

January 7, 2003

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, DUKE COGEMA STONE & WEBSTER (DCS) LETTER OF
OCTOBER 31, 2002

Dear Mr. Ihde:

By your letter (DCS-NRC-000115) dated October 31, 2002, you submitted the proprietary version of the Mixed Oxide Fuel Fabrication Construction Authorization Request Revision. In that letter, you requested the proprietary material be withheld from public disclosure in accordance with 10 CFR 2.790. This is the response to that request.

In your request you stated that you considered certain information proprietary and requested that it be withheld from public disclosure pursuant to 10 CFR 2.790. The affidavit, executed by you on October 31, 2002, states that this information should be considered exempt from mandatory public disclosure for the following reasons:

- (a) The information sought to be withheld from public disclosure is owned by Duke Cogema Stone and Webster (DCS), its partners, and/or affiliates, and has been held in confidence by the same;
- (b) The information is of a type that would customarily be held in confidence by DCS, its partners, and/or affiliates. The information consists of design details and processing methods and mechanisms relative to a method of processing that provides a competitive advantage to DCS, its partners, and/or affiliates;
- (c) The information was transmitted to the NRC in confidence and under the provisions of 10 CFR 2.790, it is to be received in confidence by the Nuclear Regulatory Commission (NRC);
- (d) The information sought to be protected is not available in public to the best of DCS' knowledge and belief;
- (e) The proprietary information sought to be withheld from public disclosure has substantial commercial value to DCS, its partners, and/or affiliates; and
- (f) Public disclosure of the information is likely to cause harm to DCS, its partners, and/or affiliates because it would allow competitors in the nuclear industry to benefit from the results of a significant development program without requiring commensurate expense or allowing DCS, its partners, and/or affiliates to recoup a portion of its expenditures or benefit from the sale of the information.

We have carefully reviewed your October 31, 2002, request and the information contained in your request. We have concluded that some of the material may be withheld in accordance with 10 CFR 2.790(a)(6), but that certain other material should be released and placed in the Public Document Room (PDR). The information that we do not believe includes distinguishing aspects or would improve a competitor's economic advantage and information that we do not believe constitute trade secrets or proprietary commercial information is outlined in the attachment.

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/

Andrew Persinko, Sr. Nuclear Process Engineer
Special Projects and Inspection Branch
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Docket No. 70-3098

Enclosure: Proprietary Finding on Mixed Oxide
Fuel Fabrication Facility Construction
Authorization Request Revision

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

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*SEE PREVIOUS CONCURRENCE

OFC	SPIB*		SPIB*		SPIB*		OGC*		SPIB*	
NAME	APersinko:dw		LGross		JGitter		PSiemens		MLeach	
DATE	12 / 30 /02		12/ 30 /02		1/ 06 /03		1/ 07 /03		1/ 07 /03	

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PROPRIETARY FINDING ON
MIXED OXIDE FUEL FABRICATION FACILITY
CONSTRUCTION AUTHORIZATION REQUEST REVISION

The following information contained in the proprietary version of the Revised Construction Authorization Request appears to be general and offers no commercial advantage.

Pages

1. Pg. 11.2-4
2. Pg. 11.2-24
3. Pg. 11.2-25
4. Pg. 11.2-26
5. Pg. 11.2-27
6. Pg. 11.2-28
7. Pg. 11.2-30
8. Pg. 11.2-34
9. Pg. 11.2-36

The following information contained in the proprietary version of the Revised Construction Authorization Request appears to be already in the public domain or would be known by someone normally skilled in the art.

10. Pg. 11.3-13
11. Pg. 11.3-14