

RAS 4091

DOCKETED
USNRC

March 6, 2002

2002 MAR 14 AM 11:32

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF THE SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

BEFORE THE COMMISSION

_____)	
In the Matter of)	
)	
DUKE COGEMA STONE & WEBSTER)	Docket No. 0-70-03098-ML
)	
(Savannah River Mixed Oxide Fuel)	ASLBP No. 01-790-01-ML
Fabrication Facility))	
_____)	

**ERRATA TO GEORGIANS AGAINST NUCLEAR ENERGY
BRIEF IN RESPONSE TO CLI-02-04
REGARDING NEPA REQUIREMENT TO ANALYZE
INSIDER SABOTAGE AND MALEVOLENT ACTS FOR
PLUTONIUM FUEL (MOX) FACTORY AT SAVANNAH RIVER SITE**

Georgians Against Nuclear Energy ("GANE") hereby submits the following errata to Georgians Against Nuclear Energy Brief in Response to CLI-02-04 regarding NEPA Requirement to Analyze Insider Sabotage and Malevolent Acts for Plutonium Fuel (MOX) Factory at Savannah River Site submitted February 27, 2002:

Page	Line	Change
22	9-12	'As the Courts held in <i>Limerick Ecology Action</i> and <i>Citizens for Safe Power</i> , see discussion above at 18, the scope of environmental protection is not bounded by the scope of the "no undue risk" standard in the Atomic Energy Act.'
		change to
		'As the Courts held in <i>Limerick Ecology Action</i> , 869 F.2d at 730, and <i>Citizens for Safe Power v. NRC</i> , 524 F.2d 1291, 1299 (D.C. Cir. 1975), the scope of environmental protection is not bounded by the scope of the "no undue risk" standard in the Atomic Energy Act.'

In additional, GANE submits an amended Table of Authorities (attached) with complete page number references and including two cites omitted in error in the original filing.

Template = SECY-021

SECY-02

GANE apologizes for any confusion or inconvenience these errors may have caused you.

Respectfully submitted,

A handwritten signature in cursive script that reads "Glenn Carroll". The signature is written in black ink and is positioned above the printed name.

Glenn Carroll
for Georgians Against Nuclear Energy
P. O. Box 8574
Atlanta, GA 30306
404-378-4263

signed March 6, 2002
in Decatur, Georgia

TABLE OF AUTHORITIES

Judicial Decisions

<i>Citizens for Safe Power v. NRC</i> , 524 F.2d 1291, 1299 (D.C. Cir. 1975).....	22
<i>Essex County Preservation Association v. Campbell</i> , 586 F.2d 956 (1 st Cir. 1976)	13
<i>Limerick Ecology Action v. NRC</i> , 869 F.2d 719 (3 rd Cir. 1989).....	18, 22
<i>Marsh v. Oregon Natural Resources Council</i> , 490 U.S. 360 (1989).....	13
<i>Maryland National Park and Planning Commission v. U.S. Postal Service</i> , 487 F.2d 1029 (D.C. Cir. 1973).....	3
<i>Robertson v. Methow Valley Citizens Council</i> , 490 U.S. 332 (1989).....	3, 11, 12
<i>Seattle Audubon Society v. Espy</i> , 998 F.2d 699 (9 th Cir 1993).....	13
<i>Siegel v. AEC</i> , 400 F.2d 778 (1968).....	4, 14
<i>Society for Animal Rights, Inc. v. Schlesinger</i> , 512 F.2d 915 (D.C. Cir. 1975).....	13
<i>Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Counsel, Inc.</i> , 435 U.S. 519, 551 (1978).....	12
<i>Warm Springs Dam Task Force v. Gribble</i> , 621 F.2d 1017 (9 th Cir. 1980)....	13

Administrative Decisions

<i>Duke Cogema Stone & Webster</i> (Savannah River Mixed Oxide Fuel Fabrication Facility), LBP-01-35, 54 NRC ____ (December 6, 2001)	8, 9, 10, 11, 14, 19
<i>Long Island Lighting Co.</i> (Shoreham Nuclear Power Station), ALAB-156, 6 AEC 831, 851 (1973).	9, 14, 17
<i>Philadelphia Electric Co.</i> (Limerick Generating Station, Units 1 and 2), ALAB-819, 22 NRC 681, 697-701 (1985), <i>aff'd on this ground and rev'd on other grounds</i> , <i>Limerick Ecology Action v. NRC</i> , 869 F.2d 719, 743-44 (3 rd Cir. 1989).	18, 19

