

RAS 3287

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD

'01 AUG -9 A10:53

Before Administrative Judges:
Thomas S. Moore, Chairman
Charles N. Kelber
Peter S. Lam

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of

DUKE COGEMA STONE & WEBSTER
(Savannah River Mixed Oxide Fuel
Fabrication Facility)

Docket No. 70-3098-ML

ASLBP No. 01-790-01-ML

July 30, 2001

**Blue Ridge Environmental Defense League and Donald Moniak
Additional Filings on Standing**

S1. On May 17, 2001, Donald J. Moniak, acting as both an individual and as a representative of the Blue Ridge Environmental Defense League (BREDL), filed a formal request for hearing pertaining to the Construction Authorization Request (CAR) for the plutonium Mixed Oxide (MOX) Fuel Fabrication Facility (MFFF) at the Department of Energy's (DOE) Savannah River Site (SRS), submitted by Duke Cogema Stone & Webster (Applicant).

S2. This request, along with three other requests for hearing, was accepted by the Nuclear Regulatory Commission (NRC) and the Atomic Safety and Licensing Board Panel (The Panel) was formed. In both NRC Order CLI-01-13 (June 14, 2001) and ASLBP Order No. 01-790-01 (July 3, 2001), parties were given the option of submitting additional filings pertaining to standing by July 30, 2001. Therefore, according to those terms, this additional filing on standing is hereby provided, with the express understanding that formal contentions will be submitted by the August 13, 2001 deadline provided for in ASLBP Order No. 01-790-01 (July 3, 2001).

S3. The following clarification is being made to the May 17, 2001 filing:

All references to "Item 8" within Item 6 should be cited as "Item 6."

Item 4 should be viewed as arguments pertaining to NEPA issues, and thus conferring standing.

Template = SECY-037

SECY-02

pm 7/30/01

S4. Donald J. Moniak continues to seek standing as an individual based on proximity to the proposed MFFF, violations by the Department of Energy as the financing and decision-making federal agency of the National Environmental Policy Act (NEPA), proximity to plutonium MOX fuel transportation routes, and as a citizen affected by U.S. nuclear nonproliferation policy. All information to this effect is contained in the attached affidavit, which also serves to identify Mr. Moniak as a BREDL member. The violations of NEPA, which will be detailed in upcoming contentions, are as follows:

a. Failure by the U.S. Department of Energy to conduct a supplemental environmental impact statement to analyze the huge liquid radioactive waste stream that will be generated by the MFFF.

b. Failure by the DOE to analyze the real differences between the alternatives in the SPDEIS.

c. Failure by the DOE to adequately analyze the true intentions of its colleague agency in Russia, the Ministry of Atomic Energy (Minatom), in pursuing a plutonium fuel economy outside of nuclear nonproliferation negotiations and agreements.

S5. BREDL should be granted organizational/representational standing because the following BREDL members have signed affidavits authorizing BREDL to represent them in this proceeding:

Donald J. Moniak, 3401 Seneca Avenue, Aiken, SC 29801, who will be affected in the same manner as identified in Item S3, the original request for hearing, and the attached affidavit.

Dr. Frank Carl, 14501 Smith Road, Charlotte, NC, who will be affected by proximity to the MFFF (see Item S3 and original request for hearing), plutonium MOX fuel transportation routes, Catawba and McGuire Nuclear Power Plants (NPPs), violations by the Department of Energy as the financing and decision-making federal agency of the National Environmental Policy Act (NEPA), proximity to plutonium MOX fuel transportation routes, and as a citizen affected by U.S. nuclear nonproliferation policy. (See Attached Affidavit, with original affidavit sent to Judge Thomas Moore, Chairman of the ASLBP.)

Janet Zeller, PO Box , Glendale Springs NC, who will be affected by proximity to plutonium MOX fuel transportation routes, violations by the Department of Energy as the financing and decision-making federal agency of the National Environmental Policy Act (NEPA), proximity to plutonium MOX fuel transportation routes, and as a citizen affected by U.S. nuclear nonproliferation policy. Ms. Zeller's affidavit also addresses the issue of standing for BREDL as an organization due to its past work on nuclear nonproliferation and NEPA issues.

