

November 1, 2001

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

DOCKETED
USNRC

BEFORE THE COMMISSION

December 3, 2001 (12:47PM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of)

DUKE COGEMA STONE & WEBSTER)

(Savannah River Mixed Oxide Fuel
Fabrication Facility))

Docket No. 0-70-03098-ML

ASLBP No. 01-790-01-ML

**GEORGIANS AGAINST NUCLEAR ENERGY
AND NUCLEAR CONTROL INSTITUTE'S REPLY TO RESPONSES OF
NRC STAFF AND DUKE COGEMA STONE & WEBSTER TO PETITION TO
SUSPEND CONSTRUCTION AUTHORIZATION PROCEEDING
FOR PROPOSED PLUTONIUM FUEL (MOX) FABRICATION FACILITY**

Georgians Against Nuclear Energy (GANE) and Nuclear Control Institute (NCI)
respectfully reply to the responses filed by Duke Cogema Stone & Webster and the NRC
Staff to our Petition to Suspend Construction Authorization Proceeding for Plutonium
Fuel (MOX) Fabrication Facility submitted to this Commission on October 10, 2001.

Both Duke Cogema Stone & Webster and the NRC Staff appear to have
misunderstood references to GANE's Motion to Dismiss filed August 13, 2001 which
were made within the Petition to Suspend (Duke Cogema Stone & Webster's Response to
"Petition by Georgians Against Nuclear Energy and Nuclear Control Institute to Suspend
Construction Authorization Proceeding for Proposed Plutonium Fuel (MOX) Fabrication
Facility" at 14; NRC Staff's Response to Motion to Suspend Proceeding at 10). The
Motion to Dismiss was summarized in the Petition to Suspend to ensure the

Commission's awareness that such a Motion is pending before the Atomic Safety and Licensing Board on this docket and to point out for the Commission serious deficiencies in the MOX Construction Authorization Request (CAR) .

DCS's and NRC Staff's lengthy responses do not deal with the simple point of GANE and NCI's Petition to Suspend that, in light of the unprecedented use on September 11 of commercial jets as weapons of destruction and the Commission's subsequent initiation of a comprehensive review of nuclear security regulations, it is logical to suspend proceedings to authorize construction of the MOX facility so that that this extremely security-sensitive project can later be reviewed in the context of regulations appropriately strengthened to address this new threat.

DCS and NRC argue that since it is early in the proceeding they should be trusted to figure out how to make the facility secure before it is actually built or, if it is already built, then before it is operated. It is fortunate that the MOX facility licensing proceeding is in an early stage, so that the NRC has the option to take a hard look at whether the facility as designed will be able to resist credible external threats comparable in severity to the September 11 attacks before proceeding with the staff's general review of the CAR. To persist in the proceeding, expending staff resources on the review of a design that ultimately may be proven obsolete and have to be completely overhauled, is a wasteful and pointless exercise.

The construction authorization request for the MOX facility is not required to address the issue of whether the facility as designed would be capable of withstanding the impact of an attack by a fully fueled commercial jetliner. We ask that the MOX

proceeding be suspended until such time as the Commission decides whether public health and safety is best served by strengthening physical protection regulations to ensure that new nuclear facilities, such as the one to process plutonium into MOX, will be designed to be resistant to the vastly enlarged spectrum of credible threats made manifest by the September 11 attacks.

Respectfully submitted,

Glenn Carroll
for Georgians Against Nuclear Energy
139 Kings Highway
Decatur, GA 30030
404-378-4263

Dated November 1, 2001
in Decatur, Georgia

Dr. Edwin S. Lyman
Scientific Director
Nuclear Control Institute
1000 Connecticut Avenue, Suite 410
Washington, D.C. 20036
202-822-8444

Dated November 1, 2001
in Washington, D.C.

CERTIFICATE OF SERVICE
by Georgians Against Nuclear Energy
(Docket # 70-3098, ASLBP # 01-790-01-ML)

I hereby certify that copies of GANE's Reply to DCS & NRC Responses to Petition to Suspend Construction Authorization Proceeding for Proposed Plutonium Fuel (MOX) Fabrication Facility were sent to the following by e-mail with paper copies served via U.S. Postal Service.

Rulemakings and Adjudications Staff
Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
hearingdocket@nrc.gov

Dr. Richard A. Meserve, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
ram@nrc.gov

Commissioner Edward McGaffigan, Jr.
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
exm@nrc.gov

Commissioner Greta J. Dicus
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
gjd@nrc.gov

Commissioner Nils J. Diaz
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
njd@nrc.gov

Commissioner Jeffrey S. Merrifield
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
jmer@nrc.gov

Administrative Judge Thomas S. Moore
Chairman
Atomic Safety & Licensing Board

U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
tsm2@nrc.gov

Administrative Judge Charles N. Kelber
Atomic Safety & Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
cnk@nrc.gov

Administrative Judge Peter S. Lam
Atomic Safety & Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
psl@nrc.gov

John T. Hull, Esq.
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
jth@nrc.gov

Donald J. Silverman, Esq.
Morgan, Lewis & Bockius
1800 M Street N.W.
Washington, D.C. 20036
dsilverman@morganlewis.com
apolonsky@morganlewis.com

Ruth Thomas, President
Environmentalists, Inc.
1339 Sinkler Road
Columbia, SC 29206

Donald J. Moniak
Blue Ridge Environmental Defense League
P.O. Box 3487
Aiken, SC 29802
donmoniak@earthlink.net

Edna Foster
120 Balsam Lane
Highlands, NC 28741
emfoster@gte.net

Respectfully submitted,

Glenn Carroll
for Georgians Against Nuclear Energy

November 1, 2001 in Decatur, Georgia