



DUKE COGEMA
STONE & WEBSTER

Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, DC 20555

06 February 2003
DCS-NRC-000126

Subject: Docket Number 070-03098
Duke Cogema Stone & Webster
Mixed Oxide Fuel Fabrication Facility
Construction Authorization Request
Request for Withholding Information From Public Disclosure

Reference: (1) A. Persinko (NRC) letter to R. H. Ihde (DCS), dated 07 January 2003,
"Request for Withholding Information From Public Disclosure, Duke Cogema
Stone & Webster (DCS) Letter of October 31, 2002"

(2) R. H. Ihde (DCS) letter to Document Control Desk (NRC), DCS-NRC-
000115, dated 31 October 2002, "Mixed Oxide (MOX) Fuel Fabrication Facility
Construction Authorization Request Revision, Proprietary Information"

Reference (1) questioned the proprietary designation of several pages of the proprietary submittal of Reference (2). For the reasons stated below, DCS continues to believe the questioned proprietary designations should remain proprietary and withheld from public disclosure.

The attachment to Reference (1) listed Items 1 through 9 as specific pages in Section 11.2 of the 10/31/02 revised Construction Authorization Request (CAR) which contain information marked as proprietary that the NRC believed to be general and offered no commercial advantage. The proprietary information identified in Items 1 through 9 of the attachment of Reference (1) were unchanged from the original CAR dated 28 February 2001, where that information was previously designated as proprietary based on DCS' assessment of the competitive value of that information. The NRC subsequently agreed with that assessment and stated that the information would be withheld from public disclosure. DCS' original assessment is unchanged and DCS continues to believe that that information remains proprietary and should be withheld, for the reasons previously stated.

Items 10 and 11 of the attachment to Reference (1) concern two pages in Section 11.3 of the revised CAR (31 October 2002). This information is new (i.e., it was not contained in the original CAR (28 February 2001), and concerns the Dechlorination and Dissolution Unit (KDD), which was added as a result of Alternate Feedstock. As noted in that section, this unit is similar to the Dissolution Unit (KDB), which was previously described in the original CAR, and which contained similarly designated proprietary information that the NRC has determined to be appropriate to be withheld from public disclosure (see pages 11.3-9 and 11.3-10 of the 31 October 2002 CAR).

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Also with respect to Items 10 and 11 of the attachment to Reference (1), the NRC states that the information "... appears to be already in the public domain or would be known by someone normally skilled in the art." DCS does not agree that the information is already in the public domain, especially not when connected to the DCS MOX Fuel Fabrication Facility. In addition, the criterion "...would be known by someone normally skilled in the art" is not contained in the criteria for determination of proprietary information in accordance with 10 CFR §2.790(b)(4).

In light of the above, the proprietary designations questioned in Reference (1) are justified and the information should continue to be withheld from public disclosure.

If you have any questions, please contact me at (704) 373-7820.

Sincerely,



Vincent CHEVALIER

For

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