

RAS 6722

August 12, 2003

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

DOCKETED
USNRC

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

August 19, 2003 (9:30AM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of)

DUKE COGEMA STONE & WEBSTER)

(Savannah River Mixed Oxide Fuel
Fabrication Facility))

Docket No. 0-70-03098-ML

ASLBP No. 01-790-01-ML

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

As permitted by the Atomic Safety and Licensing Board's ("ASLB's") Order of August 6, 2003, Georgians Against Nuclear Energy ("GANE") hereby replies 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 submits that there is an 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. Unless and until this inconsistency is resolved, the ASLB should not make any decision to dispose of Contention 11.

Template = SECY-041

SECY-02

The discrepancy relates to the data for estimated quantities of solid transuranic ("TRU") waste that are presented in columns two through six of Table 4.11 of the draft EIS.¹ In columns two, three, and four, Table 4.11 provides estimates for the following TRU waste quantities: MOX facility operational waste (190 m³/yr), Pit Disassembly and Conversion Facility ("PDCF") waste (18 m³/yr), and Waste Solidification Building ("WSB") waste (310 m³/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 m³/yr), storage (34,400 m³), and disposal (168,500 m³).

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 m³/yr, or 5,180 m³ for the entire ten-year period of the MOX Facility's operating life.² The Affidavit of David Brown, submitted in support of the NRC Staff Response, however, states that the solidification of high-alpha liquid waste will yield 310 m³/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.

¹ 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.

² Footnote "c" states that:

The combined values of TRU waste that would generated from the three facilities is estimated to be approximately 30% and 16% of the treatment and storage 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, which is close to 518 m³/year. Sixteen percent of 34,400 is 5,504, which is close to 5,160 m³ for a ten-year period. Three percent of 168,500 is 5,505, which is also close to 5,160 m³ for a ten-year period. 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.

The apparent discrepancy raises the following questions, which GANE seeks to pose in discovery to the NRC Staff when such opportunity becomes available, after the publication of the Final Environmental Impact Statement:

- In paragraph 6, the Affidavit of David Brown (submitted in support of the NRC Staff's response to DCS's summary disposition motion) states that the solidification of high-alpha liquid waste at the proposed MOX Facility will yield 310 m³/yr of TRU waste.
 - Please confirm that Mr. Brown is referring to the TRU volume estimate provided in column 4 of Table 4.11.
 - Please explain the apparent inconsistency between Mr. Brown's statement and the information provided in footnote "c" to Table 4.11, which indicates that the total volume of solid TRU waste to be generated by the proposed MOX Facility should be calculated by adding columns 2, 3, and 4 of Table 4.11. See footnote 2 above. Which interpretation of Table 4.11 is correct, and why?
 - What is the total radioactive content of the TRU waste to be generated by the proposed MOX Facility, and how does it relate to the volumes presented in Table 4.11?
- If Mr. Brown's Affidavit correctly states that the total volume of TRU waste is 310 m³/yr,
 - why do columns two and three of Table 4.11 (for volumes of waste from the MOX facility operation and the PDCF) add up to 208 m³/yr rather than 310 m³/yr?; and
 - what is the source of the additional 102 m³/yr of solid TRU waste that is not represented in Table 4.11?

In the absence of answers to these questions, GANE submits that summary disposition cannot be granted, for several reasons. First, for purposes of meeting the requirements of the National Environmental Policy Act ("NEPA"), Table 4.11 is the most important representation of radioactive waste volumes that is generated in the licensing proceeding for the proposed MOX Facility. It is Table 4.11 of the Draft EIS, not Table 3-3 of DCS's Environmental Report, that is circulated for review and comment by government agencies and members of the public. Thus, to the extent that the Draft EIS fails to

provide an adequate analysis of the impacts of radioactive wastes to be generated by the proposed MOX Facility, its inadequacy constitutes a bar to summary disposition.

Second, Table 4.11 of the Draft EIS perpetuates or exacerbates problems in Table 3-3 of the DCS Environmental Report. Like Table 3-3, Table 4.11 has significant internal inconsistencies in its presentation of data regarding estimated radioactive waste quantities. Like Table 3-3, Table 4.11 does not provide information about the radioactivity of the high-alpha liquid waste stream to be generated by the proposed MOX Facility, or relate radioactivity estimates to coherent volume estimates. Like Table 3-3, Table 4.11 is not supported by an explanation of how the figures represented therein were derived. Therefore, it is impossible to evaluate the environmental impacts of the high-alpha liquid waste stream from the proposed MOX Facility.

GANE submits that the confusing and incomplete nature of Table 4.11 precludes a determination by the ASLB that the concerns of Contention 11 have been satisfied. At the very least, the ASLB should allow GANE to question the NRC Staff in the upcoming discovery process, and thereby evaluate the validity and credibility of the information presented in Table 4.11.

Respectfully submitted,



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August 12, 2003

CERTIFICATE OF SERVICE

I hereby certify that on August 12, 2003, copies of the foregoing GEORGIANS AGAINST NUCLEAR ENERGY'S REPLY TO NRC STFF'S RESPONSE TO DCS MOTION FOR SUMMARY DISPOSITION OF CONTENTION 11 and GEORGIANS AGAINST NUCLEAR ENERGY'S MOTION FOR LEAVE TO FILE SURREPLY TO DCS'S REPLY TO GANE'S OPPOSITION TO DCS'S MOTION FOR SUMMARY DISPOSITION OF CONSOLIDATED CONTENTION 11 were served on the following by e-mail and first-class mail:

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