

April 23, 2002

Dr. Edwin Lyman
Nuclear Control Institute
1000 Connecticut Avenue, NW, Suite 410
Washington, DC 20036

Dear Dr. Lyman:

I am responding on behalf of the U.S. Nuclear Regulatory Commission (NRC) to Mr. Tom Clements' facsimile dated March 8, 2002, in which he requested that the NRC "support preparation" of a Supplemental Environmental Impact Statement (SEIS) by the U.S. Department of Energy (DOE) pertaining to its Surplus Plutonium Disposition (SPD) program.

On February 13, 2002, the NRC staff met with the applicant, Duke Cogema Stone & Webster (DCS), to discuss the impact of the changes to the DOE SPD program on the Mixed Oxide Fuel Fabrication Facility (MFFF) which is under review by the staff. Based on the changes described, the staff determined that a revision of the NRC's draft preliminary Environmental Impact Statement (EIS) is warranted. Therefore, the draft EIS was not published in February 2002 as originally scheduled. Instead, the staff will complete the draft EIS once sufficient information is received from the applicant to assess the environmental impacts resulting from changes to the MFFF.

NRC's regulations for licensing the MFFF require the applicant to provide environmental information to support the staff's analysis and conclusions. Therefore, it is incumbent upon DCS to provide the staff sufficient information to continue the environmental review and complete the EIS.

The staff communicated this point to DCS in the enclosed letter from Eric Leeds, NRC, to Peter Hastings, DCS, dated March 12, 2002. In this letter to DCS, the staff outlined its expectations with regard to the quality, timeliness, and completeness of the information. I believe the staff's expectations for supplemental information regarding the alternate feedstock, the additional waste management facility, and additional mission reactors, which are included as Attachment 2 to the DCS letter, are consistent with your concerns expressed to Secretary Abraham and General Gordon. It is the DOE's decision as to whether an SEIS is needed for its SPD program.

Your comments are important and I appreciate your concerns. The staff will continue to ensure that the regulatory process is open and available for public review. Please contact Melvyn Leach, Chief, Special Projects and Inspection Branch, at (301) 415-6332 if you have any further questions.

Sincerely,

/RA/

Martin J. Virgilio, Director
Office of Nuclear Material Safety
and Safeguards

Docket: 70-3098

Enclosure:
3/12/02 Ltr to DCS from NRC
w/attachments

cc: P. Hastings, DCS
J. Johnson, DOE
H. Porter, SCDHEC
J. Conway, DNFSB
D. Moniak, BREDL
G. Carroll, GANE

Dr. E. Lyman

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| OFC | Editor | DWM* | | FCSS* | | OGC* | | NMSS* | | |
| NAME | EKrauss | JDavis | | MWeber | | JHull | | Mvirgilio | | |
| DATE | Unavailable | 3/19/02 | | 3/ 20 /02 | | 3/19/02 | | 4/ 23 /02 | | |

OFFICIAL RECORD COPY

March 12, 2002

Mr. Peter Hastings, Licensing Manager
Duke Cogema Stone & Webster
P.O. Box 31847
Mail Code: FC-12A
Charlotte, NC 28231-184

SUBJECT: RESPONSE TO THE DUKE COGEMA STONE & WEBSTER PROPOSED
PLANNING BASIS FOLLOWING CHANGES TO THE SURPLUS PLUTONIUM
DISPOSITION PROGRAM

Dear Mr. Hastings:

This letter is in regards to our February 13, 2002 meeting in the Nuclear Regulatory Commission (NRC) Headquarters regarding future revisions to the Mixed Oxide Fuel Fabrication Facility (MFFF) Construction Authorization Request (CAR) and Environmental Report (ER) that will result from programmatic changes in the Department of Energy's (DOE) Surplus Plutonium Disposition program. During this meeting, we discussed your planning basis for the remainder of the ongoing NRC staff safety evaluation and environmental review. At the close of this discussion, I committed to provide to you within 30 days the staff's response to your planning basis.

We anticipate that our schedule for the CAR review will be consistent with your proposed planning basis. However, our plan for issuing a Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) is different than your planning basis, as discussed below.

Since our meeting, the staff has evaluated two approaches that would both fulfill the NRC's obligations under the National Environmental Policy Act (NEPA) and be responsive to your desire to commence construction, if authorized by NRC, by September 30, 2003. The first approach, which is described in your planning basis, would have the NRC issuing a draft EIS (DEIS) at the earliest possible date and a supplement to the DEIS after DCS submits a revised ER containing information on the DOE's Surplus Plutonium Disposition program changes later this year. The second approach is for the NRC to forego issuing the DEIS until the staff updates the analysis using information in a revised DCS ER.

