

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSIONBEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	Docket No. 070-03098-ML
DUKE COGEMA STONE & WEBSTER	)	
	)	
Mixed Oxide (MOX) Fuel Fabrication Facility	)	
(Construction Authorization Request)	)	

NRC STAFF'S RESPONSE TO MOTION FOR RELEASE OF  
INFORMATION SUBMITTED BY DIANE CURRAN

In a hand-delivered September 8, 2003, letter addressed to Judge Moore, Diane Curran requested a determination that certain remarks made by NRC counsel in a closed August 5, 2003, hearing can be publicly released.<sup>1</sup> In its Order also dated September 8, 2003, the Atomic Safety and Licensing Board (Board) treated Ms. Curran's September 8 letter as a motion for the release of information and ordered Duke Cogema Stone & Webster (DCS) and the NRC Staff (Staff) to respond to the motion.

As noted in the September 3, 2003 letter from John Hull to Diane Curran, "information discussed in the course of NRC adjudications are generally matters of public record."<sup>2</sup> In limited circumstances, hearings may be closed to the public<sup>3</sup> or transcripts may not be available to the public.<sup>4</sup> The Board did close the August 5 hearing to the public because of the potential that propriety information would be discussed during the hearing. However, the transcript of that

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<sup>1</sup> See Letter from Diane Curran to Thomas S. Moore, Subject: Request for determination of releasability of information from closed hearing on MOX Facility Construction Authorization Request, Docket No. 70-3098 (September 8, 2003)

<sup>2</sup> See Letter from John Hull to Diane Curran, Subject: August 7, 2003 Request for Determination on Whether Certain Information May be Released to the Public (September 3, 2003) (Attached to Ms. Curran's September 8 letter to Judge Moore).

<sup>3</sup> 10 C.F.R. § 2.751.

<sup>4</sup> 10 C.F.R. § 2.750.

hearing is now publicly available.<sup>5</sup> Therefore, while the staff does note that the statement in Ms. Curran's letter takes some liberty in paraphrasing Staff statements, any statements made in the hearing are already public information, and the staff has no objection to Ms. Curran publicly revealing those statements.

Respectfully submitted,

**/RA/**

Shelly D. Cole  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 9th of September, 2003.

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<sup>5</sup>The document is available on the NRC public website, [www.nrc.gov](http://www.nrc.gov), ADAMS Accession # ML032230171.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO MOTION TO STRIKE SUBMITTED BY DUKE COGEMA STONE & WEBSTER" in the above captioned proceeding have been served upon the following persons, by electronic mail, and by U.S. mail, first class, or as indicated by an asterisk (\*) through the Nuclear Regulatory Commission's internal distribution, this 9<sup>th</sup> day of September, 2003.

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**/RA/**

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