Catherine Mitchell, Woody Mitchell, Phyliss St. Clair, Nina Layton, Susan Bulloch, Chuck Pietzman, Danielle Fortier, Geneva Johnson, Ed Johnson, Judy Drake, and Thomas Drake of the Charlotte metropolitan area; and Betty Yahews and Constance Kolpitcke of the Lake Norman area in North Carolina; who all have an interest and will be affected by proximity to plutonium MOX fuel irradiation and storage facilities—Catawba and McGuire NPPs—and transportation routes, violations by the Department of Energy as the financing and decision-making federal agency of the National Environmental Policy Act (NEPA),, and as citizens affected by U.S. nuclear nonproliferation policy. Copies of affidavits are being forwarded from the Charlotte area.

S6. This proceeding is unusual¹ and precedent-setting for the following reasons:

a. It involves actions of the U.S. Government--represented by the DOE--proposed solely on the basis of advancing the cause of nuclear nonproliferation, and requires federal funding.

b. The NRC was legislatively mandated to license the MFFF, based on whether DOE decided to pursue the MOX fuel option. The DOE decision leading to this proceeding was based on NEPA analyses conducted by DOE (which were cited and discussed in Item 4.b, 4.d, 4.e, and 4g of the May 17, 2001 request, which are hereby referenced as being included in this filing) as well as negotiations with Russia. **The DOE analyses, which took six years to complete, clearly treated nuclear nonproliferation as a NEPA impact.**

¹ Even applicant's counsel described the proceeding as "an unusual case" during the June 16 teleconference. The statement was made in relation to the financial assurance issues, since the project is being funded by the U.S. Government. However, the distinction clearly extends into other functions. In addition, the U.S. Government is not necessarily a reliable source of funding, since funding is a political decision made by the U.S. Congress and the President. Numerous examples exist of the U.S. Government abandoning high-tech, expensive projects, the most notable being perhaps the Superconducting Collider (SSC) project.

c. The Applicant is contractually obligated under the terms of contract² with the DOE to provide the following services:

- i. Design and Licensing of the MFFF;
- ii. Design and Licensing of a new plutonium MOX fuel storage and shipping container; Fuel fabrication, transportation, and is providing all funding for the project; and be
- iii. Design and Licensing of Catawba and McGuire NPPs to irradiate plutonium MOX fuel.

Details regarding this contract were provided in the original May 17, 2001 filing, in Items 4.c, 4.f, and 4i.

d. The proceeding is directly dependent upon similar, even parallel, efforts in Russia, under the terms of the September 2000 **AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE RUSSIAN FEDERATION CONCERNING THE MANAGEMENT AND DISPOSITION OF PLUTONIUM DESIGNATED AS NO LONGER REQUIRED FOR DEFENSE PURPOSES AND RELATED COOPERATION.** (U.S./Russian Agreement).

S7. Nuclear nonproliferation policy is a topic that is inside the scope of this proceeding. As described in S6.a and S6.b, the “zone of interests” normally encompassed by the Atomic Energy Act (radiological health and safety) and NEPA also encompass the issue of nuclear nonproliferation in this proceeding. Standing based on promoting the social goal of nuclear nonproliferation is appropriate because the MFFF is justified by the U.S. Department of Energy (DOE) in National Environmental Policy Documents on the solitary basis of advancing the cause of nuclear nonproliferation. Therefore, organizational and/or individual Standing should be conferred for the interest of advancing the cause of nuclear nonproliferation and preventing the spread of fissile materials because nuclear nonproliferation is a NEPA zone of interest for this proceeding.

² At this time the applicant is only under contractual obligations described as the “base contract,” which pertain primarily to design and licensing activities. The DOE has the authority to award, without competitive bidding, additional portions of the contract pertaining to physical construction and operation of the MFFF and plutonium MOX fuel irradiation.

a. The MFFF is only one part of a larger plan within existing U.S. nuclear non-proliferation policy.³ Although it is not necessary to support this policy, it is the sole justification the Department of Energy used to obtain funding for this project. The MFFF is a part of the Department of Energy's January 2000 decision to "provide for the safe and secure disposition of up to 50 metric tonnes of surplus plutonium as specified in the Preferred Alternative in the *Surplus Plutonium Disposition Final Environmental Impact Statement*."⁴

