

Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Avenue, NW  
Washington, DC 20004  
Tel: 202.739.3000  
Fax: 202.739.3001  
www.morganlewis.com

**Morgan Lewis**  
C O U N S E L O R S   A T   L A W

DOCKETED  
USNRC

March 30, 2004 (3:11PM)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Alex S. Polonsky  
202.739.5830  
apolonsky@morganlewis.com

March 23, 2004

Administrative Judge Thomas S. Moore  
Chairman, Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Re: MOX Facility Controlled Area Boundary;  
*Duke Cogema Stone & Webster* (Savannah River Mixed Oxide Fuel  
Fabrication Facility), Docket No. 70-3098 - ML

---

Dear Judge Moore:

On November 5, 2003, Duke Cogema Stone & Webster LLC (DCS) notified the Atomic Safety and Licensing Board and the parties that the U.S. Department of Energy (DOE) had directed DCS to locate the Controlled Area Boundary (CAB) so that it coincides with the "Restricted Area" boundary for the Mixed Oxide Fuel Fabrication Facility (MOX Facility). The purpose of this letter is to advise you that DOE, by letter dated March 18, 2004 (copy enclosed), has supplemented this direction to clarify that the CAB is to include those areas and buildings that are under the direct control of DCS and are a direct part of the MOX Facility, *i.e.*, the areas and buildings within the restricted area boundary, the receiving warehouse, the administration building, the MOX Facility parking lot, and the gas storage area.

The Honorable Thomas S. Moore  
March 23, 2004  
Page 2

This clarification concerning the CAB does not alter the mootness of Contention 5. GANE and BREDL filed a Motion to withdraw that contention, and the Board granted that Motion by Order dated November 26, 2003.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Alex Polonsky".

Alex S. Polonsky

Enclosure

c: Service List



## Department of Energy

Chicago Operations Office  
9800 South Cass Avenue  
Argonne, Illinois 60439

**MAR 18 2004**

Mr. Ron Barnes, President and COO  
Duke, COGEMA, Stone & Webster, LLC  
128 S. Tryon Street  
12<sup>th</sup> Floor  
PO Box 31847  
Charlotte, NC 28202

Dear Mr. Barnes:

**SUBJECT:** Contract No. DE-AC02-99CH10888, Technical Direction and Change Order Relating to the Mixed Oxide Fuel Fabrication Facility

Reference: David H. Hess letter to Robert Ihde, dated November 3, 2003

This letter provides additional information, clarification, and direction relative to my letter of November 3, 2003, regarding the Controlled Area Boundary (CAB) of the MOX Fuel Fabrication Facility (MFFF).

Upon further review of DCS work to date in response to the November 3 letter, DOE has concluded the following:

As a matter of safety and good business practice, the Controlled Area for the MFFF must include those areas and buildings that are a direct part of the facility, i.e., those areas and buildings under the direct control of DCS. In addition to the areas and buildings within the restricted area boundary, these are the receiving warehouse, the administration building, the MFFF parking lot, and the gas storage area.

Establishing the Controlled Area to include the above referenced areas and buildings enhances the clear and unambiguous lines of communication and authority over those areas, consistent with DOE expectations, safety, and good business practice.

Accordingly, DCS is hereby directed to implement the following clarification to DOE's direction in the letter of November 3, 2003:

- DCS is to establish an MFFF Controlled Area Boundary that comprises the areas and facilities that are under DCS control and are a direct part of the MFFF, including the receiving warehouse, the administration building, the MFFF parking lot, and the gas storage area. The Controlled Area Boundary is not to include any areas or facilities that are beyond the bounds of the "MFFF site". The "MFFF site" corresponds generally to the area shown in Figure 11.1-1 of the Construction Authorization Request as the "MOX Fuel Fab Facility Site Boundary", for which the shortest distance from the stack to the CAB would be approximately 160 meters. DCS must meet the performance requirements for workers and individuals outside the controlled area as set forth in this letter.



Printed on Recycled Paper  
Minimum 20% Postconsumer Recovered Material

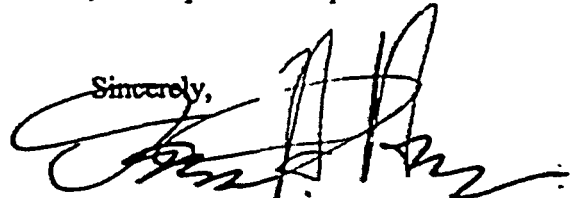
Based on the above, and in accordance with clause 52.243-2 "Changes - Cost Reimbursement" (Aug. 1987) Alternate II (APR 1984) of the subject contract, DCS is hereby directed to complete its evaluation of the impacts to design, technical issues, cost, schedule, licensing documentation, and any other activities resulting from this clarification to the November 3 technical direction. Specific issues to be addressed in this evaluation shall include recommended changes, if any, to the list of Principal Systems, Structures, and Components (PSSCs) and/or Items Relied On For Safety (IROFS) for the MFFF.

