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September 3, 2002

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 Update, 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. Duke Cogema Stone & Webster, LLC (DCS) provided its status report to the Licensing Board in a letter dated June 4, 2002. The purpose of this letter is to provide an update on the status of settlement discussions.

GANE Contentions 1 and 2.

It appears that the parties will be unable to settle these two contentions. As described in our June 4 status report, under its May 28, 2002 settlement proposal, DCS offered to provide Georgians Against Nuclear Energy (GANE) with its proposed material control and accounting (MC&A) and physical security design bases, negotiate on, among other things, the completeness of those design bases, and if agreement was reached, include the design bases in the upcoming revision to the Construction Authorization Request.

Since our June 4 letter, DCS has continued to discuss with GANE's representatives possible settlement of Contentions 1 and 2. To preserve the parties' respective resources, we attempted to reach an agreement prior to serving answers to the first set of interrogatories, but were unsuccessful.

Settlement discussions have also been unsuccessful after service of the answers to the first set of interrogatories. In particular, in response to GANE Interrogatory No. 13, DCS provided the detailed set of MC&A "design bases" being utilized in the design of the MOX Facility (See Proprietary Attachment B to DCS' first set of interrogatory answers (June 27, 2002)). DCS subsequently initiated a further discussion with GANE and voluntarily provided to GANE additional proprietary information to address some of GANE's expressed concerns. (As a result of DCS' voluntary transmittal of that information, DCS and GANE were able to avoid a discovery dispute relating to DCS' answers to GANE's first set of interrogatories.) Based upon our most recent discussions with GANE, however, GANE does not believe that this information is sufficient to settle Contention 1 or 2. As a result, litigation of these two contentions will be necessary.

GANE Contentions 9 and 11 and BREDL Contention 1E

These contentions, in essence, allege that DCS' Environmental Report (ER):

- (1) does not discuss the costs of the MOX Facility or compare those costs to the costs of other alternatives;
- (2) understates the impacts of the waste streams from the aqueous polishing process; and
- (3) does not analyze the impacts of the liquid waste pipeline from the MOX Facility to the F Area tank farm.

On July 11, 2002, DCS submitted a revised ER to the NRC. In DCS' view, the revised ER contains sufficient information to fully address and dispose of these contentions. DCS has directed GANE's attention to the relevant portions of the revised ER and has requested GANE's agreement to withdraw these contentions. We understand our request is presently under consideration.

Other Contentions

At this time, DCS does not believe that there is a reasonable basis to settle any of the other contentions. While DCS has not received any settlement proposals from the Intervenor to date, we remain open to discuss any settlement proposals that the Intervenor may offer.

Respectfully submitted,



Alex S. Polonsky
ASP/als

cc: Office of Commission Appellate Adjudication
 Secretary of the Commission
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 Judge Lam, ASLB
 J. Hull, Nuclear Regulatory Commission, OGC
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