This decision involves implementing the "hybrid alternative" approach to disposing of up to 50 metric tonnes of surplus weapons-usable plutonium. The hybrid alternative involves using up to 33 metric tonnes of plutonium to fabricate plutonium MOX fuel and then irradiating it in existing domestic, commercial reactors; and "immobilizing" up to 17 metric tonnes of plutonium using the "can-in-canister" technology. Other alternatives included "no-action" and "immobilization-only." There was no consideration given to a MOX-only alternative.

b. Fabricating and irradiating plutonium MOX fuel was not considered essential for plutonium disposition and meeting the U.S. government's nonproliferation objectives. In fact, DOE chose the plutonium MOX fuel option—only as part of its "hybrid alternative" that also involved partial-immobilization--in spite of reaching the following conclusions in the SPDEIS ROD:

i. With respect to nonproliferation and arms control, neither the immobilization-only nor the hybrid alternative were "clearly superior," both options contained advantages and disadvantages, and both options "can only reduce, not eliminate, the security risks posed by the existence of excess plutonium." (Page 22) Thus, there is no proposal set forth to "destroy" surplus, only to make surplus plutonium as inaccessible as the plutonium found in irradiated "spent" nuclear fuel.⁵

³ In regard to surplus military plutonium, U.S. nonproliferation policy is in a constant state of flux. Most recently, the DOE "suspended" all work on the Plutonium Immobilization Plant, a project the agency described since 1996 as essential for obtaining a spent fuel standard for 8-17 tonnes of surplus plutonium.

⁴ U.S. DOE *Record of Decision for the Surplus Plutonium Disposition Final Environmental Impact Statement*. January 4, 2000.

⁵ The National Academy of Sciences report in 1994 stated that the available disposition alternatives could only "minimize the risk" of re-use or unauthorized access to fissile materials.

ii. Using MOX fuel in the disposition program involved the greatest environmental impacts and risks,⁶ and this conclusion was reached prior to the public being informed of the estimated 300,000 gallons per year of additional liquid radioactive waste generated by the proposed MFFF.

iii. The use of plutonium MOX fuel added the “principal uncertainty” of the “potential difficulty of gaining political and regulatory approvals for the various options required.”⁷

iv. The use of reactor alternatives involving plutonium MOX fuel “could increase the proliferation risk if it in fact led to significant additional separation and handling of weapons-usable plutonium.”⁸

v. Between eight and seventeen metric tonnes of surplus plutonium was described as too impure and difficult to process into plutonium MOX fuel by DOE, and thus was considered only suitable for the plutonium immobilization option.

c. The primary argument for the hybrid alternative, and therefore use of plutonium MOX fuel, is that it “provides the best opportunity for U.S. leadership in working with Russia to implement similar options for reducing Russia’s excess plutonium in parallel.”⁹

d. Therefore, standing should be conferred to BREDL because of the interest of the organization and its members, and Donald Moniak as an individual (and also BREDL member), in regard to pursuing the goal of nuclear nonproliferation aspects of the plutonium MOX option for

⁶ Ibid. Pages 16-17. The “no-action” alternative was the environmentally preferable alternative, and the “immobilization-only” alternative was the environmentally preferable action alternative.

⁷ Ibid. Page 25. This has proven to be an understatement. In June the NRC staff submitted an 80-page Request for Additional Information on the Construction Authorization Request, one of the largest RFAs ever submitted by NRC staff. The Bush Administration has undertaken a review of the program and there is speculation it is now too expensive.

⁸ Ibid. Page 25. Russia is already committed to reprocessing irradiated MOX fuel made from surplus weapons plutonium.

⁹ Ibid. Page 29.

the reasons cited in the attached affidavits, the original May 17, 2001 filing, and the fact that U.S. nonproliferation policy is threatened by commitment to a hybrid alternative that no longer appears to be a hybrid. In other words, the suspension of the plutonium immobilization effort leaves the U.S. unable to, or far less likely to, dispose of 34 metric tonnes of plutonium as agreed to with Russia.

