

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSIONBEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	Docket No. 70-3098
DUKE COGEMA STONE & WEBSTER)	
)	
Mixed Oxide Fuel Fabrication Facility)	
(Construction Authorization Request))	

NRC STAFF'S MOTION FOR CLARIFICATION

In its "Memorandum and Order" (unpublished) dated July 17, 2001 (July 17 Order), the Board stated that "[i]f necessary, the Staff shall file the hearing file for the proceeding" on November 16, 2001. July 17 Order, at 8. Since the Board has not yet decided which, if any, of the hearing petitioners (Georgians Against Nuclear Energy, Donald J. Moniak, Blue Ridge Environmental Defense League, and Environmentalists, Inc.) will be made parties to this proceeding, it is not clear whether -- under the above-quoted terms of the July 17 Order -- it will be "necessary" for the Staff to submit the hearing file on November 16. Pursuant to 10 C.F.R. § 2.1231(a), a hearing petitioner must be made a "party to the proceeding" before being entitled to receive the hearing file.

In anticipation that one or more of the hearing petitioners will be made parties, the Staff has prepared an index of the hearing file, and has assembled the documents listed therein. The Staff plans to have these documents copied once it is determined how many sets of documents will be required. The Staff will therefore be in a position to distribute copies of the hearing file within ten days of the Board's decision on the pending requests for hearing, in accordance with the Commission's earlier guidance. See CLI-01-13, 53 NRC 478, 485 (2001).

The Staff therefore requests the Board to clarify that it will only be necessary to distribute copies of the hearing file to those petitioners whose hearing requests are granted, and that such distribution should be made within ten days of the Board's decision on the pending hearing requests.

Respectfully submitted,

/RA/

John T. Hull
Counsel for NRC Staff

Dated at Rockville, Maryland
this 14th day of November, 2001

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "NRC STAFF'S MOTION FOR CLARIFICATION" have been served upon the following persons this 14th day of November, 2001, by electronic mail, and by U.S. mail, first class (or as indicated by an asterisk (*) through the Nuclear Regulatory Commission's internal distribution); or as indicated by double asterisks (**), solely by express overnight mail.

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/RA/

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Counsel for NRC Staff

Dated at Rockville, Maryland
this 14th day of November, 2001