

May 10,2002

PROPRIETARY INFORMATION

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-000082) dated February 11, 2002, you responded to our request for clarification of several of your responses to requests for additional information (RAIs) on your application for construction of a mixed oxide (MOX) fuel fabrication facility. In the response, you submitted an affidavit, dated February 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 sintering furnace design and argon-hydrogen controls. Your responses also contained nonproprietary versions of these documents, which have been placed in the U.S. Nuclear Regulatory Commission (NRC) Public Document Room (PDR) 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 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 February 11, 2002, request and the information contained in the request. We have concluded that some of the material may be withheld in accordance with

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

R. Ihde

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.

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/

Robert C. Pierson, Director
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Docket: 70-3098

Attachment: Proprietary Finding

cc: Mr. James Johnson, DOE
Mr. Henry Porter, SC Dept of HEC
Mr. John T. Conway, DNFSB
Mr. Louis Zeller, BREDL
Ms. Glenn Carroll, GANE
Mr. Peter Hastings, DCS

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Robert C. Pierson, Director
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and Safeguards
Office of Nuclear Material Safety
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FCSS Office File Hearing File JHull, OGC LWertRll DAYres, Rll
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ADAMS PKG: **ML021330686** LTR. **ML021290382** ATTACHMENT: **ML021330701**

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OFC	SPIB*	SPIB*	SPIB*	OGC*	SPIB*	SPIB*	FCSS*
NAME	TJohnson	AHoadley	AMurray		JGitter	MLeach	RPierson
DATE	4 / 25 /02	4/ 25 /02	5/ 01 /02	5 / 02 /02	4/ 26 /02	5/ 09 /02	5/ 10 /02