S8. The use of plutonium MOX fuel at Catawba and McGuire NPPs, as well as transportation of plutonium MOX fuel from SRS to these sites, is a topic that is inside the scope of this proceeding. Standing for BREDL based on geographical proximity of its members to Catawba and McGuire Nuclear Power Plants (NPPs) and transportation routes is appropriate because the design, licensing (and construction and operation depending upon future contract negotiations) of the MFFF is only one of the applicant's contract obligations with the U.S. Department of Energy, as described in Item S6.c. Financing for an MFFF would cease without the contractual involvement of Duke Power Company's Catawba and McGuire NPPs and the ability of the applicant to obtain a license from the NRC to irradiate plutonium MOX fuel at these NPPs, design and obtain a license for a new plutonium MOX fuel storage and shipping container, and provide for storage capability at the NPPs for this new fuel.

a. The MFFF is not a stand-alone project, but instead is tied to the use of plutonium MOX fuel in Duke Power Reactors by the DCS contract with DOE and designing and licensing a container to allow the DOE to ship the fuel to the NPPs. The applicant's authority to construct the MFFF is entirely contingent upon its contract with DOE as the financial assurance agency.

b. McGuire and Catawba NPPs are presently under contract to begin irradiating plutonium MOX fuel assemblies in the Year 2007. In the case of McGuire 2 reactor, it is under contract to begin "Lead Test Assembly" activities in the year 2003. If the applicant was not under contract with DOE to utilize McGuire and Catawba NPP's, it would be in default of contract and all work on the MFFF would cease.¹⁰

c. Once McGuire and Catawba (and North Anna) NPPs were under contract to irradiate plutonium MOX fuel, the impact of plutonium MOX fuel irradiation at these facilities was analyzed in the SPDEIS, and transportation impacts were analyzed in more depth. However, the

¹⁰ As argued in the May 17, 2001 Request for Hearing, the applicant is arguably in default of contract at this time for failing to identify and procure additional reactors.

interests of BREDL and its members were harmed by this process because the Department of Energy violated the following NEPA provisions:

i. Facilities were chosen without public input in the areas of concern, despite requests to hold NEPA hearings in potentially affected reactor communities. Whereas DOE chose SRS for the MFFF in part based on “community support” and an environmental analysis of SRS in comparison to other sites, Catawba and McGuire (and North Anna) NPPs were selected as plutonium/MOX irradiation facilities outside of the NEPA process via a procurement process.

ii. The facilities were chosen by default because two of the three consortiums submitting proposals to the Department of Energy were rejected for technical reasons. Therefore the Applicant was chosen by the DOE because it had the only proposal that met RFP requirements, not because it was a clearly superior proposal.

iii. The DOE failed to analyze a range of reactor alternatives to compare the impacts of using the “Ice Condenser” design found at the Catawba and McGuire NPPs.

iv. The DOE failed to analyze the impacts of using plutonium MOX fuel on vulnerable reactor components.

v. DOE failed to conduct a supplemental Environmental Impact Statement to address major changes in the plutonium MOX fuel portion of its plutonium disposition program. Since the withdrawal of Virginia Power and its North Anna NPP as an irradiation facility,¹¹ additional plutonium MOX fuel is planned for irradiation and subsequent storage at the McGuire and Catawba NPPs.

- i. Catawba plutonium loading will increase 2.80 MT over 13 years; and
- ii. McGuire’s plutonium loading will increase 0.84 MT over 13 years.

¹¹ As noted before, Virginia Power is still named in the contract.

d. In addition to harm from NEPA violations by DOE¹², BREDL members in proximity to Catawba and McGuire NPPs and transportation routes will be threatened by the transportation, irradiation, and subsequent storage (and possibly transportation) of plutonium MOX fuel, for reasons cited in affidavits and repeated in-part here:

i. The use of MOX plutonium fuel in Duke NPPs unnecessarily and significantly increases the risk of a major nuclear accident that threatens to harm, and could harm health, well-being, quality-of-life, property, and lifestyle.

ii. The use of plutonium/MOX fuel in Duke NPPs could shorten the life of the reactors through accelerated aging of vital components and/or create greater difficulties in reactor operations that could result in increased "down time" for the reactor(s) and therefore undependable electrical supplies.

iii. A major nuclear accident during plutonium/MOX fuel operations at either Catawba or McGuire NPP's would drastically lower property values and cause immense social upheaval. In the case of a severe accident involving plutonium/MOX fuel--instead of the Low Enriched Uranium (LEU) fuel now in use at Duke Power nuclear reactors--will greatly increase the risk of developing cancer, chronic health problems, or other maladies resulting from plutonium aerosol contamination.

iv. The use of plutonium/MOX fuel in Duke Power nuclear reactors will result in the interim or even long-term storage of irradiated MOX fuel with substantially higher plutonium content than existing irradiated fuel. Both Catawba and McGuire will be de-facto plutonium storage sites for the Department of Energy. This will result in a social stigma that will affect psychological well-being, potentially lower property values, and potentially lead to additional nuclear developments.

