		OGC		SPB		SPB		FCSS	
NAME	APersinko:cc		TJohnson		AHoadley				JGitter		ELeeds		MWeber	
DATE	4/ 10/01		4/ 10/01		4/12/01		4/7/01		4/12/01		4/13/01		5/4/01	