

January 17, 2001

Mr. Peter S. Hastings
Licensing Manager
Duke Cogema Stone & Webster
P.O. Box 31847
Charlotte, NC 28231-1847

SUBJECT: NUCLEAR REGULATORY COMMISSION RESPONSE TO DUKE COGEMA
STONE & WEBSTER LETTERS DCS-NRC-000027 (NOVEMBER 1, 2000) AND
000028 (DECEMBER 6, 2000) REGARDING MIXED OXIDE (MOX) FUEL
FABRICATION FACILITY

Dear Mr. Hastings:

This letter responds to Duke Cogema Stone & Webster's (DCS') letters to the Nuclear Regulatory Commission (NRC) dated November 1, 2000, about the format and content of the construction authorization request (CAR) and safety assessment of the design bases and December 6, 2000, about the licensing schedule.

Your letter dated November 1, 2000, reflects your intention to submit a CAR as the first step in seeking authorization to build and eventually operate a proposed mixed oxide (MOX) fuel fabrication facility, pursuant to the 10 CFR Part 70 licensing requirements. One of the documents you intend to submit with the CAR is a safety assessment regarding the design bases for the principle structures, systems, and components of the proposed MOX facility. In the letter, you state a concern about "future confusion" as to whether design basis details would be part of the DCS application, and request our concurrence with your view that the safety assessment would not be part of the license application regarding the proposed MOX facility. You proposed this approach in order to be parallel with the revised Subpart H of 10 CFR Part 70 that requires that the Integrated Safety Analysis (ISA) be submitted with a license application, but not be incorporated in the license.

We have reviewed your proposed approach and conclude that the CAR will be considered by NRC to be part of the license application. The provisions of 10 CFR 70.22 set forth the required contents of applications for Part 70 licenses. In these provisions, 10 CFR 70.22(f) specifies that a license application "shall contain" among other things, a "safety assessment of the design bases of the principal structure, systems, and components" of the fuel fabrication facility. As discussed at a meeting on August 31, 1999, that was open to the public, the NRC regards the CAR as being the first part of the DCS license application concerning the proposed MOX facility. Accordingly, the safety assessment, whether you choose to submit it as a separate document or not, will be regarded as part of the CAR and, hence, part of the DCS license application.

In the same letter, you indicated that the ISA summary will summarize the fire hazards analysis but that the fire hazards analysis will be maintained onsite and available for NRC review. Part 70 of 10 CFR does not require that the fire hazards analysis be submitted to NRC. NUREG-1718, the MOX fuel fabrication Standard Review Plan (SRP), describes information that NRC will review and the acceptance criteria that the staff will use in performing a safety

evaluation, including information with respect to a fire hazards analysis. While the staff's preference is that the fire hazards analysis be submitted, it is not required to be submitted. However, sufficient information must be submitted in the application for the staff to review the safety of the facility with respect to fire hazards, regardless of whether that information is submitted in the form of a fire hazards analysis. If necessary, the staff will supplement its review of information included in the application with review of information maintained by DCS either at the facility location or at DCS offices.

Your letter dated December 6, 2000, proposes a schedule whereby DCS will file its Environmental Report on December 22, 2000, the CAR on February 28, 2001, and the filing of the rest of the license application will be deferred until June or July of 2002 [Note that the Environmental Report was submitted to NRC by letter dated December 19, 2000]. The December 6 letter raises a question regarding whether this schedule complies with 10 CFR 70.21(f). The provisions of 10 CFR 70.21(f) state various filing requirements pertaining to applications for Part 70 licenses. The requirement in question states, in pertinent part, that an "application for a license ... shall be accompanied by an Environmental Report," and further specifies that the application is to be filed "at least 9 months prior to commencement of construction." Your view is that filing the Environmental Report and CAR on the dates stated above will constitute compliance with 10 CFR 70.21(f)'s 9-month requirement, and you request our "concurrence with this position." As previously stated, we regard the CAR as constituting the first part of the DCS application for a 10 CFR Part 70 license. Going from February 28, 2001, forward, the NRC's environmental review process concerning construction of the proposed MOX facility would take more than 9 months to complete. Since construction of the proposed MOX facility cannot begin until the NRC's environmental review is completed, and the required findings are made (see 10 CFR 70.23(a)(7)), we agree that under this scenario, the 9-month requirement of 10 CFR 70.21(f) would be met. Of course, our position in this regard is not to be construed as indicating that the NRC's environmental review findings will favor construction of the MOX facility. Concerning the dates proposed in your letter, if the required findings are made, the NRC estimates that it would approve the CAR no later than September 30, 2002. Factored into this date is that NRC will not hold public scoping meetings associated with the environmental review until the CAR has been submitted and accepted by NRC. As you indicated in the letter, a more detailed milestone schedule should be developed and we will work with your staff to develop this schedule.

P. Hastings

3

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

Sincerely,

/RA/

Andrew Persinko
MOX Project Manager
Enrichment Section
Special Projects Branch
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Docket: 70-3098

cc: Mr. James Johnson, DOE
Mr. Henry Potter, SC Dept of
Health & Environmental Control
Mr. John T. Conway, DNFSB

P. Hastings

3

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

Sincerely,

/RA/

Andrew Persinko, MOX Project Manager
Enrichment Section
Special Projects Branch
Division of Fuel Cycle Safety
and Safeguards, NMSS

Docket: 70-3098

cc: Mr. James Johnson, DOE
Mr. Henry Potter, SC Dept of Health &
Environmental Control
Mr. John T. Conway, DNFSB

DISTRIBUTION:

Docket 70-3098	ADAMS	PUBLIC	SPB r/f	ADAMS Office File
EMcAlpine, RII	DAyres, RII	JHull, OGC	Tjohnson	FCSS r/f

ADAMS Accession#: ML010270036

DOCUMENT NAME: G:\SPB\AXP1\DCSRESP122100.wpd*Please see previous concurrence.

OFC	SPB		SPB		SPB		OGC			
NAME	APersinko:cc*		DHoadley*		MGalloway*		JHull (NLO)*			
DATE	1/10/01		1/12/01		1/12/01		1/17/01			

C-COVER

E-COVER & ENCLOSURE

N-NO COPY

OFFICIAL RECORD COPY