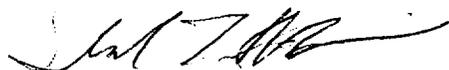
v. As with reactor operations, any accident involving irradiated plutonium/MOX fuel will significantly increase the risk--relative to LEU fuel--of developing adverse health and property impacts.

¹² The NRC has yet to announce its proposed scope for its EIS of the MFFF. If Reactor Operations are not part of the proposed scope, then this sentence should read "DOE and NRC".

e. Therefore, standing should be conferred to BREDL because of the interest of the organization and its members--excluding Donald Moniak and Janet Zeller-- in regard to the transportation to, and irradiation of, plutonium MOX fuel at Catawba and McGuire NPPs; due to the proximity of members, the stigma already attached to property because of the applicants contractual obligations with DOE. In addition, standing should be conferred to BREDL because of the interest of the organization and its members because of harm to members and organization by violations of NEPA by the DOE.

Thus ends this additional information for standing.

Sincerely,



Donald J. Moniak
Individual
and
Representative of Blue Ridge Environmental Defense League.

PO Box 3487
Aiken SC 29802
803-644-6953
803-644-7369 (FAX)
donmoniak@earthlink.net
<http://www.bredl.org>

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

Before Administrative Judges:
Thomas S. Moore, Chairman
Charles N. Kelber
Peter S. Lam

In the Matter of

DUKE COGEMA STONE & WEBSTER
(Savannah River Mixed Oxide Fuel
Fabrication Facility)

Docket No. 70-3098-ML

ASLBP No. 01-790-01-ML

July 30, 2001

Affidavit of Donald J. Moniak

Comes now Donald J. Moniak, ~~who being duly sworn, deposes and~~ states as follows:

1. I am signing this affidavit as an individual, in support of the Blue Ridge Environmental Defense League's (BREDL) Request For Hearing on the proposed Savannah River Site (SRS) Mixed Oxide Fuel Fabrication Facility (MFFF), and as representative of BREDL. I am presently a member of the Blue Ridge Environmental Defense League (BREDL) and have been a member since June 2000; and I have been a paid employee of BREDL since September 1, 2001. I hereby authorize BREDL to represent my interests in this proceeding, and if BREDL is granted equal or greater standing as a group, and will withdraw as an individual and allow BREDL to represent my interests.

2. I have property, financial, personal health and safety, and civic and moral interests in the construction of the proposed MFFF as identified in the May 17, 2001 filing to the NRC, the July 30, 2001 filing, and for the following additional and/or more detailed reasons:

a. I recreate in the following places in the Savannah River area :

i. Aiken State Park, 20 miles to the Northeast and directly downwind the majority of the time of the proposed MFFF site, where I canoe, fish, hike, gather berries, and/or relax on at least a monthly basis.

ii. Silver Bluff Sanctuary, including the Savannah Area adjacent to the sanctuary, owned by the Audubon Society, in Aiken County, 9-10 miles to the Southwest of the proposed MFFF, where I hike, swim, eat berries, and assist on a part-time work basis with forest inventory efforts, and visit on a weekly to biweekly basis.

iii. The Savannah River north of, and south of, U.S. Highway 301, where I canoe once or twice a year.

iv. Hitchcock Woods, 18 miles north of the proposed MFFF site, where I hike, study forest ecology, gather and eat wild berries and mushrooms, and/or swim at least three days a week.

b. I grow vegetables and fruit (peaches and plums) for consumption.

c. My ability to recreate in these areas, eat wild foods, and grow vegetables and fruit for consumption is threatened by accidents from fires, explosions, earthquakes, tornadoes, ice storms, and/or other natural phenomenon that harms the MFFF; as well as nuclear criticality accidents or plutonium dispersion accidents during transportation of plutonium MOX fuel.

d. I visit Savannah, Georgia; Tybee Island, Georgia, and/or Hilton Head, SC at least 6-8 times a year to recreate and/or conduct work-related business as a BREDL staffer. Since Hilton Head derives its drinking water from the Savannah River, my ability to recreate there would be impacted if the water source was contaminated by the MFFF. In all three cases, the contamination of surface waters would have a negative impact on my ability to enjoy these places.

