

March 1, 2002

**PROPRIETARY INFORMATION**

Mr. Robert H. Ihde  
President and CEO  
Duke Cogema Stone & Webster  
P.O. Box 31847  
Mail Code: FC12A  
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-000060) dated August 31, 2001, you submitted both proprietary and non-proprietary versions of your responses to our Request for Additional Information (RAI). In letter DCS-NRC-000060 you provided technical information applicable to several RAIs and requested the proprietary material be withheld from public disclosure in accordance with 10 CFR 2.790. Following a review of this information, on November 21, 2001, we forwarded to you our conclusion that some of the material may be withheld in accordance with 10 CFR 2.790(b)(5) and Section 103 (b) of the Atomic Energy Act of 1954, as amended, but that certain other material should be released and placed in the Public Document Room (PDR). We also offered you an opportunity to withdraw these documents or provide additional reasons for the withholding of information.

In your responses dated December 20, 2001 (DCS-NRC-000077 and DCS-NRC-000078), you indicated that certain portions of the information you requested to be withheld need not be considered proprietary. You also provided additional justification supporting the withholding of other information you still consider proprietary. You provided an affidavit attesting to the proprietary nature of this information and provided revised pages of the proprietary and non-proprietary versions. The nonproprietary versions of these documents have been placed in the U.S. Nuclear Regulatory Commission (NRC) PDR and added to the Agency-wide Documents Access and Management Systems Publicly Available Records System (ADAMS PARS Library).

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Document transmitted herewith contains Proprietary Information. When separated from Attachment, this document is decontrolled.

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 allows DCS to reduce vendor and consultant expenses associated with supporting the licensing of fuel fabrication plants.
3. DCS may sell the information to nuclear utilities, vendors, and consultants for the purpose of supporting the licensing of fuel fabrication plants.
4. The subject information could only be duplicated by competitors at similar expense to that incurred by DCS, its partners, and/or affiliates.

We have carefully reviewed the December 20, 2001, request and the information contained in the request. We have concluded that some of the material may be withheld in accordance with 10 CFR 2.790(b)(5) and Section 103 (b) of the Atomic Energy Act of 1954, as amended, but that certain other material should be released and placed in the PDR. The information that we do not believe includes distinguishing aspects or would improve a competitor's economic advantage or constitutes trade secrets or proprietary commercial information is outlined in the attachment along with the reasons for our position.

In accordance with 10 CFR 2.790(c), this information is being forwarded to you as notice that the information will be placed in the PDR thirty (30) days from the date of this letter. If within thirty (30) days of this letter, you request withdrawal of these documents in accordance with 10 CFR 2.790(c), or provide additional reasons for the withholding of information not already expunged from the documents, your request will be considered in light of applicable statutes and regulations and a determination made whether the documents will be withheld from public disclosure or returned to you.

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.

If the basis for withholding this information from public disclosure should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You 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 withheld information.

R. Ihde

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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

Attachment: Proprietary Finding

cc: (w/o Attachment)  
J. Johnson, DOE  
H. Porter, SC Dept. of HEC  
J. Conway, DNFSB  
Don Moniak, BREDL  
Glenn Carroll, GANE  
Ruth Thomas, Environmentalists, Inc.

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

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ADAMS Pkge NO:**ML020310399** Ltr NO:**ML020310448** ATTACH NO:**ML020310422**

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OFC	SPB	SPB	SPB	OGC	SPB	SPB	FCSS
NAME	TJohnson:dw*	DHoadley*	AMurray		JGiitter*	ELeeds*	MWeber*
DATE	1/ 31 /02	1/ 30 /02	2/ /02	2/ /02	1/ 30 /02	2/ 26 /02	3/ 01 /02

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