

March 17, 2008 (8:00am)

March 14, 2008

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

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

Before Administrative Judges:
Michael C. Farrar, Chair
Nicholas G. Trikouros
Lawrence G. McDade

In the Matter of

SHAW AREVA MOX SERVICES

Mixed Oxide Fuel Fabrication Facility
Possession and Use License

Docket No. 70-3098-MLA

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

**INTERVENORS' MOTION FOR LEAVE TO REPLY
TO SHAW AREVA MOX SERVICES' AND NRC STAFF'S
OPPOSITIONS TO INTERVENORS' REQUEST TO ASLB TO REQUEST
NRC COMMISSIONERS TO SUSPEND CONSTRUCTION OF PROPOSED
MOX PLUTONIUM PROCESSING FACILITY**

INTRODUCTION

Nuclear Watch South ("NWS"), Nuclear Information and Resource Service ("NIRS"), and Blue Ridge Environmental Defense League ("BREDL"), and (collectively "Intervenors") hereby seek leave to reply to Shaw AREVA MOX Services, L.L.C.'s ("Shaw AREVA's") and the U.S. Nuclear Regulatory Commission ("NRC" or "Commission") Staff's oppositions to Intervenors' request to the Atomic Safety and Licensing Board ("ASLB") to request the Commission to suspend construction of the proposed MOX plutonium processing facility pending completion of the design for the proposed facility. Intervenors submit that the circumstances warranting a reply are

Template Secy-041

Secy-02

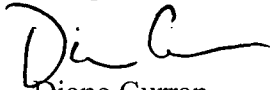
compelling, because they could not have anticipated arguments by Shaw AREVA and the NRC Staff that:

- It is appropriate to apply the standard for a stay to the Intervenor's request;
- Intervenor did not consult the other parties prior to filing their request, as required by 10 C.F.R. § 2.323;
- This Board has no jurisdiction to consider Intervenor's request;
- The Commission intended to allow construction while some major design features were still unknown; and
- Petitioner's request has already been addressed in CLI-02-7, 55 NRC 205 (2002).

Intervenor respectfully submit that they should be allowed to reply regarding these issues, in order to allow the ASLB to make a meaningful record on this novel and difficult issue.

Although counsel for Intervenor made a sincere effort to obtain Shaw AREVA's and the NRC Staff's consent to a reply (*see* attached Certification by Counsel), counsel for both parties stated that they would oppose this motion.

Respectfully submitted,



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March 14, 2008

CERTIFICATION BY COUNSEL

I certify that on March 14, 2008, I spoke with counsel for Shaw AREVA and the NRC Staff and made a sincere effort to obtain their consent to the filing of a reply to their oppositions to Intervenor's request to the ASLB to request the Commission to suspend construction of the proposed MOX plutonium processing facility pending completion of the design for the proposed facility. However, they declined to consent.


Diane Curran

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
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Shaw AREVA MOX Services)

(Mixed Oxide Fuel Fabrication Facility)
Possession and Use License))

Docket No. 70-3098-MLA

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CERTIFICATE OF SERVICE

I certify that on March 14, 2008, copies of the foregoing 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 and Intervenor's Reply were served on the following by e-mail and that on March 17, 2008, they will be served by first-class mail as indicated below:

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