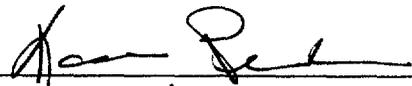
e. While en route to the Savannah River and/or Savannah, I frequently travel (6-8 times a year) on State Highway 125 which passes through SRS and also passes 3.5 miles of the proposed MFFF site. I also travel this road simply to drive through SRS and view the site about once every two months.

f. As an American citizen and taxpayer I have a financial and civic interest in a sound, honest federal government, as well as reasonable expectations that the Federal Government will not waste tax dollars on unnecessary and dangerous facilities when better alternatives exist. DOE's violations of the National Environmental Policy Act has already adversely affected me as a concerned and active participant in the decision making process.

g. As an American citizen and an inhabitant of Planet Earth, I have a civic, moral, and ethical--as well as financial and property-- interest in the reduction of separated plutonium stockpiles in order to lower the risk of a nuclear weapon of mass destruction being used.

h. In regard to the applicant's allegation that I moved to Aiken, SC in order to obtain standing, the cited statement was taken out of context, and should be disregarded by the NRC. I moved to Aiken SC in order to work on SRS and Southeast Environmental Issues. My statement from April 17, 2001 quoted by the applicant in its tardy May 29, 2001 response was itself a tongue-in-cheek comment made in response to several elected officials that only "outsiders" were opposed to the plutonium MOX fuel plant. If I had moved to this area solely to obtain standing in an NRC hearing, I would have purchased a residence on the boundary of SRS and as close to the MOX plant as possible, as this option was available. Finally, at the time of hiring I had no knowledge that I would be seeking standing in an NRC hearing, and in fact BREDL did not decide to seek standing until January 2001.

 July 30, 2001.
Signature Date

 7/30/01
Notary Witness Date

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

Before Administrative Judges:
Thomas S. Moore, Chairman
Charles N. Kelber
Peter S. Lam

In the Matter of

DUKE COGEMA STONE & WEBSTER
(Savannah River Mixed Oxide Fuel Fabrication
Facility)

Docket No. 70-3098-ML

ASLBP No. 01-790-01-ML

July 30, 2001

Affidavit of Dr. Frank Carl

Comes now Frank Carl, who being duly sworn, deposes and states as follows:

1. I am signing this affidavit in support of the Blue Ridge Environmental Defense League's (BREDL) Request For Hearing on the proposed Savannah River Site (SRS) Mixed Oxide Fuel Fabrication Facility (MFFF). I am presently a member of the Blue Ridge Environmental Defense League (BREDL) and have been a member since December 2000. I hereby authorize BREDL to represent my interests in this proceeding.

2. I have property, financial, personal health and safety, and civic and moral interests in the construction of the proposed MFFF for the following reasons:

a. I own property at the following locations in Augusta, GA, all of which are within 25 miles of the proposed facility, and my homeowner insurance policy does not cover damage from radiation accidents.

- i. 816 Mary Ave, Augusta, GA 30904, 24 miles from the MFFF
- ii. 1226 River Ridge Dr., Augusta, GA 30909, 25 miles from MFFF
- iii. 2040 Bridgewater Dr., Augusta, GA 30907, 27 miles from MFFF

b. I own property and reside in Charlotte, North Carolina, approximately six (6) miles from the Catawba Nuclear Power Plant (NPP) and twenty-three (23) miles from the McGuire NPP. Both NPPs have two nuclear reactors, are operated by Duke Power Corporation, and are scheduled to begin irradiating MOX/plutonium fuel fabricated at the SRS MFFF in the year

2007. Following irradiation of the fuel, it will remain in storage at the Duke Reactors for an undetermined length of time.

c. I have been an active participant in the democratic decision making process, in this case the National Environmental Policy Act. I fully understand that the proposed SRS MFFF is dependent upon Duke Energy Services and Duke Power Company meeting contractual obligations as defined in the contract between *Duke Cogema Stone & Webster* (DCS) and the *U.S. Department of Energy*. This contract requires that DCS provide Catawba and McGuire NPPs as MOX fuel irradiation facilities.

