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March 19, 2008 (3:21pm)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

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

In the Matter of:

March 19, 2008

Shaw AREVA MOX Services, LLC

Docket No. 70-3098

(Mixed Oxide Fuel Fabrication Facility)

ASLBP No. 07-856-02-  
MLA-BD01

Possession and Use License)

**SHAW AREVA MOX SERVICES, LLC'S ANSWER TO MOTION FOR  
LEAVE TO REPLY TO OPPOSITION TO PETITIONERS'  
REQUEST REGARDING SUSPENSION OF CONSTRUCTION**

In a March 12, 2008 electronic mail message from the Chairman of the Atomic Safety and Licensing Board in the above-captioned proceeding,<sup>1</sup> Petitioners were authorized to file a reply to Shaw Areva MOX Services' (MOX Services) and the NRC Staff's Answers on Late-filed Contention 7, in accordance with the provisions of 10 CFR Part 2 (Contention 7 Reply).

On March 14, 2008, counsel for Petitioners submitted the referenced Contention 7 Reply,<sup>2</sup> and also submitted both a “Motion for Leave to Reply”<sup>3</sup> to the previous pleadings

<sup>1</sup> E-mail from M. Farrar (NRC) to various addressees, re. "Next MOX Filing" (Mar. 12, 2008).

<sup>2</sup> Intervenor's Response to Shaw AREVA MOX Services' and the NRC Staff's Oppositions to Admission of Contention 7 (Mar. 14, 2008).

<sup>3</sup> Intervenor's Motion for Leave to Reply to Shaw AREVA MOX Services' and NRC Staff's Oppositions to Intervenor's Request to ASLB to Request NRC Commissioners to Suspend Construction of Proposed MOX Plutonium Processing Facility (Mar. 14, 2008) (Petitioners' Motion).

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relating to their request that construction of the Mixed-Oxide Fuel Fabrication Facility (MFFF) be suspended, and an accompanying substantive reply.<sup>4</sup>

MOX Services fundamentally disagrees with Petitioners' characterization that there are "compelling" circumstances warranting the submittal of Petitioners' Reply "because they could not have anticipated arguments by Shaw AREVA and the NRC Staff." Petitioners' Motion at 2. Petitioners seek to suspend the existing Construction Authorization that was approved by another Licensing Board in another, now terminated proceeding. Petitioners' experienced nuclear regulatory counsel should have recognized that Petitioners were effectively seeking a stay of that authorization and that MOX Services and the NRC Staff would argue that the Construction Authorization decision has been made and is not before this Board (which has been given the jurisdiction to rule on the application for a possession and use license, not whether construction should proceed).

Petitioners also should have realized that MOX Services and the NRC Staff would cite previous Commission decisions on the Construction Authorization Request that addressed very similar issues – issues that were raised at the time by the same organizations (GANE, the predecessor to NWS, and BREDL). The arguments referenced by Petitioners in their Motion clearly should have been anticipated by Petitioners in filing their original request.

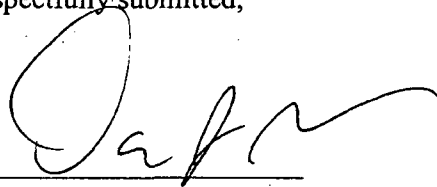
Therefore, Shaw AREVA respectfully requests that Petitioners' Motion be denied.

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<sup>4</sup> Intervenor's Reply to Shaw AREVA MOX Services' and NRC Staff's Oppositions to Intervenor's Request to ASLB to Request NRC Commissioners to Suspend Construction of Proposed MOX Plutonium Processing Facility (Mar. 14, 2008) (Petitioners' Reply)

If Petitioners' Motion is granted, Shaw AREVA requests the right to respond to  
Petitioners' Reply.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Silverman', is written over a horizontal line.

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COUNSEL FOR  
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**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**THE ATOMIC SAFETY AND LICENSING BOARD**

**Before Administrative Judges:  
Michael C. Farrar, Chairman  
Lawrence G. McDade  
Dr. Nicholas G. Trikouros**

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of "Shaw AREVA MOX Services LLC's Answer To Motion For Leave To Reply To Opposition To Petitioners' Request Regarding Suspension of Construction" were served upon the persons listed below, by e-mail and first class mail, this 19th day of March, 2008.

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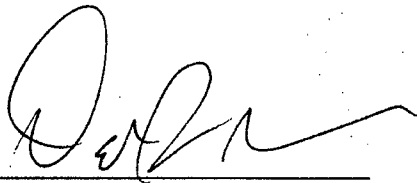
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\* E-mail, original and two copies