

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Thomas S. Moore, Chairman
Dr. Charles N. Kelber
Dr. Peter S. Lam

In the Matter of

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

Docket No. 070-03098-ML

ASLBP No. 01-790-01-ML

June 12, 2002

MEMORANDUM AND ORDER

On June 7, 2002, Intervenor Georgians Against Nuclear Energy (GANE) filed by electronic transmission an application for security clearances for three of its representatives to enable them "to review classified information that has not yet been identified, but which GANE anticipates will be generated in this proceeding." Georgians Against Nuclear Energy's Application for Security Clearances (June 7, 2002) at 2. The application goes on to state that "[b]ecause a security clearance takes months to obtain, GANE cannot afford to wait until the documents are identified to proceed with its application." *Id.* In light of the necessity for the appropriate treatment and protection of the information for which GANE seeks access, the Licensing Board wishes to ensure that all applicable regulatory provisions are identified and scrupulously followed. Therefore, Duke Cogema Stone and Webster (DCS) and the NRC Staff shall each file a response to GANE's June 7, 2002 filing by July 5, 2002.

In their respective responses, DCS and the Staff shall address each question, request, and issue raised by GANE's filing as well as any other relevant matters they wish to raise. Additionally, DCS and the Staff shall present their views on the applicability of each regulatory provision referenced by GANE and indicate whether there are any other applicable regulations that the Board should consider. DCS and the Staff should also address the role, if any, protective orders and affidavits of non-disclosure should play with regard to the type of information covered by the requested security clearance. Similarly, DCS and the Staff should indicate what federal criminal and civil statutes are potentially applicable in the circumstances presented. Further, the Staff shall address the applicability and status of the referenced memorandum of understanding between NRC and DOE dealing with security of the DCS facility, including the expected approval and effective dates.

If DCS and/or the Staff agree with GANE's request that some or all of its application be certified to the Commission, they should address the timing of such certification by the Board as well as consult with GANE and submit to the Board a joint proposed certification order.

After reviewing the responses of DCS and the Staff, the Board will decide whether it wishes to hold a telephone conference with the parties on this matter. In the event the Board determines that a telephone conference would be helpful, it will issue an appropriate order by July 9, 2002 and hold the conference at 10:00 a.m. on July 11, 2002.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD¹

/RA/

Thomas S. Moore
ADMINISTRATIVE JUDGE

Rockville, Maryland

June 12, 2002

¹Copies of this Memorandum and Order were sent this date by Internet e-mail transmission to (1) DCS; (2) the NRC Staff; (3) GANE; and (4) BREDL.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
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DUKE COGEMA STONE & WEBSTER)	Docket No. 70-3098-ML
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(Savannah River Mixed Oxide Fuel)	
Fabrication Facility))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER DATED JUNE 12, 2002 have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Docket No. 70-3098-ML
LB MEMORANDUM AND ORDER DATED
JUNE 12, 2002

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 12th day of June 2002