

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

December 15, 2000

SUBJECT: OPPORTUNITIES FOR HEARINGS-MIXED OXIDE (MOX) FUEL
FABRICATION FACILITY

Dear Mr. Hastings:

Within the next several months, we expect to receive an application from Duke Cogema Stone & Webster (DCS) to construct and operate a mixed oxide (MOX) fuel fabrication facility to be located at the Department of Energy's Savannah River Site. The regulations in 10 CFR Part 70 for a plutonium fuel fabrication plant provide an option for two approvals--approval for construction (10 CFR 70.23(a)(7), (b)) and approval for operation (10 CFR 70.23(a)(8)). The regulations in 10 CFR Part 70 do not, however, mandate a particular approval or hearing process. The appropriate approval and hearing process--one stage or two stage--will depend largely on the nature, level of detail and degree of completeness of the application. This letter is intended to inform you of the staff's planned approach for possible hearing issues related to the MOX fuel fabrication facility.

Although the regulations do not require the applicant to submit a comprehensive and complete application covering both construction and operation before the Commission can approve commencement of construction, an applicant has the option of submitting a complete license application addressing both construction and operation at the outset. We understand, however, that you plan to file your license application in two parts. The first part will include the required environmental report, will focus on siting matters and the design bases of the proposed facility's structures, systems, and components, and will request approval to start construction. The second part of your license application -- the filing of which will be deferred until 2002 -- will request approval to start operation, and will cover the other subjects required for the issuance of a 10 CFR Part 70 license. In these circumstances, a two-stage approval and hearing process is appropriate. The NRC will accordingly publish notices of an opportunity for hearing in connection with its consideration of each of the two parts of your license application, as described above. Any NRC adjudicatory proceedings generated by requests for hearing would be subject to the procedural requirements of 10 CFR Part 2, Subpart L.

The first hearing, if requested and held, would encompass issues related to the requested construction approval, including whether the design bases of the proposed facility's structures, systems, and components, and the quality assurance program, are adequate. See 10 CFR 70.22(f), and 70.23(b). The first hearing would also encompass related environmental issues. See 10 CFR 70.23(a)(7). The second hearing, if requested and held, would encompass all

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other issues related to the issuance of a 10 CFR Part 70 license. Such issues would include whether operation of the facility, as constructed, will adequately protect health, minimize danger to life or property, and control special nuclear material.

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

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