

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 12/04/07

ATOMIC SAFETY AND LICENSING BOARD
Before Administrative Judges:

SERVED 12/04/07

Michael C. Farrar, Chairman
Nicholas G. Trikouros
Lawrence G. McDade

In the Matter of
SHAW AREVA MOX SERVICES
(Mixed Oxide Fuel Fabrication Facility)

Docket No. 70-3098-MLA
ASLBP No. 07-856-02-MLA-BD01
December 4, 2007

MEMORANDUM AND ORDER
(Rescheduling Oral Argument and
Providing Notice of Expected Date for Decision)

1. Our recent unpublished Order of November 21, 2007, called for oral argument on Thursday, December 6, 2007, on the reconsideration of our earlier decision (LBP-07-14, Oct. 31, 2007) regarding the Petitioners' attempted intervention herein, as well as on the admission of a recently-filed contention. Owing to a serious family matter affecting Applicant's lead counsel that was brought to our attention just before the start of the Thanksgiving weekend, we determined informally to postpone the argument, leaving it to the parties later to agree among themselves as to a new date.¹

As it turned out, those inter-party rescheduling discussions had to take account of the need for NRC Staff lead counsel to attend to an important professional matter the week following the scheduled date. Later weeks in December were unavailable because of a Board member's travel schedules and the year-end holidays.

We were informed yesterday that the parties have now agreed upon Tuesday, January 8, 2008, for the oral argument. Accordingly, the argument is hereby rescheduled for

¹ See e-mail (Nov. 21, 2007) from Applicant's co-counsel to the other parties.

that date. As before, that argument will be held in the Board's Hearing Room at the NRC's Rockville, Maryland headquarters complex (on the 3rd floor of the Two White Flint North Building, 11545 Rockville Pike).

It will begin at 1:30 PM and is not expected to last more than two hours. The information concerning argument format previously supplied to all parties (see Nov. 21 Order at 2-3, "Schedule" and "Issues") remains in effect.

While counsel for the Applicant and for the NRC Staff are to appear personally before the Board in the Hearing Room, the three petitioning organizations will retain the same option we offered them earlier (see Nov. 21 Order at 1-2, "Appearances"). Specifically, they may elect either or both of two ways in which to participate: (1) one (or more) of their representatives may appear personally in the Hearing Room to speak for one, two, or all three organizations; and/or (2) all or some of them may participate by telephone conference linkup to the Hearing Room from any location convenient for them.

Proceeding on the same understanding set out in our November 21 Order, all Petitioners shall, individually or collectively, inform the Board by noon on Tuesday, December 18, as to the method(s) of participation they select. The Board's support staff will then contact them about precise logistical arrangements.

2. The Commission ordinarily expects Board decisions on contentions within 45 days of the last substantive pleading (10 C.F.R. § 2.309(i)). In this instance, the last such pleading on the reconsideration matter was received on November 19, 2007. The resulting early-January decision target would have been a feasible one had oral argument been held on December 6, as originally scheduled. However, the lengthy postponement – which was precipitated by legitimate reasons raised by Applicant and Staff counsel – has pushed the argument itself beyond the targeted decision date.

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In the Matter of)
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Shaw AREVA MOX Services, LLC) Docket No. 70-3098-MLA
)
(Mixed Oxide Fuel Fabrication Facility)
Possession and Use License)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (RESCHEDULING ORAL ARGUMENT AND PROVIDING NOTICE OF EXPECTED DATE FOR DECISION) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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ARGUMENT AND PROVIDING NOTICE OF EXPECTED DATE
FOR DECISION)

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 4th day of December 2007