

PROPRIETARY INFORMATION

Mr. Robert H. Ihde
President and CEO
Duke Cogema Stone & Webster
P.O. Box 31847
Charlotte, NC 28231-1847

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC
DISCLOSURE, RESPONSE TO REQUEST FOR ADDITIONAL INFORMATION
(DCS-NRC-000060) DATED AUGUST 31, 2001 (MIXED OXIDE FUEL
FABRICATION FACILITY)

Dear Mr. Ihde:

In the Duke Cogema Stone & Webster (DCS) letter (DCS-NRC-000060) dated August 31, 2001, you submitted both proprietary and non-proprietary versions of your responses to our Request for Additional Information (RAI). In letter DCS-NRC-000060 you provided technical information applicable to several RAIs and requested the proprietary material be withheld from public disclosure in accordance with 10 CFR 2.790. This is the response to that request.

In the request you stated that you considered certain information proprietary and requested that it be withheld from public disclosure pursuant to 10 CFR 2.790. The affidavit you executed on August 31, 2001, states that this information should be considered exempt from mandatory public disclosure for the following reasons:

- (a) The information has substantial commercial value to DCS.
- (b) It allows DCS to reduce vendor and consultant expenses associated with supporting the licensing of fuel fabrication plants.
- (c) DCS may sell the information to nuclear utilities, vendors, and consultants for the purpose of supporting the licensing of fuel fabrication plants.
- (d) The subject information could only be duplicated by competitors at similar expense to that incurred by DCS, its partners, and/or affiliates.

We have carefully reviewed the August 31, 2001, request and the information contained in the request. We have concluded that some of the material may be withheld in accordance with 10 CFR 2.790(b)(5) and Section 103 (b) of the Atomic Energy Act of 1954, as amended, but that certain other material should be released and placed in the Public Document Room (PDR). The information that we do not believe includes distinguishing aspects or would improve a competitor's economic advantage or constitutes trade secrets or proprietary commercial information is outlined in the attachment along with the reasons for our position.

PROPRIETARY INFORMATION

Document transmitted herewith contains
Proprietary Information. When separated
from Attachment, this document is
decontrolled.

R. Ihde

In accordance with 10 CFR 2.790(c), this information is being forwarded to you as notice that the information will be placed in the PDR thirty (30) days from the date of this letter. If within thirty (30) days of this letter, you request withdrawal of these documents in accordance with 10 CFR 2.790(c), or provide additional reasons for the withholding of information not already expunged from the documents, your request will be considered in light of applicable statutes and regulations and a determination made whether the documents will be withheld from public disclosure or returned to you.

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, we may send copies of this information to our consultants working in this area. We 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 disclosure should change in the future such that the information could then be made available for public inspection, you should promptly notify the U.S. Nuclear Regulatory Commission (NRC). You 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 your withheld information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

Sincerely,

/RA/

Michael F. Weber, Director
Division of Fuel Cycle Safety
And Safeguards
Office of Nuclear Material Safety
And Safeguards

Docket: 70-3098
Attachment: Proprietary Finding

cc: (w/o Attachment)
J. Johnson, DOE
H. Porter, SC Dept. of HEC
J. Conway, DNFSB
Don Moniak, BREDL
Glenn Carroll, GANE
Ruth Thomas Environmentalists, Inc.

R. Ihde

In accordance with 10 CFR 2.790(c), this information is being forwarded to you as notice that the information will be placed in the PDR thirty (30) days from the date of this letter. If within thirty (30) days of this letter, you request withdrawal of these documents in accordance with 10 CFR 2.790(c), or provide additional reasons for the withholding of information not already expunged from the documents, your request will be considered in light of applicable statutes and regulations and a determination made whether the documents will be withheld from public disclosure or returned to you.

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, we may send copies of this information to our consultants working in this area. We 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 disclosure should change in the future such that the information could then be made available for public inspection, you should promptly notify the U.S. Nuclear Regulatory Commission (NRC). You 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 your withheld information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

Sincerely,

/RA/

Michael F. Weber, Director
Division of Fuel Cycle Safety
And Safeguards
Office of Nuclear Material Safety
And Safeguards

Docket: 70-3098

Attachment: Proprietary Finding

cc: (W/o Attachment)
J. Johnson, DOE
H. Porter, SC Dept. of HEC
J. Conway, DNFSB
Don Moniak, BREDL
Glenn Carroll, GANE
Ruth Thomas Environmentalists, Inc.

DISTRIBUTION: Docket 70-3098 ADAMS PUBLIC FSPB R/F
FCSS Office File JHull, OGC AFernandez, OGC McAlpine, RII Dayres, RII MPSiemien, OGC
ADAMS Pkg. NO: **ML013250124** Ltr: **ML013250178** Attach: **ML013250185**
G:\SPB\TCJ\MOX2.790raitech1.WPD * See previous concurrence

OFC	SPB*		SPB*		OGC*		SPB		SPB		FCSS	
NAME	TJohnson:ddw		AHoadley		RBaum		JGiitter		ELeeds		MWeber	
DATE	11/ 5/01		11 / 5 /01		11/ 16 /01		11 /19 /01		11/ 20 /01		11/21/01	

OFFICIAL RECORD COPY