RAS 3542

DOCKETED
USNRC

November 5, 2001 (8:16AM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of	)	October 22, 2001
DUKE COGEMA STONE & WEBSTER	)	Docket No. 070-03098-ML
(Savannah River Mixed Oxide Fuel Fabrication Facility)	)	ASLBP No. 01-790-01-ML

Duke Cogema Stone & Webster's Response to "Petition by Georgians Against Nuclear Energy and Nuclear Control Institute to Suspend Construction Authorization Proceeding for Proposed Plutonium Fuel (MOX) Fabrication Facility"

Duke Cogema Stone & Webster ("DCS") hereby files its Response to the October 10, 2001 "Petition by Georgians Against Nuclear Energy and Nuclear Control Institute to Suspend Construction Authorization Proceeding for Proposed Plutonium Fuel (MOX) Fabrication Facility" ("Petition").[1] For the reasons discussed below, the Petition should be denied.

I. INTRODUCTION AND PROCEDURAL HISTORY

DCS has submitted a Construction Authorization Request ("CAR") to the Nuclear Regulatory Commission ("NRC") for a proposed Mixed Oxide Fuel Fabrication Facility ("MOX Facility") to be located on the Department of Energy's ("DOE") Savannah River Site ("SRS") in South Carolina.[2] On April 18, 2001, the NRC published in the Federal Register a "Notice of Acceptance for Docketing of the Application, and Notice of

---

[1] Although the Petition is dated October 10, 2001, DCS did not receive an e-mail copy until October 12, 2001.

Template = SECY-021

SECY-02

Opportunity for a Hearing, on an Application for Authority to Construct a Mixed Oxide Fuel Fabrication Facility" ("Hearing Notice").[3] Georgians Against Nuclear Energy ("GANE") requested a hearing before the NRC on the MOX Facility CAR on May 17, 2001, and filed proposed contentions on August 14, 2001.

On August 13, 2001, GANE filed a motion alleging various procedural concerns with the NRC review and hearing process, and requested that the Atomic Safety and Licensing Board ("Board") dismiss the licensing proceeding or, in the alternative, hold it in abeyance pending resolution of those concerns ("Motion to Dismiss"). The Board conducted a prehearing conference on September 21, 2001 to hear oral argument on: (1) the legal standing and admissibility of contentions of the various individuals and organizations requesting a hearing[4]; and (2) GANE's Motion to Dismiss. A decision by the Board on these issues is expected in the next few weeks.

GANE, now in conjunction with the Nuclear Control Institute ("NCI") ("Petitioners"), has submitted this Petition asking the Commission to suspend the MOX Facility CAR proceeding based on three claims: (1) current NRC regulations regarding the design and operation of the MOX Facility are "inadequate to protect against a terrorist threat"[5]; (2) "the Commission's longstanding refusal to consider the consequences of terrorist attacks in its Environmental Impact Statements for nuclear facilities

---

2 Letter from Robert H. Idhe to William F. Kane (Feb. 28, 2001).

3 66 *Fed. Reg.* 19,994 (2001).

4 In addition to GANE, two other organizations (the Blue Ridge Environmental Defense League and Environmentalists, Inc.) and two individuals (Donald J. Moniak and Edna Foster) have requested a hearing on the MOX Facility CAR.

5 Petition at 7.

[is]...untenable"[6]; and (3) "the adequacy of safeguards for the proposed MOX Facility is severely hampered by the NRC Staff's illegal and compartmentalized approach to the licensing review."[7] Each of these three assertions is addressed below, in Sections II - IV, respectively.

Before addressing these assertions, however, it should be noted that the precise nature of Petitioners' request is not at all clear. Petitioners alternately challenge the adequacy of NRC regulations, Commission policies implementing the National Environmental Policy Act ("NEPA"), aspects of the DCS CAR and Environmental Report ("ER"), the design of the MOX Facility, and the licensing procedure being used to review the CAR. Although GANE has petitioned for intervention in the MOX Facility hearing on the CAR, it has not yet been admitted as a party. NCI has not sought to intervene in this proceeding. Therefore, neither is currently a party to the MOX Facility proceeding. The Commission typically treats such non-party requests as petitions pursuant to 10 CFR § 2.206. Accordingly, DCS recommends that the Commission either consider the Petition itself, pursuant to section 2.206, or refer the Petition to the Director of Nuclear Material Safety and Safeguards for disposition under section 2.206.

