

July 17, 2002

Mr. Robert H. Ihde
President and CEO
Duke Cogema Stone & Webster
P.O. Box 31847
Mail Code FC12A
Charlotte, NC 28231-1847

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
(MIXED OXIDE FUEL FABRICATION FACILITY)

Dear Mr. Ihde:

In the Duke Cogema Stone & Webster (DCS) letters (DCS-NRC-000095 and DCS-NRC-000096) dated June 10, 2002, you responded to Michael Weber's letter of May 10, 2002, and modified proprietary information applicable to sintering furnace operations that you previously requested be withheld from public disclosure in accordance with 10 CFR 2.790. In Mr. Weber's letter, we stated that certain of the material you wished to be withheld should be released and placed in the Public Document Room. In letters DCS-NRC-000095 and DCS-NRC-000096, you agreed with our review and indicated that certain portions of the information you requested to be withheld need not be considered proprietary. You provided an affidavit attesting to the proprietary nature of the remaining information and provided revised pages of the proprietary and non-proprietary versions. The nonproprietary versions of these documents have been placed in the U.S. Nuclear Regulatory Commission (NRC) public document room and added to the Agency-wide Documents Access and Management Systems Publically Available Records System (ADAMS PARS Library).

In your affidavit, dated June 10, 2002, you stated that this information should be withheld from public disclosure for the following reasons:

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

We have reviewed the justification you provided in accordance with the requirements of 10 CFR 2.790 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information. Therefore, the versions of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

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 inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also 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 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/

Robert C. Pierson, Director
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Docket: 70-3098

cc: Mr. James Johnson, DOE
Mr. Henry Porter, SC Dept of HEC
Mr. John T. Conway, DNFSB
Mr. Lou Zeller, BREDL
Ms. Glenn Carroll, GANE
Mr. Peter Hastings, DCS

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OFC	SPIB*		SPIB*		OGC*		SPIB*		SPIB*		FCSS*	
NAME	TJohnson		AHoadley		MSiemien		JGiitter		MLeach		RPierson	
DATE	6 / 25/02		6/25 /02		7/ 01/02		7/ 16 /02		7/ 16 /02		7/ 17 /02	

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