

November 1, 2001

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

DOCKETED  
USNRC

**BEFORE THE COMMISSION**

December 3, 2001 (12:47PM)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

\_\_\_\_\_  
In the Matter of )

DUKE COGEMA STONE & WEBSTER )

(Savannah River Mixed Oxide Fuel  
Fabrication Facility) )  
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Docket No. 0-70-03098-ML

ASLBP No. 01-790-01-ML

**GEORGIANS AGAINST NUCLEAR ENERGY  
AND NUCLEAR CONTROL INSTITUTE'S REPLY TO RESPONSES OF  
NRC STAFF AND DUKE COGEMA STONE & WEBSTER TO PETITION TO  
SUSPEND CONSTRUCTION AUTHORIZATION PROCEEDING  
FOR PROPOSED PLUTONIUM FUEL (MOX) FABRICATION FACILITY**

Georgians Against Nuclear Energy (GANE) and Nuclear Control Institute (NCI)  
respectfully reply to the responses filed by Duke Cogema Stone & Webster and the NRC  
Staff to our Petition to Suspend Construction Authorization Proceeding for Plutonium  
Fuel (MOX) Fabrication Facility submitted to this Commission on October 10, 2001.

Both Duke Cogema Stone & Webster and the NRC Staff appear to have  
misunderstood references to GANE's Motion to Dismiss filed August 13, 2001 which  
were made within the Petition to Suspend (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" at 14; NRC Staff's Response to Motion to Suspend Proceeding at 10). The  
Motion to Dismiss was summarized in the Petition to Suspend to ensure the

Commission's awareness that such a Motion is pending before the Atomic Safety and Licensing Board on this docket and to point out for the Commission serious deficiencies in the MOX Construction Authorization Request (CAR) .

DCS's and NRC Staff's lengthy responses do not deal with the simple point of GANE and NCI's Petition to Suspend that, in light of the unprecedented use on September 11 of commercial jets as weapons of destruction and the Commission's subsequent initiation of a comprehensive review of nuclear security regulations, it is logical to suspend proceedings to authorize construction of the MOX facility so that that this extremely security-sensitive project can later be reviewed in the context of regulations appropriately strengthened to address this new threat.

DCS and NRC argue that since it is early in the proceeding they should be trusted to figure out how to make the facility secure before it is actually built or, if it is already built, then before it is operated. It is fortunate that the MOX facility licensing proceeding is in an early stage, so that the NRC has the option to take a hard look at whether the facility as designed will be able to resist credible external threats comparable in severity to the September 11 attacks before proceeding with the staff's general review of the CAR. To persist in the proceeding, expending staff resources on the review of a design that ultimately may be proven obsolete and have to be completely overhauled, is a wasteful and pointless exercise.

The construction authorization request for the MOX facility is not required to address the issue of whether the facility as designed would be capable of withstanding the impact of an attack by a fully fueled commercial jetliner. We ask that the MOX

proceeding be suspended until such time as the Commission decides whether public health and safety is best served by strengthening physical protection regulations to ensure that new nuclear facilities, such as the one to process plutonium into MOX, will be designed to be resistant to the vastly enlarged spectrum of credible threats made manifest by the September 11 attacks.

Respectfully submitted,

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Dated November 1, 2001  
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CERTIFICATE OF SERVICE  
by Georgians Against Nuclear Energy  
(Docket # 70-3098, ASLBP # 01-790-01-ML)

I hereby certify that copies of GANE's Reply to DCS & NRC Responses to Petition to Suspend Construction Authorization Proceeding for Proposed Plutonium Fuel (MOX) Fabrication Facility were sent to the following by e-mail with paper copies served via U.S. Postal Service.

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Respectfully submitted,

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November 1, 2001 in Decatur, Georgia