---

6 *Id.* at 10.

7 *Id.* at 7.

II. ALLEGED INADEQUACY OF THE COMMISSION'S REGULATIONS DOES NOT JUSTIFY SUSPENDING THE PROCEEDING

A. The Commission Should Not Exercise Its Inherent Supervisory Power To Suspend the MOX Facility Proceeding

Petitioners base their request to suspend the MOX Facility CAR proceeding, in part, on the alleged inadequacy of the Commission's regulations "to protect against a terrorist threat."[8] Petitioners invoke the supervisory authority of the Commission "to suspend licensing proceedings in which it is apparent that the applicable standards will be inadequate to ensure adequate protection of public health and safety."[9]

The Commission has a clear statutory duty to "promote the common defense and security [and] to protect health [and] to minimize danger to life or property."[10] There is, however, no health, safety, or security concern related to the MOX Facility that would warrant a suspension of the CAR proceeding at this time.

The MOX Facility licensing process is in its earliest stages. At present, DCS has simply applied for authority to begin construction of the facility. It has not yet even filed an application for a license to possess and use special nuclear material ("SNM"). No construction activities have commenced on the SRS, and none may commence until the NRC Staff: (1) finds that the design bases of the principal structures, systems and components ("SSC") and the Quality Assurance Program provide reasonable assurance

---

8 *Id.*

9 *Id.* at 6. Petitioners suggest that "the Commission is...the only entity that has the authority to suspend the pending proceeding for the approval of construction of the proposed facility." Petition at 7 (emphasis supplied). This assertion is inconsistent with GANE's Motion to Dismiss, in which GANE requests that the Board hold the pending proceeding in abeyance.

10 42 USC § 2201(b).

of protection against natural phenomena and the consequences of potential accidents, and documents its findings in a Safety Evaluation Report ("SER"); and (2) determines, after weighing the appropriate environmental and other costs and benefits under NEPA, that the action called for is issuance of the proposed license, and documents its findings in an Environmental Impact Statement ("EIS") and Record of Decision ("ROD").

The NRC Staff's current schedule calls for issuance of the SER and EIS in October, 2002. Accordingly, initial construction activities could not even begin until late next year. Under these circumstances, suspension of the CAR proceeding would be an extraordinary and unwarranted measure. The current Staff review schedule already provides ample time and opportunity for resolution of any concerns that the NRC may have with respect to the adequacy of its existing security regulations. This is particularly the case since security and safeguards issues are not addressed as part of the review of the CAR, but instead will be addressed as part of the possession and use license application – which DCS does not intend to even file until July of next year.[11]

To DCS' knowledge, the Commission has not suspended any ongoing NRC proceeding as a result of the events of September 11, 2001. Nor, for that matter, has the Commission suspended operations at any reactor or fuel cycle facility. Petitioners have

---

[11] *See* 10 CFR §§ 70.22 and 70.23. During this first phase of a two-step licensing process, the NRC will consider only whether the design bases of the MOX Facility's principal SSCs, together with its QA program, provide reasonable assurance of protection against natural phenomena and the consequences of potential accidents. The second phase of NRC's review will not begin until DCS submits the balance of the information required by 10 CFR § 70.23 for its license to possess and use SNM at the MOX Facility.

failed to demonstrate any exigent circumstances to justify suspension of a construction authorization proceeding in its earliest stages.

