

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	Docket No. 70-3098
DUKE COGEMA STONE & WEBSTER	)	
	)	
Mixed Oxide Fuel Fabrication Facility	)	
(Construction Authorization Request)	)	

NRC STAFF'S MOTION FOR CLARIFICATION

In its "Memorandum and Order" (unpublished) dated July 17, 2001 (July 17 Order), the Board stated that "[i]f necessary, the Staff shall file the hearing file for the proceeding" on November 16, 2001. July 17 Order, at 8. Since the Board has not yet decided which, if any, of the hearing petitioners (Georgians Against Nuclear Energy, Donald J. Moniak, Blue Ridge Environmental Defense League, and Environmentalists, Inc.) will be made parties to this proceeding, it is not clear whether -- under the above-quoted terms of the July 17 Order -- it will be "necessary" for the Staff to submit the hearing file on November 16. Pursuant to 10 C.F.R. § 2.1231(a), a hearing petitioner must be made a "party to the proceeding" before being entitled to receive the hearing file.

In anticipation that one or more of the hearing petitioners will be made parties, the Staff has prepared an index of the hearing file, and has assembled the documents listed therein. The Staff plans to have these documents copied once it is determined how many sets of documents will be required. The Staff will therefore be in a position to distribute copies of the hearing file within ten days of the Board's decision on the pending requests for hearing, in accordance with the Commission's earlier guidance. See CLI-01-13, 53 NRC 478, 485 (2001).

The Staff therefore requests the Board to clarify that it will only be necessary to distribute copies of the hearing file to those petitioners whose hearing requests are granted, and that such distribution should be made within ten days of the Board's decision on the pending hearing requests.

Respectfully submitted,

***/RA/***

John T. Hull  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 14<sup>th</sup> day of November, 2001

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "NRC STAFF'S MOTION FOR CLARIFICATION" have been served upon the following persons this 14<sup>th</sup> day of November, 2001, by electronic mail, and by U.S. mail, first class (or as indicated by an asterisk (\*) through the Nuclear Regulatory Commission's internal distribution); or as indicated by double asterisks (\*\*), solely by express overnight mail.

Administrative Judge \*  
Thomas S. Moore, Chairman  
U. S. Nuclear Regulatory Commission  
Atomic Safety and Licensing Board Panel  
Mail Stop: T-3F23  
Washington, D.C. 20555

Administrative Judge \*  
Charles N. Kelber  
U. S. Nuclear Regulatory Commission  
Atomic Safety and Licensing Board Panel  
Mail Stop: T-3F23  
Washington, D.C. 20555

Administrative Judge \*  
Peter S. Lam  
U.S. Nuclear Regulatory Commission  
Atomic Safety and Licensing Board Panel  
Mail Stop: T-3F23  
Washington, D.C. 20555

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

Office of Commission Appellate Adjudication\*  
U.S. Nuclear Regulatory Commission  
Mail Stop: O-16C1  
Washington, DC 20555-0001  
(E-mail: [hrb@nrc.gov](mailto:hrb@nrc.gov))

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

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)

Ruth Thomas, President \*\*  
Environmentalists, Inc.  
1339 Sinkler Road  
Columbia, SC 29206

Edna Foster \*\*  
120 Balsam Lane  
Highlands, NC 28741

Office of the Secretary \*  
ATTN: Rulemakings and Adjudications Staff  
U.S. Nuclear Regulatory Commission  
Mail Stop: O-15D21  
Washington, D.C. 20555

**/RA/**

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John T. Hull  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 14<sup>th</sup> day of November, 2001