

January 16, 2009

Michael C. Farrar, Chair  
Atomic Safety and Licensing Board  
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U.S. Nuclear Regulatory Commission  
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Atomic Safety and Licensing Board  
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Washington, D.C. 20555

In the Matter of  
SHAW AREVA MOX SERVICES  
Mixed Oxide Fuel Fabrication Facility  
Docket No. 70-3098-MLA

Dear Administrative Judges,

The NRC Staff provides notice that it has updated the hearing file for this proceeding pursuant to 10 C.F.R. § 2.336(d). The Staff produces herein as Supplement 6 to its Mandatory Disclosures: 1) an index of each item in the hearing file, 2) a deliberative due process privilege log as required by 10 C.F.R. § 2.336(b)(5), and 3) a sensitive information log. The Staff is continuing to preserve and maintain required privileged documents during the pendency of this proceeding. Also, attached are the Affidavit of David Tiktinsky as required by 10 C.F.R. § 2.336(c), and the Declaration of Margie Kotzalas, Deputy Director of the Division of Fuel Cycle Safety and Safeguards, formally invoking the deliberative process privilege as to the documents so referenced herein.

Respectfully submitted,

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Brett Michael Patrick Klukan  
Counsel for the NRC Staff

Farrar  
McDade  
Trikouros

Enclosures: Attachment 1: Hearing File Index  
Attachment 2: Privilege Log - Deliberative Process  
Attachment 3: Sensitive Information Log  
Affidavit of David Tiktinsky  
Declaration of Margie Kotzalas

cc: Attached Service List

**ATTACHMENT 1 SHAW AREVA MOX SERVICES, LLC HEARING FILE AND MANDATORY DISCLOSURES**  
**HEARING FILE INDEX**  
**Supplemental Disclosure 6 – January 16, 2009**

<b>ID #</b>	<b>Accession Number</b>	<b>Document Date</b>	<b>Title/ Description</b>
06-01	ML083240504	12/16/2008	In-Office Review Summary: Mixed Oxide Fuel Fabrication Facility (Chemical Safety).
06-02	ML090060704	01/07/2009	12/09/08 Summary of Meeting With MOX Services Related to Potential Revisions to the MOX Project Quality Assurance Plan for the Mixed Oxide Fuel Fabrication Facility.
06-03	ML090130286	12/18/2008	2008/12/18 MFFF - MPQAP Rev 7 Slides

**ATTACHMENT 2      SHAW AREVA MOX SERVICES, LLC HEARING FILE AND MANDATORY DISCLOSURES  
 DELIBERATIVE PROCESS LOG  
 Supplemental Disclosure 6 – January 16, 2009**

<b>PDP No.</b>	<b>Accession Number</b>	<b>Author Name/ Affiliation</b>	<b>Title/Description</b>	<b>Document Date</b>	<b>Document Type</b>	<b>Addressee / Addressee Affiliation</b>	<b>Comment</b>	<b>Page Count</b>
DP-06-01	ML090130274	P. Bell, NRC/NMSS	2009/01/12 MFFF - MFFF Management Measures RAIs: Records Management	01/12/2009	E-Mail	K. Morrissey, M. Kotzalas, D. Tiktinsky, NRC/NMSS/FCSS	Draft RAIs re: Records Management	4
DP-06-02	ML090130276	A. Murray, NRC/NMSS	2009/01/09 MFFF - Brief Review and Comment - RE: Action: Comments on BNL report on Red Oil Events at MOX	01/09/2009	E-Mail	D. Tiktinsky, M. Norato, M. Kotzalas, K. Morrissey, NRC/NMSS/FCSS	NRC staff discussion re: red oil control.  Also, OUO-SRI.	7
DP-06-03	ML090130277	P. Bell, NRC/NMSS	2009/01/09 MFFF - MFFF Management Measures: Incident Investigation RAIs	01/09/2009	E-Mail	M. Kotzalas, K. Morrissey, D. Tiktinsky, NRC/NMSS/FCSS	Draft RAIs re: MFFF Management Measures	4
DP-06-04	ML090130278	P. Bell, NRC/NMSS	2009/01/09 MFFF - MFFF Management Measures (RAIs) Audits and	01/09/2009	E-Mail	M. Kotzalas, K. Morrissey, D. Tiktinsky, NRC/NMSS/FCSS	Draft RAIs re: MFFF Audits & Assessments	5

			Assessments					
DP-06-05	ML090130280	R. Reeves, NRC/NMSS	2009/01/06 MFFF - MOX SER Input	01/06/2009	E-Mail	D. Tiktinsky, NRC/NMSS/FCSS	Draft SER Ch. re: Material Handling Systems	30
DP-06-06	ML090130283	P. Bell, NRC/NMSS	2008/12/16 MFFF - MFFF Management Measures "Maintenance" RAIs	12/16/2008	E-Mail	M. Kotzalas, K. Morrissey, D. Tiktinsky, NRC/NMSS/FCSS	Draft RAIs re: MFFF Maintenance Program	6
DP-06-07	ML090130284	K. Morrissey, NRC/NMSS	2008/12/17 MFFF - RE: SER Input for MOX ISA	12/17/2008	E-Mail	T. Naquin, M. Bartlett, D. Tiktinsky, NRC/NMSS/FCSS	Draft RAIs re: Radiation Protection	2
DP-06-08	ML090130285	P. Bell, NRC/NMSS	2008/12/18 MFFF - RAIs for Chapter 15 "Training and Qualification"	12/18/2008	E-Mail	M. Kotzalas, K. Morrissey, D. Tiktinsky, NRC/NMSS/FCSS	Draft RAIs re: Training & Qualifications	7
DP-06-09	ML090130287	R. Wescott, NRC/NMSS	2008/12/19 MFFF - Input for Nov 19-20 meeting summary	12/19/2008	E-Mail	T. Johnson, K. Morrissey, D. Tiktinsky, NRC/NMSS/FCSS	NRC draft in- office review re: fire and ventilation RAIs.  Also, OUO-SRI.	4
DP-06-10	ML090130288	S. Echols, NRC/NMSS	2008/12/20 MFFF - RE: MOX RAIs	12/20/2008	E-Mail	B. Smith, D. Tiktinsky NRC/NMSS/FCSS	NRC Staff discussion re: SRS Monitoring Program	2
DP-06-11	ML090130291	M. Bartlett, NRC/NMSS	2008/12/29 MFFF - Soft copy of MOX EP RAIs	12/29/2008	E-Mail	M. Lamastra, K. Morrissey, D. Tiktinsky, NRC/NMSS/FCSS	Draft RAIs re: Emergency Plan Evaluation	6