Petitioners are requesting, in effect, a stay of the MOX Facility CAR proceeding. Such a stay is not granted absent, among other things, a showing of irreparable injury and that the stay is in the public interest.[12] As discussed above, there is no such irreparable injury in this case. As for the public interest, the Commission itself has previously made its position clear:

> The Commission believes that this proceeding should be completed in a timely and efficient manner because the Applicant is seeking authorization to build a facility that would implement a significant objective of national security and policy: reducing the inventory of plutonium in the nation's nuclear weapons' inventory in accordance with the U.S. – Russian Federal Plutonium Disposition Agreement.[13]

Suspension of the MOX Facility CAR proceeding would frustrate these important national security interests.[14]

---

[12] *See* 10 CFR § 2.788 (establishing the standards for granting a stay of a presiding officer's decision). This standard was applied to a request for a stay of an ongoing proceeding in *Allied General Nuclear Services* (Barnwell Nuclear Fuel Plant Separations Facility), ALAB-296, 2 NRC 671 (1975); *see also Consolidated Edison Company of New York, et al* (Indian Point Nuclear Generating Units 1 and 2), CLI-01-08, 53 NRC 225, 228 (2001) (denying motion to suspend proceeding regarding Unit 1 and 2 license transfer application until termination of Unit 3 application proceeding, noting: "the Commission historically has been reluctant to suspend pending applications to await developments in other proceedings").

[13] *Duke, Cogema, Stone & Webster*, (Savannah River Mixed Oxide Fuel Fabrication Facility) CLI-01-13, 53 NRC 478, 484 (2001).

[14] With respect to the other two tests for the granting of a stay, Petitioners have made no effort to show a likelihood of prevailing on the merits of any of their claims, and the suspension they seek clearly would jeopardize DCS' ability to meet its contractual obligations to DOE.

B. The NRC's Current Security Regulations Provide the Requisite Reasonable Assurance

Petitioners refer to "aspects of the current regulations that clearly are inadequate and must be re-evaluated."[15] Specifically, they claim that: (1) "[c]urrently, the NRC has no regulatory requirement for protection of nuclear facilities against a direct assault by a fully fueled jet aircraft"; (2) the assumptions behind "NRC regulations for protection against sabotage and theft of special nuclear material...need[] to be reconsidered"[16]; and (3) "[c]urrently, Part 70 regulations contain no provision for offsite emergency preparedness."[17]

However, the Atomic Energy Act ("AEA"), and adjudicatory interpretations of that statute, do not require analyses of the effects of acts of terrorism by enemies of the United States. Both the NRC and reviewing courts have consciously considered – and rejected – requiring licensees to design against attacks by enemies of the United States – including suicide attacks by large airplanes. The NRC consistently has held that the responsibility for defense against such acts of war is properly that of the United States government. The events of September 11 do not alter the rationale behind these holdings.

For example, in *Siegel v. Atomic Energy Commission* (regarding the 1968 licensing proceeding involving Florida Power and Light's Turkey Point nuclear reactors),

---

15 Petition at 8. While alleging that the NRC *rules* are inadequate in this regard, Petitioners also allege that the MOX Facility *design* is inadequate. *See id.* ("[T]he proposed MOX Facility was not designed to withstand the accidental crash of an aircraft of any size"). This claim represents a late-filed contention challenging the design of the MOX Facility, and should have been filed with the Board in the first instance, with proper justification for its late filing.

16 Petition at 9.

17 *Id.* at 10.

an intervenor alleged that the NRC had improperly failed to consider "international attempts to harm the reactors, such as a bombing attack against them from Cuba."[18] On appeal, the Court of Appeals for the District of Columbia upheld the AEC's rejection of this contention, noting:

> (1) The impracticability, particularly in the case of civilian industry, of anticipating accurately the nature of enemy attack and of designing defenses against it,
> (2) the settled tradition of looking to the military to deal with this problem and the consequent sharing of its burdens by all citizens, and
> (3) the unavailability, through security classification and otherwise, of relevant information and the undesirability of ventilating what is available in public proceedings.[19]

The Court's rationale in *Siegel* for not imposing an obligation on licensees to protect against terrorist threats remains sound today.

