



OFFICE OF THE
GENERAL COUNSEL

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 10, 2003

Thomas S. Moore, Chairman
Administrative Judge
U. S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board Panel
Mail Stop: T-3F23
Washington, D.C. 20555

Charles N. Kelber
Administrative Judge
U. S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board Panel
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Peter S. Lam
Administrative Judge
U. S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board Panel
Mail Stop: T-3F23
Washington, D.C. 20555

In the Matter of
DUKE COGEMA STONE & WEBSTER (DCS)
(Mixed Oxide (MOX) Fuel Fabrication Facility,
Construction Authorization Request)
Docket No. 70-3098-ML

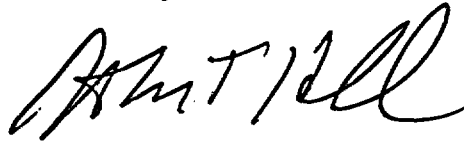
Dear Administrative Judges:

In the scheduling order dated April 30, 2002, the NRC Staff was requested to notify the Board and parties of any delays in issuing the draft environmental impact statement (EIS) or draft safety evaluation report (SER). The Board further stated it would set "specific dates for all remaining actions once there is a firm date" for issuance of the final EIS and SER. April 30 Order, at 4.

As reflected in the attached letter to DCS dated July 9, 2003, the Staff projects a one-month delay in issuing the final EIS for the proposed MOX facility. Although the Board's notification request pertained only to delays in issuing the draft EIS, the Staff is notifying the Board of the delay in issuing the final EIS because this delay will also push back the date for issuing the related environmental record of decision (ROD). Pursuant to 10 C.F.R. § 51.102(a)-(b), the Staff will issue the environmental ROD. The Staff's decision on whether to grant DCS' construction authorization request (CAR) cannot be made until this ROD is issued. See 10 C.F.R. § 51.100(a)(1). The ROD cannot be issued until 30 days after the Environmental Protection Agency (EPA) publishes notice that the final EIS has been filed with the EPA. See 10 C.F.R. § 51.100(a)(1)(ii).

Accordingly, the Board should consider whether to set dates for future hearing-related actions based upon when the ROD is issued, as opposed to when the final EIS and SER are issued.

Sincerely,

A handwritten signature in black ink, appearing to read "John T. Hull", written in a cursive style.

John T. Hull
Counsel for NRC Staff

Enclosure: As stated .

cc: Donald J. Silverman, Esq.
Glenn Carroll, GANE
Louis A. Zeller, BREDL

Diane Curran, Esq.
Office of the Secretary
Office of Commission Appellate Adjudication



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 9, 2003

Mr. Peter S. Hastings
Manager, Licensing and Safety Analysis
Duke Cogema Stone & Webster
P.O. Box 31847
Mail Code FC12A
Charlotte, NC 28231-1847

SUBJECT: SCHEDULE FOR ISSUING THE FINAL ENVIRONMENTAL IMPACT
STATEMENT FOR THE MIXED OXIDE FUEL FABRICATION FACILITY

Dear Mr. Hastings:

The purpose of this letter is to inform you of a change in the U.S. Nuclear Regulatory Commission (NRC) schedule for issuing the Final Environmental Impact Statement (FEIS) for the Mixed Oxide Fuel Fabrication Facility. NRC had previously announced an August 2003 date for issuing the FEIS. However, due to a 30 day extension in the public comment period on the Draft Environmental Impact Statement (DEIS) and the significant number of public comments received on the DEIS, NRC plans to issue the FEIS on September 30, 2003. The scheduled date for issuance of the Final Safety Evaluation Report for Construction Authorization remains September 30, 2003.

If you have any questions, please contact me at (301) 415-6522.

Sincerely,

A handwritten signature in black ink, which appears to read "Andrew Persinko".

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

cc: J. Johnson, DOE
H. Porter, SC Dept. of HEC
J. Conway, DNFSB
L. Zeller, BREDL
G. Carroll, GANE
D. Curran, Esq., GANE
D. Silverman, Esq., DCS