RAS 6732 **DOCKETED 08/21/03**
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Thomas S. Moore, Chairman
Dr. Charles N. Kelber
Dr. Peter S. Lam

In the Matter of	Docket No. 070-03098-ML
DUKE COGEMA STONE & WEBSTER	ASLBP No. 01-790-01-ML
(Savannah River Mixed Oxide Fuel Fabrication Facility)	August 21, 2003

ORDER

The motion of Georgians Against Nuclear Energy (GANE) to supplement its opposition to Duke Cogema Stone & Webster's (DCS) motion for summary disposition of GANE Contention 1 is denied.

In opposing GANE's supplementation motion, DCS also has moved to strike the attachments to GANE's motion, claiming that by including such documents with its motion GANE has, in fact, supplemented the record. DCS's motion to strike is also denied. The Licensing Board notes that its action in denying GANE's supplementation motion necessarily means that in this case, just as in all other such cases, the Board may not consider in any way the substance of the documents accompanying a supplementation motion for any purpose beyond deciding the procedural motion before it. As DCS is well aware, the documents accompanying GANE's supplementation motion always remain part of the record of filings in the proceeding, and such documents can never be physically removed from the proceeding docket. In these circumstances, a motion to strike is superfluous and, even if a motion to strike

is inappropriately filed and then granted, the grant of such a motion cannot alter the situation from that which exists from the mere denial of the supplementation motion.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD[1]

/RA/

Thomas S. Moore
ADMINISTRATIVE JUDGE

Rockville, Maryland

August 21, 2003

[1]Copies of this Order were sent this date by Internet e-mail transmission to (1) GANE; (2) DCS; and (3) the NRC Staff.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
DUKE COGEMA STONE & WEBSTER	)	Docket No. 70-3098-ML
	)	
(Savannah River Mixed Oxide Fuel Fabrication Facility)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER DATED AUGUST 21, 2003 have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Docket No. 70-3098-ML
LB ORDER DATED AUGUST 21, 2003

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 21st day of August 2003