

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:
Thomas S. Moore, Chairman
Charles N. Kelber
Peter S. Lam

In the Matter of

DUKE COGEMA STONE & WEBSTER
(Savannah River Mixed Oxide Fuel
Fabrication Facility)

Docket No. 70-3098-ML

ASLBP No. 01-790-01-ML

June 20, 2001

ORDER

As directed in the June 19, 2001, telephone conference, the Applicant, Duke Cogema Stone & Webster, shall file a proposed protective order and affidavit of nondisclosure for use in this proceeding to protect the proprietary information in the Applicant's Construction Authorization Request (CAR) from public disclosure. In developing the protective order and affidavit of nondisclosure, the Applicant should keep in mind that the information involved is not safeguards material and that none of the Petitioners are competitors of the Applicant. The proposed order and nondisclosure affidavit should be reasonable and as minimally intrusive as possible upon the Petitioners' ability to speak and write about the license application and underlying issues. With the exception of service upon Petitioner, Environmentalists, Inc., noted below, the Applicant shall file and serve the proposed protective order and affidavit of nondisclosure by electronic mail no later than the 4:30 p.m., Monday, June 25, 2001. To serve Judge Moore, Judge Kelber, and Judge Lam by e-mail transmissions, a participant should (1) send the pleading (which should include the certificate of service) as a file attached to an e-mail message directed to Judge Moore, Judge Kelber, and Judge Lam (Internet IDs: tsm2@nrc.gov;

cnk@nrc.gov; psl@nrc.gov); and (2) send by regular first class mail paper conforming copies that same date addressed, respectively, to Judge Moore, Judge Kelber, and Judge Lam at the Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555. The Applicant shall serve the proposed order and affidavit of nondisclosure on Petitioner Environmentalists, Inc. by overnight mail (e.g., express mail).

Petitioners Foster, Blue Ridge Environmental Defense League, and Georgians Against Nuclear Energy and the NRC Staff shall file with the Licensing Board and serve the other participants their objections to the Applicant's proposed protective order and nondisclosure affidavit by electronic mail no later than 4:30 p.m., Wednesday, June 27, 2001. That same date, these Petitioners and the NRC Staff should send paper conforming copies addressed, respectively, to Judge Moore, Judge Kelber, and Judge Lam by regular mail at the above noted address. These petitioners and the NRC Staff shall serve Petitioner Environmentalists, Inc. by regular first class mail.

Petitioner Environmentalists, Inc. shall file with the Licensing Board any objections to the Applicant's proposed protective order and affidavit of nondisclosure by overnight mail (e.g., express mail). Environmentalists, Inc. shall serve the other participants by regular first class mail.

Once the Licensing Board issues a protective order and approves the affidavit of nondisclosure to be used in this proceeding, those Petitioners wishing to review the proprietary version of the applicant's CAR must properly execute the affidavit of nondisclosure, file it with the Licensing Board, and serve it upon the other participants. The Applicant will have one day to object to any matter involving any Petitioners' affidavit of nondisclosure. Thereafter, the Applicant shall immediately provide each eligible Petitioner with the proprietary version of the CAR.

Finally, as directed by the Commission's referral order, CLI-01-13, 53 NRC ____, ____ (slip op. at 9, June 14, 2001), the Petitioners' contentions shall be filed by July 30, 2001. Therefore, the Petitioners would be well advised to use the publicly available nonproprietary version of the Applicant's CAR in conducting their reviews and preparation of contentions and not await until they have access to the proprietary version of the CAR before beginning such work. Further, in its referral order, the Commission directed that "the presiding officer should not grant requests for extensions of time absent unavoidable and extreme circumstances." Id. at 10.

It is so ORDERED.

For the Atomic Safety and Licensing Board

/RA/

Thomas S. Moore
ADMINISTRATIVE JUDGE

Rockville, Maryland
June 20, 2001

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 06/20/01 have been served upon the following persons by U.S. mail, first class, as indicated by an asterisk (*) or through the Nuclear Regulatory Commission's internal distribution as indicated by double asterisks (**), with copies by electronic mail or fax as indicated.

Office of Commission Appellate
Adjudication**
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
(E-mail: hrb@nrc.gov)

Chief Administrative Judge
G. Paul Bollwerk, III**
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
(E-mail: gpb@nrc.gov)

Dennis C. Dambly, Esq.**
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
(E-mail: dcd@nrc.gov)

Donald J. Silverman, Esq.*
Marjan Mashhadi, Esq.*
Alex S. Polonsky, Esq.*
Morgan, Lewis & Bockius, LLP
1800 M Street, NW
Washington, DC 20036-5869
(E-mail: dsilverman@morganlewis.com;
mmashhadi@morganlewis.com;
apolonsky@morganlewis.com)

Ruth Thomas, President*
Environmentalists, Inc.
1339 Sinkler Road
Columbia, SC 29206
(E-mail: lminer@hotmail.com)

Glenn Carroll*
Georgians Against Nuclear Energy
P.O. Box 8574
Atlanta, GA 30306
(E-mail: atom.girl@mindspring.com)

Docket No. 70-3098-ML
LB ORDER DATED 06/20/01

Donald J. Moniak*
Blue Ridge Environmental Defense League
P.O. Box 3487
Aiken, SC 29802
(E-mail: donmoniak@earthlink.net)

Edna Foster*
120 Balsam Lane
Highlands, NC 28741
(Fax: 828-526-5314)

[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 20th day of June 2001