Because this decision was made outside of the National Environmental Policy Act, which requires the public have input into all major actions of the Federal Government, I have already been adversely affected due to the fact that the Department of Energy excluded all alternatives to the Catawba and McGuire NPPs from its NEPA analysis, and did not solicit public input within the Charlotte NC and Rock Hill SC area.

d. I will be impacted by the transportation of plutonium MOX fuel because I live within two (2) miles of a probable plutonium MOX fuel transportation route (U.S. Interstate Highway 77) plutonium fuel transportation route and seven (7) miles from another probable route (SC State Highway 274). In addition, my work, civic activities, and the fact that I own property in Augusta, GA requires me to frequently drive on the various routes (U.S. Interstate 77, U.S. Interstate 20, U.S. Highway 321, State Highway 121, and other routes) likely to be used to transport approximately 110 to 150 pounds of plutonium contained in tonnes of heavy metal MOX fuel assemblies en route to Duke NPPs. I will have no way of knowing if I am being exposed to potentially harmful and certainly higher than normal levels of ionizing radiation because the transportation vehicles will not be marked. I will have no way of knowing if I can avoid the routes because they will not be publicly acknowledged by the U.S. Department of Energy or Duke Cogema Stone and Webster.

e. I reside in the Charlotte, NC metropolitan area and am dependent upon the Charlotte metropolitan area for a variety of services such as transportation and medical services and enjoy numerous recreational and cultural activities in the Charlotte area such as: Hiking, biking, boating, baseball, plays, music, church, etc.

f. I commonly recreate in the following places in the Savannah River area: On the River, on the Augusta Canal, at the New Savannah Bluffs Park, at River Walk and in downtown Augusta.

g. As an American citizen and taxpayer I have a financial and civic interest in a sound, honest federal government, as well as reasonable expectations that the Federal Government will not waste tax dollars on unnecessary and dangerous facilities when better alternatives exist.

h. As an American citizen and an inhabitant of Planet Earth, I have a civic, moral, and ethical—as well as financial and property—interest in the reduction of separated plutonium stockpiles in order to lower the risk of a nuclear weapon of mass destruction being used.

i. I am a Duke Power Company customer and am completely/partly dependent upon Duke Power for electricity.

3. I will be affected by the construction of the proposed SRS MFFF for the following reasons:

a. The use of MOX plutonium fuel in Duke NPPs unnecessarily and significantly increases the risk of a major nuclear accident that would harm myself, my family, my property, and my lifestyle.

b. The use of plutonium/MOX fuel in Duke NPPs could shorten the life of the reactors through accelerated aging of vital components and/or create greater difficulties in reactor operations that could result in increased "down time" for the reactor(s) and therefore undependable energy supplies.

c. A major nuclear accident during plutonium/MOX fuel operations at either Catawba or McGuire NPP's would drastically lower property values and cause immense social upheaval. In the case of a severe accident involving plutonium/MOX fuel—instead of the Low Enriched Uranium (LEU) fuel now in use at Duke Power nuclear reactors—will greatly increase my risk of developing cancer, chronic health problems, or other maladies resulting from plutonium aerosol contamination.

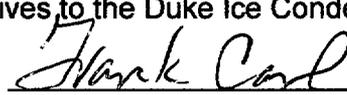
d. The use of plutonium/MOX fuel in Duke Power nuclear reactors will result in the interim or even long-term storage of irradiated MOX fuel with substantially higher plutonium content than existing irradiated fuel. Both Catawba and McGuire will be de-facto plutonium storage sites for the Department of Energy. This will result in a social stigma that will affect the psychological well being of myself and my family, could result in lower property values, and could lead to additional nuclear developments.

As with reactor operations, any accident involving irradiated plutonium/MOX fuel will significantly increase the risk—relative to LEU fuel—of developing adverse health and property impacts to me and my family.

e. Any accident in the Charlotte metropolitan area would have a negative impact on my ability to live a normal life, to obtain access to the high quality health care I am accustomed to, and would place me in a permanently contaminated landscape.

