RAS 8267

RELATED CORRESPONDENCE

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August 3, 2004
BY FAX TO: 301/415-3725

DOCKETED
USNRC

August 10, 2004 (11:36AM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Antonio Fernández, Esq.
Office of General Counsel
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Washington, D.C. 20852

SUBJECT: *Discovery in MOX LTA Proceeding*

Dear Antonio,

In our conversation with the Atomic Safety and Licensing Board this morning, Judge Young asked the parties to identify any documents they expect to request in the second round of discovery which might turn out to be the subject of a need-to-know determination. As we discussed, BREDL plans to request copies of certain NRC guidance documents "for the design basis threat for theft or diversion" which are identified in the attached March 13, 2000 letter from Michael F. Weber to Peter Hastings.

We believe these documents are relevant to Contention 5 because they appear to provide generic guidance for interpretation of NRC's current security regulations regarding theft or diversion of Category I quantities of SSNM. Even if the guidance documents were specially prepared for the MOX Facility, they are relevant because they are likely to provide useful insight into the NRC Staff's interpretation of the security regulations. If the NRC Staff has any objection to the release of these documents, please identify the problem as soon as possible so that we can attempt to resolve it expeditiously.

If, before the second round of discovery begins, we identify other documents that are likely to require a need-to-know determination, we will inform you as soon as possible.

In our conversation with the ASLB, I believe you stated that you expect the Staff to release redacted portions of Duke's security plan to us in the first round of discovery. If you do decide to redact portions of the plan, please provide us with a description of the information that has been redacted and the grounds for redacting the information. That will help us evaluate whether to file a motion to compel.

Thank you for your assistance in these matters.

Sincerely,

Diane Curran

Attachment: as stated
cc w/enclosure: Service list

Template=SECY-043

SECY-02

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

March 13, 2000

Duke Engineering & Services, Inc.
ATTN: Mr. Peter Hastings
P. O. Box 20091
Charlotte, NC 28202

SUBJECT: DESIGN BASIS THREAT GUIDANCE APPLICABLE TO THE MIXED OXIDE FUEL FABRICATION FACILITY

Dear Mr. Hastings:

Enclosed are the U.S. Nuclear Regulatory Commission's (NRC) guidance documents for the design basis threat (DBT) for theft or diversion and the DBT for radiological sabotage to be used in the design of the mixed oxide fuel fabrication facility (MOX FFF) with respect to safeguards and security.

Both documents are classified as confidential and should be treated accordingly.

If you have any questions, please call the MOX FFF Project Manager, Mr. Andrew Persinko, at (301) 415-6522.

Sincerely,

Michael F. Weber

Michael F. Weber, Director
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Docket: 70-3098

Enclosures:
1) Design Basis Threat For Theft or Diversion Guidance (confidential)
2) Design Basis Threat For Radiological Sabotage Guidance (confidential)

Upon removal of Enclosure, this document is not classified.

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