

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

July 3, 2003

ORDER

Pursuant to the Board's June 20, 2003 Order, Duke Cogema Stone & Webster (DCS), Georgians Against Nuclear Energy (GANE), and the NRC Staff simultaneously filed responses to the Board's questions regarding payment of expert witness fees. Both GANE and the Staff argue that, in this case, pursuant to 10 C.F.R. § 2.740a(h) and F.R.C.P. 26(b)(4)(C), the fee relationship is between DCS and the expert witness, and therefore the 5 U.S.C. § 504 note prohibition on intervenor funding is not implicated. DCS does not address this matter. DCS shall respond to this argument of GANE and the Staff by filing a reply, addressing the fee relationship between an expert witness and the party seeking the deposition. The DCS reply

shall not exceed three pages in length and must be filed electronically by 5:00 p.m. EDT  
Tuesday, July 8, 2003.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD<sup>1</sup>

*/RA/*

---

Thomas S. Moore  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
July 3, 2003

---

<sup>1</sup>Copies of this Order were sent this date by Internet e-mail transmission to (1) GANE;  
(2) DCS; and (3) the NRC Staff.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER DATED JULY 3, 2003 have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
Thomas S. Moore, Chairman  
Atomic Safety and Licensing Board Panel  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
Charles N. Kelber  
Atomic Safety and Licensing Board Panel  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
Peter S. Lam  
Atomic Safety and Licensing Board Panel  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

John T. Hull, Esq.  
Mitzi A. Young, Esq.  
Office of the General Counsel  
Mail Stop - O-15 D21  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Donald J. Silverman, Esq.  
Steven P. Frantz, Esq.  
Marjan Mashhadi, Esq.  
Alex S. Polonsky, Esq.  
Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Avenue, NW  
Washington, DC 20004

Docket No. 70-3098-ML  
LB ORDER DATED JULY 3, 2003

Glenn Carroll  
Georgians Against Nuclear Energy  
P.O. Box 8574  
Atlanta, GA 30306

Donald J. Moniak  
Blue Ridge Environmental Defense League  
P.O. Box 3487  
Aiken, SC 29802

Diane Curran, Esq.  
Harmon, Curran, Spielberg  
& Eisenberg, L.L.P.  
1726 M Street, NW, Suite 600  
Washington, DC 20036

[Original signed by Evangeline S. Ngbea]

---

Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 3<sup>rd</sup> day of July 2003