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C O U N S E L O R S   A T   L A W

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USNRC

June 13, 2002 (1:03PM)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

June 4, 2002

**VIA E-MAIL AND FIRST CLASS MAIL**

Administrative Judge Thomas S. Moore, Chairman  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

Re: Settlement Status Report, Duke Cogema Stone & Webster  
(Savannah River Mixed Oxide Fuel Fabrication Facility), Docket No. 70-3098-ML

Dear Judge Moore:

During the April 18, 2002 teleconference, the Licensing Board encouraged the parties to consider whether any of the admitted contentions could be settled, and requested a status report in about six weeks. DCS has carefully reviewed the options and likelihood of settling the existing contentions. The status of our interactions with the parties is summarized below.

During the week of May 20, 2002, counsel for DCS discussed with Ms. Glenn Carroll the general outlines of a settlement proposal on Contentions 1 and 2. Ms. Carroll expressed a willingness to further consider the proposal. On May 28, 2002, DCS provided to GANE a written proposal under which, among other things, DCS would provide GANE with its proposed "design bases" for its material control and accounting and physical security programs, and the parties would make an effort to agree on the completeness of the list of design bases for each contention. Agreement on a complete list of design bases for either contention would, under DCS' proposal, result in DCS including those design bases in the Supplement to the Construction Authorization Request, and a motion by GANE to withdraw the contention.<sup>1</sup> DCS is hopeful these contentions can be amicably resolved.

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<sup>1</sup> Although Contentions 1 and 2 do not address the adequacy or content of any particular design basis, DCS has also expressed a willingness to negotiate with GANE regarding the adequacy of these design bases to avoid further litigation.

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DCS does not believe there is a reasonable basis to settle any of the other contentions before at least some discovery has been conducted. We will continue to consider all reasonable options for settlement or other means of prompt resolution of contentions, and we are hopeful that we will be able to propose terms of settlement for some of the other contentions in the future.

Respectfully submitted,



Alex S. Polonsky

cc: Office of Commission Appellate Adjudication  
Secretary of the Commission  
Judge Kelber, ASLB  
Judge Lam, ASLB  
J. Hull, Nuclear Regulatory Commission, OGC  
M. Young, Nuclear Regulatory Commission, OGC  
D. Dambly, Nuclear Regulatory Commission, OGC  
G. Carroll, GANE  
D. Moniak, BREDL  
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