Similarly, in the *Shearon Harris* licensing hearing,[20] an intervenor asserted that the safety analysis was deficient because it did not consider the consequences of terrorists commandeering a very large airplane and diving it into the containment.[21] The Licensing Board held that licensees are not required to design against such things as artillery bombardments, missiles with nuclear warheads, or suicide dives by large airplanes. The

---

18 *Siegel v. AEC*, 400 F.2d 778, 780 (1968).

19 *Id.* at 782.

20 Both *Siegel* and *Shearon Harris* involved nuclear reactor licensing proceedings. However the rationale invoked in those cases applies with equal force to other nuclear facilities such as the MOX Facility, especially since *Siegel* occurred before promulgation of 10 CFR § 50.13 (which specifically states that Part 50 licensees need not provide for design features or other measures for the specific purpose of protecting against attacks and destructive acts by enemies of the United States).

21 *Carolina Power and Light* (Shearon Harris Nuclear Power Plants, Units 1 and 2) LBP-82-119A, 16 NRC 2069 (1982).

Board held that reactors could not be effectively protected against such threats or attacks without turning them into virtually impregnable fortresses at much higher costs.

Petitioners also claim that current NRC regulations are inadequate because they "do not . . . protect[] against attack by a large group of individuals," and do not provide for "offsite emergency preparedness."[22] Even if true, neither of these claims would justify suspension of this proceeding. The Commission previously rejected a rulemaking request by NCI in 1991 to account for attack on nuclear facilities by large groups of individuals.[23] The rationale for that rejection—that the NRC had identified no change or trend in group size—remains valid.[24] Regarding emergency preparedness, Petitioners do not identify what specific measures are needed to supplement those already required under NRC regulations. Regardless, the MOX Facility will be located almost six miles inside SRS, and its emergency plan will be coordinated with that of SRS. In any event, neither security–related issues, nor the adequacy of emergency planning provisions, are even appropriate for consideration at this stage of the proceeding under the Commission's regulations.[25] These issues will be addressed as part of the possession and use license application – which DCS does not intend to even file until July of next year.

The NRC has long relied, and must continue to rely, upon the national defense system to provide reasonable assurance of safety against terrorist attacks.[26] Nevertheless,

---

22 Petition at 7, 10.

23 *In the Matter of Nuclear Control Institute*, DPRM-91-2, 33 NRC 587 (1991).

24 *Id.* at 598.

25 *See* CFR §§ 70.22 and 70.23.

26 *Siegel v. AEC*, 400 F.2d at 783.

in response to the terrorist attacks of September 11, the Commission has apparently initiated a review of its existing security regulations, including those pertaining to the design basis threat. This ongoing review is the appropriate vehicle for considering Petitioner's security-related concerns.

Accordingly, Petitioners' concerns regarding current NRC regulations do not provide a basis for suspension of the MOX Facility CAR proceeding.

III. ALLEGED INADEQUACY OF THE COMMISSION'S NEPA POLICIES DOES NOT JUSTIFY SUSPENDING THE PROCEEDING

Petitioners also ask the Commission to suspend the proceeding based upon the "untenable" nature of its longstanding policy of viewing acts of terrorism as outside the scope of NEPA. Petitioners' request provides no basis for suspending this proceeding.

The Petition does not explain why the proceeding must be suspended even if the Commission chose to re-evaluate its NEPA policies. As stated previously, the proceeding is in its early stages. The Draft EIS is not expected until February 2002.[27] Moreover, the Hearing Notice provides that GANE—assuming it is admitted as a party—can file contentions on the EIS when it is issued. Under these circumstances, the extraordinary relief of suspension of the proceeding is not justified.

The Commission should also be aware that the Petition effectively circumvents the ongoing proceeding before the Board. GANE admits that it has a proposed contention before the Board on this very issue.[28] The Board has yet to rule on the

---

[27] *See* Letter from T. Essig, dated August 9, 2001, distributing *Scoping Summary Report, Mixed Oxide Fuel Fabrication Facility, Savannah River Site* (August 2001).

