

November 21, 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) letter (DCS-NRC-000059) dated August 31, 2001, you responded to our request for additional information on your application for construction of a mixed oxide (MOX) fuel fabrication facility. In the response, you submitted an affidavit, dated August 31, 2001, in which you requested that documents be withheld from public disclosure pursuant to 10 CFR 2.790. The affidavit related to project cost information and financial statements for the year ending December 31, 2000. Your responses also contained nonproprietary versions of these documents, which have been placed in the U.S. Nuclear Regulatory Commission (NRC) public document room and added to the Agency-wide Documents Access and Management Systems Publicly Available Records System (ADAMS PARS Library).

In your affidavit, 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, its partners, and /or affiliates.

We have reviewed the DCS responses to our requests of additional information 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.

R. Ihde

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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 Porter, SC Dept of HEC  
Mr. John T. Conway, DNFSB  
Mr. Donald Moniak, BREDL  
Ms. Ruth Thomas, Environmentalists, Inc.  
Ms. Glenn Carroll, GANE

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Sincerely,  
**/RA/**  
Michael F. Weber, Director  
Division of Fuel Cycle Safety  
and Safeguards  
Office of Nuclear Material Safety  
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OFC	SPB*	SPB*	OGC*	SPB*	SPB*	FCSS
<b>NAME</b>	TJohnson	AHoadley	RBaum	JGiitter	ELeeds	MWeber
<b>DATE</b>	11 / 6 /01	11/6 /01	11/16/01	11/19/01	11/20/01	11/ 21/01

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