

July 31, 2003

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

ATOMIC SAFETY AND LICENSING BOARD

August 12, 2003 (9:53AM)

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

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

In the Matter of	)	
DUKE COGEMA STONE & WEBSTER	)	Docket No. 0-70-03098-ML
(Savannah River Mixed Oxide Fuel Fabrication Facility)	)	ASLBP No. 01-790-01-ML

**GEORGIANS AGAINST NUCLEAR ENERGY'S  
MOTION FOR LEAVE TO REPLY TO NRC STAFF'S RESPONSE  
TO DCS MOTION FOR SUMMARY DISPOSITION  
ON MOX WASTE CONTENTION**

Georgians Against Nuclear Energy ("GANE") hereby requests leave to reply to new information raised in the NRC Staff's Response to DCS Motion for Summary Disposition on MOX Waste Contention (July 29, 2003) (hereinafter "NRC Staff Response"). GANE seeks to reply to an apparent inconsistency between a statement in the NRC Staff Response and information that is presented in Table 4.11 of the draft Environmental Impact Statement ("EIS") for the proposed MOX Facility.

While NRC regulations at 10 C.F.R. § 2.749(a) preclude "further supporting statements or responses" following the filing of initial responses to a summary disposition motion, the Board has authority to modify this rule for compelling

circumstances. *Long Island Lighting Company* (Shoreham Nuclear Power Station, Unit 1), LBP-87-26, 26 NRC 201, 204 (1987). GANE submits that compelling circumstances exist here, because the NRC Staff Response appears to be inconsistent with the draft EIS for the proposed MOX Facility, which is a key document in this summary disposition proceeding. In order to ensure that the ASLB has a meaningful record on which to base its decision, GANE should be allowed to address the discrepancy.

The discrepancy relates to the data for estimated quantities of solid "TRU" waste that are presented in columns two through six of Table 4.11 of the draft EIS.<sup>1</sup> In columns two, three, and four, Table 4.11 provides estimates for the following transuranic ("TRU") waste quantities: MOX facility operational waste (190 m<sup>3</sup>/yr), Pit Disassembly and Conversion Facility ("PDCF") waste (18 m<sup>3</sup>/yr), and Waste Solidification Building ("WSB") waste (310 m<sup>3</sup>/yr). In columns five, six, and seven, Table 4.11 presents figures for the capacity of the Savannah River Site with respect to TRU waste: characterization or treatment (1,720 m<sup>3</sup>/yr), storage (34,400 m<sup>3</sup>), and disposal (168,500 m<sup>3</sup>).

Based on the information provided in footnote "c" of Table 4.11, it appears that the total volume of TRU waste to be generated by the proposed MOX Facility can be determined by adding columns two, three, and four, for a total of 518 m<sup>3</sup>/yr, or 5,180 m<sup>3</sup> for the entire ten-year period of the MOX Facility's operating life.<sup>2</sup> The Affidavit of

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<sup>1</sup> A copy of Table 4.11 is attached as Exhibit 3 to GANE's Opposition to DCS's Motion for Summary Disposition of Consolidated Contention 11.

<sup>2</sup> Footnote "c" states that:

The combined values of TRU waste that would generated from the three facilities is estimated to be approximately 30% and 15% of the treatment and storage

David Brown, submitted in support of the NRC Staff Response, however, states that the solidification of high-alpha liquid waste will yield 310 m<sup>3</sup>/yr of TRU waste, i.e. the TRU waste output of the WSB as represented in column four of Table 4.11. *Id.*, par. 6.

In its Reply, GANE seeks to address this apparent discrepancy between the NRC Staff Response and Table 4.11, and to list the questions that it should be allowed to pose to the NRC Staff in discovery to determine the basis for the discrepancy, before the ASLB considers DCS's motion for summary disposition of Contention 11.<sup>3</sup> GANE will argue that before granting summary disposition, the ASLB should allow GANE to obtain answers to these questions and thereby evaluate the validity and credibility of the information presented in Table 4.11.

Respectfully submitted,



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capacity, respectively, at the SRS. The generated TRU waste is approximately 3% of the disposal capacity at WIPP.

Thirty percent of 1,720 is 516. Sixteen percent of 34,400 is 5,504. Three percent of 168,500 is 5,504. These calculations seem to confirm that it is appropriate to add columns two, three, and four to get the total volume of solid TRU waste generated by the MOX Facility.

<sup>3</sup> If the NRC Staff Response is correct in stating that the total volume of TRU waste is 310 m<sup>3</sup>/yr, GANE also seeks to question the NRC Staff as to why columns two and three of Table 4.11 (for volumes of waste from the MOX facility operation and the PDCF) add up to 208 m<sup>3</sup>/yr rather than 310 m<sup>3</sup>/yr, and what is the source of the additional 102 m<sup>3</sup>/yr of TRU waste that is ultimately generated by the WSB.

## CERTIFICATE OF SERVICE

I hereby certify that on July 31, 2003, copies of the foregoing GEORGIANS AGAINST NUCLEAR ENERGY'S MOTION FOR LEAVE TO REPLY TO NRC STAFF'S RESPONSE TO DCS MOTION FOR SUMMARY DISPOSITION ON MOX WASTE CONTENTION, GEORGIANS AGAINST NUCLEAR ENERGY'S MOTION TO WITHDRAW CONTENTION 6, AND GEORGIANS AGAINST NUCLEAR ENERGY'S 4<sup>TH</sup> SUPPLEMENTAL RESPONSE TO APPLICANT'S FIRST SET OF INTERROGATORIES were served on the following by e-mail and/or first-class mail:

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