We have decided that the recent Surplus Plutonium Disposition program changes, which include elimination of the Plutonium Immobilization Plant, an increase in the amount of plutonium to be processed at the MFFF, changes in the processing and disposition of radioactive wastes from the MFFF, consideration of the impacts of construction and operation of a new waste management facility to handle MFFF and Pit Disassembly and Conversion Facility wastes, changes to the MFFF footprint, and the consideration of additional reactors in our transportation analysis and reactor use impacts analysis, are changes that, in the aggregate, invalidate the analysis in our current DEIS. As we discussed with you at the meeting, it is important that the draft EIS provide an accurate description of the current proposed action and related impacts, so that the public can participate meaningfully in the regulatory process. Therefore, the staff will forego issuing the DEIS until changes have been made to reflect the revised DCS ER.

Enclosure

The staff's review and analysis of these changes must begin no later than July 15, 2002, upon submittal of a high-quality revised DCS ER that describes and adequately assesses the environmental impact of the changed program, in order for the NRC to complete its review and issue a ROD by September 30, 2003. We would be pleased to meet with you at your convenience to discuss our expectations for quality, completeness, and timeliness of future revisions to the CAR and ER.

Our schedule for the remainder of the CAR and ER review, including intermediate milestones, is attached. Our expectations with regard to the content of your supplemental environmental report are also listed in the attachment to this letter.

If you have any questions regarding this decision, I can be reached at (301) 415-6332.

Sincerely,

/RA/

Eric J. Leeds, Chief
Special Projects Branch
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Docket: 70-3098

Attachments:

1. MOX Review Schedule
2. NRC Expectations for the Supplemental Environmental Report

cc: J. Johnson, DOE
H. Porter, SCDHEC
J. Conway, DNFSB
D. Moniak, BREDL
G. Carroll, GANE
R. Thomas, Environmentalists, Inc.

UPDATED MOX REVIEW SCHEDULE

Reflecting Recent Surplus Plutonium Disposition Program Changes
March 2002

| DATE | ACTION |
|--------------------|--|
| April 10, 2002 | (NMSS) Advisory Committee on Reactor Safeguards (ACRS) Meeting |
| April 30, 2002 | (NMSS) Issue draft Safety Evaluation Report (SER) for construction of Mixed Oxide Fuel Fabrication Facility (MFFF) |
| July 15, 2002 | (NMSS) Duke Cogema Stone & Webster (DCS) submits supplemental Environmental Report (ER) |
| October 8, 2002 | (NMSS) Issue ER Request for Additional Information (if needed) |
| October 30, 2002 | DCS Response to ER Request for Additional Information |
| October 31, 2002 | DCS submits Construction Authorization Request (CAR) supplement |
| February 24, 2003 | (NMSS) Issue draft MFFF EIS (DEIS) for public comment |
| March 10-14, 2003 | (NMSS) Conduct DEIS public comment meetings for MFFF |
| April 9, 2003 | (NMSS) DEIS public comment period ends for MFFF |
| April 30, 2003 | (NMSS) Issue draft SER Rev.1 (includes review of CAR and CAR supplement) |
| August 29, 2003 | (NMSS) Issue final EIS for MFFF |
| September 30, 2003 | (NMSS) Issue Final SER, Construction Licensing Decision, and Record of Decision (ROD) |
| October 1, 2003 | DCS starts construction (if authorized) |

U.S. Nuclear Regulatory Commission
Expectations for the Supplemental Environmental Report

The U.S. Nuclear Regulatory Commission (NRC) Mixed Oxide (MOX) environmental impact statement (EIS) schedule is extremely aggressive. In order to meet the schedule, the NRC will need a complete, high-quality supplemental Environmental Report (ER) from Duke Cogema Stone & Webster. A complete, high-quality supplemental ER would contain the following:

1. Complete and sufficient design and environmental information regarding the new waste processing building.
2. Complete and sufficient information on the waste solidification methodology, and planned disposition pathways.
3. An analysis of reactor use impacts, including those from additional MOX fuel to be made from the alternate feedstock, and including transportation to the reactors.
4. Complete and sufficient information on any changes to the proposed action related to converting non-pit surplus plutonium to an oxide suitable for processing at the MFFF.
5. Complete and sufficient information on the changes to the MOX facility associated with processing the alternate feedstock.
6. A discussion of the ways that the affected area will change with elimination of the PIP facility.
7. Updated cost information.
8. Updated cumulative impacts analysis.
9. Complete and sufficient updated information on the conversion of DUF_6 to DUO_2 .