<i>Vermont Yankee Nuclear Power Corp.</i> (Vermont Yankee Nuclear Power Station, CLI-90-4, 31 NRC 333 (1990)).....	12
--	----

Statutes

Atomic Energy Act, 42 U.S.C. 2011 et seq.	12, 13
National Environmental Policy Act, 42 U.S.C. 4332 et seq.....	1 - 15, 20 - 27

Regulations

10 C.F.R. § 2.714(b).....	8, 9
10 C.F.R. § 50.13.....	9, 14 - 18
10 C.F.R. § 51.71(d).....	9, 12, 19, 25
10 C.F.R. § 70.23(b).....	5
40 C.F.R. § 1500.1(1).....	11
40 C.F.R. § 1502.1.....	12
40 C.F.R. § 1502.22(b)(1).....	12

Federal Register

Final Rule, Exclusion of Attacks and Destructive Acts by Enemies of the U.S. in Issuance of Facility Licenses 32 Fed. Reg. 13,445 (September 26, 1967).	15
NRC Directive, 40 Fed. Reg. 53,056 (November 1975)	23
Final Rule, Protection Against Malevolent Use of Vehicles at Nuclear Power Plants, 59 Fed. Reg. 38,889 (August 1, 1994).....	15, 17, 20, 21
Proposed Rule, Protection Against Malevolent Use of Vehicles at Nuclear Power Plants, 58 Fed. Reg. 58,804 (November 4, 1988).....	16

Miscellaneous

DOE/EIS 0250D, Draft Environmental Impact Statement for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada (July 1999) at Vol. 1.....	22
--	----

DOE/DP-0137, Plutonium: The First 50 Years, <i>Plutonium Production, Acquisition and Utilization from 1944 Through 1994</i> , Sec. 10.2 (February 1996)	2
DOE, Storage and Disposition of Weapons-Usable Fissile Materials Final Programmatic Impact Statement (1996).	4
DOE, Surplus Plutonium Disposition Final Environmental Impact Statement (1999)	5, 6
EA-02-026, Order Modifying Licenses (February 25, 2002).....	2
NUREG-0414, <i>Safeguarding A Domestic Mixed-Oxide Industry Against a Hypothetical Subnational Threat</i> (May 1978).....	4, 22, 23, 24, 26
WASH-1327, Generic Environmental Impact Statement on the Use of Recycle Plutonium in Mixed Oxide Fuel in Light Water Cooled Reactors (GESMO) (August 1974)	23

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

I hereby certify that copies of Errata to GANE's Brief in Response to CLI-02-04
were sent to the following by e-mail with paper copies served via first class mail.

Rulemakings and Adjudications Staff
Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
hearingdocket@nrc.gov

Administrative Judge Charles N. Kelber
Atomic Safety & Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
cnk@nrc.gov

Dr. Richard A. Meserve, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
chairman@nrc.gov

Administrative Judge Peter S. Lam
Atomic Safety & Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
psl@nrc.gov

Commissioner Edward McGaffigan, Jr.
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
cmrmcgaffigan@nrc.gov

John T. Hull, Esq.
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
jth@nrc.gov

Commissioner Greta J. Dicus
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
cmrdicus@nrc.gov

Donald J. Silverman, Esq.
Morgan, Lewis & Bockius
1111 Pennsylvania Avenue N.W.
Washington, D.C. 20004
dsilverman@morganlewis.com
apolonsky@morganlewis.com

Commissioner Nils J. Diaz
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
cmrdiaz@nrc.gov

Donald J. Moniak
Blue Ridge Environmental Defense League
P.O. Box 3487
Aiken, SC 29802
donmoniak@earthlink.net

Commissioner Jeffrey S. Merrifield
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
cmrmerrifield@nrc.gov

Administrative Judge Thomas S. Moore
Chairman
Atomic Safety & Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
tsm2@nrc.gov

Respectfully submitted,


Glenn Carroll
for Georgians Against Nuclear Energy

March 6, 2002 in Decatur, Georgia