[28] *See* Petition at 11; *see also GANE Contentions Opposing a License for Duke Cogema Stone & Webster to Construct A Plutonium Fuel Factory at Savannah*

admissibility of this contention, but is expected to do so in the next few weeks. By seeking Commission review before the Board has ruled, Petitioners are prematurely seeking Commission intervention.

Finally, the NRC's current NEPA policy is supported by the rule of reason.[29] By their very nature, acts of terrorism are intentionally performed in a manner that is not predictable. A review under NEPA need not include all theoretically possible environmental effects arising out of a proposed action.[30] Rather, it may be limited to those effects which are shown to have some likelihood of occurring at a particular site.[31]

Accordingly, an EIS need not discuss a scenario that is remote, even if it may have significant consequences.[32] Rather, it need only include a reasonably thorough discussion of the significant aspects of the probable environmental consequences.[33]

River Site (Contention #12) (August 13, 2001) ("malevolent acts must be analyzed as a foreseeable environmental impact under NEPA. Lack of analysis of the malevolent acts scenario leads to failure to design safeguards and failure to plan for emergency response and mitigation measures").

29 *See e.g., Vermont Yankee Nuclear Power Corp.* (Vermont Yankee Nuclear Station), CLI-90-7, 32 NRC 129, 131 (1990).

30 *See e.g., San Luis Obispo Mothers for Peace v. NRC*, 751 F.2d 1287, 1300-01 (D.C. Cir. 1984), *rehearing en banc granted on other grounds*, 760 F.2d 1320 (D.C. Cir. 1985); *Natural Resources Defense Council, Inc. v. Morton*, 458 F.2d 827, 834, 837 (D.C. Cir. 1972), *Public Service Co. of Oklahoma* (Black Fox Station, Units 1 and 2), ALAB-573, 10 NRC 775, 779 (1979); *Long Island Lighting Co.* (Shoreham Nuclear Power Station), ALAB-156, 6 AEC 831, 836 (1973).

31 *See Vermont Yankee*, 32 NRC at 131 (reiterating that "low probability is the key to applying NEPA's rule-of-reason test to contentions that allege a specific accident scenario presents a significant environmental impact that must be evaluated").

32 Although an agency may choose to analyze such remote consequences, NEPA does not require it. *See Carolina Power & Light Co.* (Shearon Harris Nuclear Power Plant), CLI-01-11, 53 NRC 370 (2001) (relying on *Vermont Yankee*, 32 NRC 129).

Guided by these principles, the Commission has traditionally viewed acts of terrorism as not reasonably foreseeable and thus has excluded them from environmental consideration.[34]

Petitioners are essentially requesting that the Commission consider the environmental impact of a worst case scenario—a suicidal attack by a "fully fueled jet liner." However, the rule of reason does not require inclusion of a worst case analysis in an EIS. In fact, Council on Environmental Quality ("CEQ") regulations at one time required the performance of a "worst case analysis" in order to consider the environmental risk of high consequence, low probability events.[35] However, the NRC did not adopt this provision in 10 CFR Part 51, and the CEQ later repealed the regulation because it was inconsistent with the "rule of reason."[36]

The threshold inquiry under NEPA is narrower than that suggested by Petitioners. The inquiry should not be whether a suicide airplane attack anywhere in the United States is possible—the events of September 11 prove that it is possible. Rather, the inquiry should be whether it is reasonably foreseeable that such an attack could occur at the MOX Facility. The remote possibility has always existed that such an incident could

---

33 *Vermont Yankee*, 32 NRC at 131.

34 *See e.g., Scoping Summary Report, Mixed Oxide Fuel Fabrication Facility, Savannah River Site* at 23 (August 2001); *see generally, Scientists' Institute for Public Information, Inc. v. AEC,* 481 F.2d 1079, 1092 (D.C. Cir. 1973).

35 40 CFR § 1502.22(b) (1979).

