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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

March 14, 2008

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	Docket No. 70-3098-MLA
SHAW AREVA MOX SERVICES	ASLBP No. 07-856-02-MLA-BD01
Mixed Oxide Fuel Fabrication Facility Possession and Use License	

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

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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 Intervenors' request;
- Intervenors 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 Intervenors' request;
- The Commission intended to allow construction while some major design features were still unknown; and
- Petitioners' request has already been addressed in CLI-02-7, 55 NRC 205 (2002).

Intervenors 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 Intervenors 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,

Diane Curran
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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 Intervenors' 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

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NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

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Shaw AREVA MOX Services	)	Docket No. 70-3098-MLA
(Mixed Oxide Fuel Fabrication Facility Possession and Use License)	)	ASLBP No. 07-856-02-MLA-BD01

CERTIFICATE OF SERVICE

I certify that on March 14, 2008, copies of the foregoing 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 and Intervenors' 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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