DCS is also hereby directed to complete all changes to the MFFF Environmental Report and to the Construction Authorization Request (CAR) that are required as a result of this clarification of technical direction and to have the revised documents ready for DOE review no later than May 7, 2004, and for submittal to the NRC upon completion of DOE review. Direction contained in the November 3 letter regarding withdrawal of commitments in the CAR, DOE review and approval of correspondence with the NRC or other parties concerning this direction letter and actions pursuant to this direction letter, and regarding any other jurisdictional issues remains in effect.

DCS shall provide its technical evaluation and a separate cost proposal for implementing design changes and changes to licensing documentation to DOE within 30 days of receipt of this letter. The cost proposal shall contain sufficient cost and pricing data as required by contract clause 52.215-21 "Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data - Modifications (OCT. 1997)." At that time, discussions will be initiated to definitize the price for this change order. DCS is not authorized to exceed \$250,000 in the performance of this change order and shall notify this office in writing when 85% of that ceiling is reached. If necessary, DOE will consider authorization of an additional cost ceiling at a later date. DOE anticipates issuing a formal change order modification within the next seven days with the requisite funding.

Consistent with the direction of the letter of November 3, DCS shall continue to use its best efforts to minimize to the extent possible the necessary revisions, activities, and impacts for implementation of this technical direction.

Sincerely,



David H. Hess  
Special Programs Division  
Office of Acquisition and Assistance  
Contracting Officer

cc: Ed Siskin, NA-26  
Dave Alberstein, NA-26  
Dave Nulton, NA-261  
Joe Olencz, NA-261  
Jamie Johnson, NA-261  
Patrick Rhoads, NA-261  
Sterling Franks, NA-266  
Kathy Martin, OGC  
Tommy Touchstone, DCS  
Ed Brabazon, DCS  
Peter Hastings, DCS

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**ATOMIC SAFETY AND LICENSING BOARD**

**Before Administrative Judges:**

**Thomas S. Moore, Chairman**

**Charles N. Kelber**

**Peter S. Lam**

\_\_\_\_\_  
In the Matter of )  
)  
)

DUKE COGEMA STONE & WEBSTER )

Docket No. 070-03098-ML

(Savannah River Mixed Oxide Fuel  
Fabrication Facility) )  
\_\_\_\_\_)

ASLBP No. 01-790-01-ML

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the letter and enclosure to Judge Thomas S. Moore dated March 23, 2004 was served this day upon the persons listed below by electronic and First Class Mail.

Secretary of the Commission\*  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
Attn: Rulemakings and Adjudications Staff  
(E-mail: [HEARINGDOCKET@nrc.gov](mailto:HEARINGDOCKET@nrc.gov))

Administrative Judge Peter S. Lam  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
(E-mail: [psl@nrc.gov](mailto:psl@nrc.gov))

Administrative Judge  
Thomas S. Moore, Chairman  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
(E-mail: [tsm2@nrc.gov](mailto:tsm2@nrc.gov))

Dennis C. Dambly, Esq.  
Office of the General Counsel  
Mail Stop - O-15 D21  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
(E-mail: [dcd@nrc.gov](mailto:dcd@nrc.gov))

Administrative Judge Charles N. Kelber  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
(E-mail: [cnk@nrc.gov](mailto:cnk@nrc.gov))

John T. Hull, Esq.  
Office of the General Counsel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
(E-mail: [jth@nrc.gov](mailto:jth@nrc.gov))

Glenn Carroll  
Georgians Against Nuclear Energy  
P.O. Box 8574  
Atlanta, Georgia 30306  
(E-mail: [atom.girl@mindspring.com](mailto:atom.girl@mindspring.com))


Office of Commission Appellate Adjudication  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
(E-mail: [hrb@nrc.gov](mailto:hrb@nrc.gov))

Diane Curran, Esq.  
Harmon, Curran, Spielberg, & Eisenberg, L.L.P.  
1726 M Street N.W., Suite 600  
Washington, D.C. 20036  
(E-mail: [dcurran@harmoncurran.com](mailto:dcurran@harmoncurran.com))

Louis Zeller  
Blue Ridge Environmental Defense League  
PO Box 88  
Glendale Springs, N.C. 28629  
(E-mail: [BREDL@skybest.com](mailto:BREDL@skybest.com))

Shelly D. Cole, Esq.  
U.S. Nuclear Regulatory Commission  
Office of the General Counsel  
Mail Stop: O-15D21  
Washington, D.C. 20555  
(E-mail: [sdcl@nrc.gov](mailto:sdcl@nrc.gov))

\* Original and 2 copies

  
\_\_\_\_\_  
Alex S. Polonsky

3/23/04  
\_\_\_\_\_  
Date