

April 1, 2002

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-000086) dated March 12, 2002, you provided information related to your application for construction of a mixed oxide (MOX) fuel fabrication facility that DCS staff presented in a closed meeting with the U.S. Nuclear Regulatory Commission (NRC) on February 13, 2002. In the letter, you submitted an affidavit, dated March 11, 2002, in which you requested that documents be withheld from public disclosure pursuant to 10 CFR 2.790. The affidavit related to information on process system modifications required because of programmatic changes to the MOX project. Your responses also contained nonproprietary versions of these documents, which have been placed in the NRC public document room and added to the Agency-wide Documents Access and Management Systems Publically 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 allows DCS to reduce vendor and consultant expenses associated with supporting the licensing of fuel fabrication plants.
3. DCS intends to 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 reviewed the DCS presentation materials 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.

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
Mr. Peter Hastings, DCS

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- Mr. Peter Hastings, DCS

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NAME	TJohnson	AHoadley		JGitter	ELeeds	MWeber
DATE	3 / 20 /02	3/ 20 /02	3 / /02	3/21 /02	3/ 21 /02	4/ 01 /02

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