36 *See* Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions and Related Conforming Amendments, 49 *Fed. Reg.* 9352 (1984); *Final Amendment Revoking Worst Case Analysis Regulation*, 50 *Fed. Reg.* 15846 (1986), *codified at* 40 CFR § 1502.22. For a critique of the former regulation, *see* Simpson, *Worst Case Analysis: A Study in Reckless, Wasteful Conjecture*, 25 Land & Water L. Rev. 99 (1990).

occur at any chemical, nuclear, or high-profile government facility. However, the likelihood of such an incident occurring at a particular facility continues to be highly improbable and, therefore, beyond NEPA's mandate.[37]

Accordingly, Petitioners' requested change to NRC NEPA policies does not justify suspending the proceeding.

IV. ALLEGED PROCEDURAL DEFICIENCIES IN THE STAFF'S LICENSING REVIEW DO NOT JUSTIFY SUSPENDING THE PROCEEDING

Finally, Petitioners base their request to suspend the MOX Facility CAR proceeding on their belief that the NRC Staff has adopted an "illegal and compartmentalized approach to the licensing review."[38] Here again, Petitioners are attempting to obtain Commission review of a matter that is presently pending before the Board.

GANE's Motion to Dismiss specifically challenged the Staff's bifurcated licensing review process. That Motion is still pending with the Board, and the Board intends to address the Motion in its upcoming decision on standing and proposed contentions. Accordingly, the Commission's consideration of the issues raised in GANE's Motion to Dismiss would be premature.

---

[37] Indeed, the impacts of terrorist acts have been found to be remote and speculative even where such acts were assumed to have occurred at the nuclear facility that was the subject of licensing action. For example, in *Garrett v. NRC*, plaintiffs sought a preliminary injunction to prevent "activation" of the Trojan Nuclear Plant. *See* 8 Envtl. L.Rep. 20510 (D. Ore. 1978). Plaintiffs argued that an EIS was needed to explore, among other things, the environmental impacts of terrorist activities on the extended storage of spent fuel. *See id.* at 20512. This environmental contention was found to be "too remote and speculative to warrant relief under the NEPA," despite evidence that a bomb had once been planted at the facility. *Id.* at 20512 and n.8.

In any event, Petitioners' concerns regarding the Staff's review process are clearly misplaced. That review process is consistent with the applicable NRC regulations and has been specifically endorsed by the Commission.[39]

Section III.C. of the Petition regurgitates two arguments from GANE's Motion to Dismiss. First, Petitioners allege that "the NRC Staff misinterpreted the regulations [in Part 70] ... to permit DCS to file separate applications for construction approval and licensing of operation."[40] Petitioners allege that this bifurcated approval process—which was endorsed by the Commission's Hearing Notice[41]—somehow adversely affects the ability of the MOX Facility design to "protect against sabotage and theft of special nuclear material."[42]

Second, Petitioners challenge the NRC Staff's decision to delay determinations about safeguards or physical security measures to the second stage of the proceeding, in which DCS will apply for a license to possess and use SNM.[43] Petitioners argue that this will "undermine [the Staff's] ability to evaluate the adequacy of the design of the physical plant" and will, in turn, affect DCS' ability to protect the MOX Facility "against plutonium theft or sabotage."[44]

---

38 Petition at 7.

39 *See* 10 CFR § 70.23; *Duke, Cogema, Stone & Webster*, CLI-01-13, 53 NRC 478.

40 Petition at 11.

41 66 *Fed. Reg.* 19,994.

42 Petition at 12.

43 *Id.*

44 *Id.*

These two arguments are not supported by the AEA, NRC regulations, or the bifurcated licensing process for the MOX Facility established by the Commission. No provision of the AEA prohibits the two-step licensing process being applied in this proceeding . Accordingly, the NRC was free to establish a two-step process and it did so as evidenced by, for example, 10 CFR § 70.23(b), which permits approval of construction after a finding that the design bases of principal SSCs provide reasonable assurance of protection from natural phenomena and the consequences of potential accidents.

