

March 2, 2005

Mr. Richard L. Sweigart
Vice President, Regulatory Affairs
Duke Cogema Stone & Webster
128 South Tryon Street, FC12A
Charlotte, NC 28202

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
(DUKE COGEMA STONE & WEBSTER MIXED OXIDE FUEL FABRICATION
FACILITY)

Dear Mr. Sweigart:

By letter dated January 27, 2005, Duke Cogema Stone & Webster (DCS) provided page changes to the Mixed Oxide Fuel Fabrication Facility (MFFF) Construction Authorization Request (CAR) (DCS-NRC-000178). The page changes were accompanied by an affidavit requesting that the information be withheld from public disclosure in accordance with 10 CFR 2.390(b). This letter is a response to DCS' request.

The affidavit, dated January 27, 2005, stated that the additional information provided should be withheld from public disclosure for the following reasons:

1. The information sought to be withheld from public disclosure is owned by DCS, its partners, and/or affiliates, and has been held in confidence by the same.
2. 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.
3. The information was transmitted to the U.S. Nuclear Regulatory Commission (NRC) in confidence and under the provisions of 10 CFR 2.390, it is to be received in confidence by the NRC.
4. The information sought to be protected is not available in public to the best of our knowledge and belief.
5. The proprietary information sought to be withheld in this submittal is that which is marked in the proprietary version of the accompanying enclosure, and omitted from the non-proprietary version. This information describes DCS' design for the MFFF. This information enables DCS, its partners, and/or affiliates to support license amendment applications for the MFFF.

6. The proprietary information sought to be withheld from public disclosure has substantial commercial value to DCS, its partners, and/or affiliates.

The NRC reviewed the justification that DCS provided in accordance with the requirements of 10 CFR 2.390. On the basis of the justification statements provided by DCS, NRC has determined that the submitted information sought to be withheld contains proprietary commercial information. Therefore, the submitted information will be withheld from public disclosure pursuant to 10 CFR 2.390(a)(4) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

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, NRC may send copies of this information to consultants working in this area. The NRC 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 inspection should change in the future such that the information could then be made available for public inspection, DCS should promptly notify the NRC. DCS also 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 the information provided. In all review situations, if the NRC makes a determination adverse to the above, DCS will be notified in advance of any public disclosure.

Sincerely,

/RA/

David D. Brown, Project Manager
Mixed Oxide Facility Licensing Section
Special Projects Branch
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Docket: 70-3098

cc:	J. Johnson, DOE	G. Carroll, GANE
	H. Porter, SCDHEC	P. Hastings, DCS
	J. Conway, DNFSB	D. Curran, GANE
	L. Zeller, BREDL	D. Silverman, DCS

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