

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

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OFFICE OF THE SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Before Administrative Judges:  
Thomas S. Moore, Chairman  
Charles N. Kelber  
Peter S. Lam

In the Matter of )

DUKE COGEMA STONE & WEBSTER )

(Savannah River Mixed Oxide Fuel  
Fabrication Facility) )

January 9, 2003

Docket No. 070-03098-ML

ASLBP No. 01-790-01-ML

**UNOPPOSED MOTION TO DISMISS  
GEORGIAN'S AGAINST NUCLEAR ENERGY CONTENTION 9**

Applicant Duke, Cogema, Stone and Webster ("DCS") hereby files this  
unopposed motion to dismiss Georgian's Against Nuclear Energy's ("GANE")  
Contention 9 (Inadequate Cost Comparison), pursuant to 10 CFR §§ 2.1237 and 2.730.

On December 6, 2001, the Atomic Safety and Licensing Board ("Board")  
admitted GANE Contention 9.<sup>1</sup> Contention 9, as admitted, asserts that: "[t]he  
Environmental Report does not provide any discussion of the costs of the proposed MOX  
Facility, or make a comparison to the costs of other alternatives."<sup>2</sup>

<sup>1</sup> *Duke, Cogema, Stone and Webster (Savannah River Mixed Oxide Fuel Fabrication Facility)*, Memorandum and Order (Ruling on Standing and Admissibility of Contentions), LBP-01-35 (Dec. 6, 2001).

<sup>2</sup> *Georgians Against Nuclear Energy Contentions Opposing a License for Duke Cogema Stone & Webster to Construct a Plutonium Fuel Factory at Savannah River Site* (Aug. 13, 2001), at 31.

In DCS's second set of interrogatories, DCS asked GANE to "identify and fully explain all economic (monetary) costs GANE believes are still missing" from the Environmental Report ("ER") in light of the information provided by DCS in the revised ER and by the Nuclear Regulatory Commission ("NRC") Staff in the updated Hearing File.<sup>3</sup> In response, GANE stated that "[w]hile GANE is not satisfied with the discussion of costs in DCS's revised ER, GANE has nevertheless decided to drop Contention 9."<sup>4</sup>

DCS has consulted with counsel for both GANE and the NRC, and neither opposes this motion. Accordingly, DCS respectfully requests that the Board dismiss Contention 9 from the proceeding. The parties have agreed that dismissal of Contention 9 should be with prejudice. However, the dismissal does not prejudice GANE's right to submit any late-filed contentions based upon new information in any future revisions to the ER that DCS may submit.

Dated: January 9, 2003

Respectfully submitted,

DUKE COGEMA/STONE & WEBSTER



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<sup>3</sup> See Specific Interrogatory No. 9.7, Duke Cogema Stone & Webster's Second Set of Interrogatories to Georgians Against Nuclear Energy and Blue Ridge Environmental Defense League (Dec. 6, 2002), at 11.

<sup>4</sup> Georgians Against Nuclear Energy's Response to Applicant's Second Set of Interrogatories (Dec. 20, 2002), at 23 (emphasis added).

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Fabrication Facility)	)	
_____	)	

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the "Unopposed Motion to Dismiss Georgians Against Nuclear Energy Contention 9" were served this day upon the persons listed below, by both e-mail and United States Postal Service, first class mail:

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