Moreover, the Commission expressly created a two-step licensing process for the MOX Facility when it announced the opportunity to request a hearing on DCS' CAR. That announcement provided first for the opportunity for a hearing on the CAR and ER, followed by the opportunity for a second hearing on the application to possess and use SNM. The subsequent Commission Order (referring the intervention petitions to the Atomic Safety and Licensing Board Panel) reiterated the two-step process, and contained a "schedule of milestones" that clearly indicated that the first stage of the proceeding is limited to issues related to construction.[45] These facts demonstrate that the NRC Staff acted properly in docketing the CAR.

Accordingly, Petitioners' claim that the bifurcated review process is improper does not justify suspending the proceeding.

---

45 *Duke, Cogema, Stone & Webster*, CLI-01-13, 53 NRC 478.

V. CONCLUSION

Petitioners have failed to provide any basis for suspending the MOX Facility CAR proceeding. To suspend this proceeding at this early stage would be inconsistent with both the Commission's ongoing generic response to the September 11 events, and its stated policy of completing the MOX proceeding in a timely and efficient manner in the interest of national security policy. For the foregoing reasons, Duke Cogema Stone & Webster requests that the "Petition by Georgians Against Nuclear Energy and Nuclear Control Institute to Suspend Construction Authorization Proceeding for Proposed Plutonium Fuel (MOX) Fabrication Facility" be denied.

Respectfully submitted,

Donald J. Silverman
Alex S. Polonsky
Marjan Mashhadi
Morgan, Lewis & Bockius, LLP
1800 M Street, NW
Washington, D.C. 20036
202-467-7502

Attorneys for Duke Cogema Stone & Webster

Dated October 22, 2001

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of	)	
DUKE COGEMA STONE & WEBSTER	)	Docket No. 070-03098-ML
(Savannah River Mixed Oxide Fuel Fabrication Facility)	)	ASLBP No. 01-790-01-ML

CERTIFICATE OF SERVICE

I hereby certify that copies of "Duke Cogema Stone & Webster's Response to 'Petition by Georgians Against Nuclear Energy and Nuclear Control Institute to Suspend Construction Authorization Proceeding for Proposed Plutonium Fuel (MOX) Fabrication Facility'" were served this day upon the persons listed below, by both e-mail and United States Postal Service, first class mail, with the exception of Environmentalists, Inc, which was served by first class mail.

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

Richard A. Meserve, Chairman
OCM/RAM
U.S. Nuclear Regulatory Commission
One White Flint North, Rm. 17-D1
Mail Stop 0-16 C1
11555 Rockville Pike
Rockville, MD 20852-2738
(E-mail: RAM@nrc.gov)

Edward McGaffigan, Jr., Commissioner
OCM/EXM
U.S. Nuclear Regulatory Commission
One White Flint North, Rm. 18-G1
Mail Stop 0-16 C1
11555 Rockville Pike
Rockville, MD 20852-2738
(E-mail: EXM@nrc.gov)

Greta J. Dicus, Commissioner
OCM/GJD
U.S. Nuclear Regulatory Commission
One White Flint North, Rm. 18-H1
Mail Stop 0-16 C1
11555 Rockville Pike
Rockville, MD 20852-2738
(E-mail: GJD@nrc.gov)

Nils J. Diaz, Commissioner
OCM/NJD
U.S. Nuclear Regulatory Commission
One White Flint North, Rm. 18-E1
Mail Stop 0-16 C1
11555 Rockville Pike
Rockville, MD 20852-2738
(E-mail: NJD@nrc.gov)

Jeffrey S. Merrifield, Commissioner
OCM-JSM
U.S. Nuclear Regulatory Commission
One White Flint North, Rm. 18-F1
Mail Stop 0-16 C1
11555 Rockville Pike
Rockville, MD 20852-2738
(E-mail: JMER@nrc.gov)

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

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

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
(E-mail: hrb@nrc.gov)

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

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

Edna Foster
120 Balsam Lane
Highlands, N.C. 28741
(E-mail: emfoster@gte.net)

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

* Original and 2 copies

Marjan Mashhadi

October 22, 2001
Date