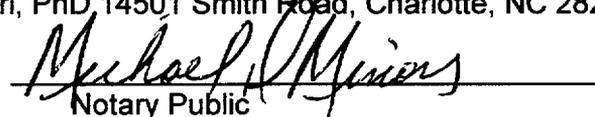
f. As a resident of the Charlotte/Rock Hill area, I have already suffered harm by having been denied my democratic right to fully participate in the National Environmental Policy Act (NEPA) process. DOE chose SRS for the MFFF in part based on "community support" and an environmental analysis of SRS in comparison to other sites. In contrast, the Duke NPPs were chosen as the plutonium/MOX irradiation facilities outside of the NEPA process, through a contract between DCS and DOE. The DOE failed to determine whether there was community support for making Duke NPPs more dangerous by using them as plutonium/MOX irradiators; and the DOE failed to analyze alternatives to the Duke Ice Condenser NPPs for this work.

Affirmed this 30th day of July, 2001 by:



Frank Carl, PhD 14501 Smith Road, Charlotte, NC 28273

Sworn to before me this 30th day of July, 2001


Notary Public

My Commission Expires March 14, 2004

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
DUKE COGEMA STONE & WEBSTER)
)
(Savannah River Mixed Oxide Fuel)
Fabrication Facility))

Docket No. 70-3098-ML
ASLBP No. 01-790-01-ML

July 30, 2001

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing

Blue Ridge Environmental Defense League & Donald J. Moniak Additional Filing on Standing have been served upon the following persons (page 2) by U.S. mail, first class and by electronic mail, with the exception of Ms. Ruth Thomas of Environmentalists Inc., who is being served only by next day mail.

In addition, copies of the Affidavits of Donald J. Moniak and Dr. Frank Carl¹, and Affidavit of Janet Zeller² have been served upon following persons by FAX and first class mail, with above cited exception; and Affidavits of Catherine Mitchell, Woody Mitchell, Phyliss St. Clair, Nina Layton, Susan Bulloch, Chuck Pietzman, Danielle Fortier, Geneva Johnson, Ed Johnson, Judy Drake, Thomas Drake, Betty Yahews, and Constance Kolpitcke³ have been served upon persons by first class certified mail.



Donald J. Moniak
Individual, and Representative, Blue Ridge Environmental Defense League
Dated at Aiken, South Carolina
this 30th day of July 2001

¹ Original notarized copy served by mail to Judge Moore, copies mailed to other parties by first class mail from Aiken, SC

² Original notarized copy served by mail to Judge Moore, copies mailed to other parties by first class mail from Glendale Springs, NC.

³ All affidavits sent from Charlotte, NC.

Secretary of the Commission*
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Attn: Rulemakings and Adjudications Staff
(E-mail: HEARINGDOCKET@nrc.gov)

Administrative Judge
Thomas S. Moore, Chairman
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
(E-mail: tsm2@nrc.gov)

Administrative Judge Charles N. Kelber
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
(E-mail: cnk@nrc.gov)

Administrative Judge Peter S. Lam
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
(E-mail: psl@nrc.gov)

John T. Hull, Esq.
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
(E-mail: jth@nrc.gov)

Dennis C. Dambly, Esq.
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
(E-mail: dcd@nrc.gov)

Chief Administrative Judge
G. Paul Bollwerk, III**
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
(E-mail: gpb@nrc.gov)

Donald J. Silverman, Esq.*
Marjan Mashhadi, Esq.*
Alex S. Polonsky, Esq.*
Morgan, Lewis & Bockius, LLP
1800 M Street, NW
Washington, DC 20036-5869
(E-mail: dsilverman@morganlewis.com;
mmashhadi@morganlewis.com;
apolonsky@morganlewis.com)

Glenn Carroll
Georgians Against Nuclear Energy
P.O. Box 8574
Atlanta, Georgia 30306
(E-mail: atom.girl@mindspring.com)

Ruth Thomas, President*
Environmentalists, Inc.
1339 Sinkler Road
Columbia, SC 29206
(E-mail: lminerd@hotmail.com)

Edna Foster*
120 Balsam Lane
Highlands, NC 28741
(Fax: 828-526-5314)

Donald J. Moniak*
Blue Ridge Environmental Defense League
P.O. Box 3487
Aiken, SC 29802
(E-mail: donmoniak@earthlink.net)