DP-06-12	ML090130293	M. Bartlett, NRC/NMSS	2008/12/30 MFFF - MOX EP	12/30/2008	E-Mail	K. Morrissey, D. Tiktinsky, NRC/NMSS/FCSS	NRC Staff discussion re draft RAIs re: Emergency Plan Evaluation	2
DP-06-13	ML090130304	S. Echols, NRC/NMSS	2008/12/17 MFFF - FW: MOX RAIs	12/17/2008	E-Mail	B. Smith, D. Tiktinsky, NRC/NMSS/FCSS	Draft RAIs re: Radiation Dose to Public	4
DP-06-14	ML090130305	P. Bell, NRC/NMSS	2008/12/11 MFFF -	12/11/2008	E-Mail	M. Kotzalas, K. Morrissey, D. Tiktinsky, NRC/NMSS/FCSS	Draft SER Ch. re: Management Measures	35
DP-06-15	ML090130310	K. Morrissey, NRC/NMSS	2008/12/11 MFFF - RE: Draft RAIs for Chapter 15: Configuration Management	12/11/2008	E-Mail	P. Bell, M. Kotzalas, D. Tiktinsky, NRC/NMSS/FCSS	NRC Staff discussion re draft RAIs re: Configuration Management  Also, OUO-SRI.	9
DP-06-16	ML090130312	K. Morrissey, NRC/NMSS	2008/12/11 MFFF - RE: MOX QA Program RAI's markup of RAIs	12/11/2008	E-Mail	P. Bell, M. Kotzalas, D. Tiktinsky, NRC/NMSS/FCSS	NRC Staff discussion re draft RAIs re: Quality Assessment Program	2

**ATTACHMENT 3      SHAW AREVA MOX SERVICES, LLC HEARING FILE AND MANDATORY DISCLOSURES  
SENSITIVE INFORMATION LOG  
Supplemental Disclosure 6 – January 16, 2009**

The NRC Staff has determined that certain documents otherwise subject to inclusion in the hearing file and mandatory disclosures for this proceeding contain information subject to withholding from public disclosure as sensitive information pursuant to 10 C.F.R. §§ 2.390(a) and (d). Pursuant to 10 C.F.R. § 2.336(b)(5), the Staff is providing this log to identify the following documents, withheld because of their “protected status.”

<b>SE No.</b>	<b>Accession Number</b>	<b>Author Name/ Affiliation</b>	<b>Title/Description</b>	<b>Document Date</b>	<b>Document Type</b>	<b>Addressee / Addressee Affiliation</b>	<b>Comment</b>	<b>Page Count</b>
SE-06-01	ML083240595	C. Roman, R. Wescott, NRC/NMSS	Enclosure 1 - In-Office Review Summary for July 22-24 and July 29-31, 2008 Related to Chemical Consequences.	12/16/2008	Report	NMSS, MOX Services	This document contains detailed accident information and is withheld as security-related information.  Also contains proprietary information.	2
SE-06-02	ML083240628	J. De Jesus, M. Norato, NRC/NMSS	Enclosure 2 - In-Office Review Summary for July 22-24 and July 29-31, 2008, Related HAN/Hydrazine Events.	12/16/2008	Report	NMSS, MOX Services	This document contains detailed accident information and is withheld as security-related information.  Also contains proprietary information.	4

SE-06-03	ML083240639	M. Guardiola, NRC/NMSS	Enclosure 3 - In-Office Review Summary for May 20-22 and July 22-24, 2008 Related to Radiolysis Events.	12/16/2008	Report	NMSS, MOX Services	This document contains detailed accident information and is withheld as security-related information.  Also contains proprietary information.	3
SE-06-04	ML083240664	C. Roman, K. Markham, NRC/NMSS	Enclosure 4 - In-Office Review Summary for August 19-21, 2008, Related to Hydrogen Peroxide Events.	12/16/2008	Report	NMSS, MOX Services	This document contains detailed accident information and is withheld as security-related information.  Also contains proprietary information.	4
SE-06-05	ML090130290	K. Morrissey, NRC/NMSS	2008/12/29 MFFF - FW: Preliminary List of questions for ISA review	12/29/2008	E-Mail	D. Tiktinsky, NRC/NMSS  D. Gwyn, Mox Services	Preliminary Questions for ISA LA and ISA Summary Review Discussion	6
SE-06-06	ML090130302	D. Tiktinsky, NRC/NMSS	2008/12/23 MFFF - FW: Preliminary List of questions for ISA review	12/23/2008	E-Mail	D. Gwyn, Mox Services	Preliminary Questions for ISA LA and ISA Summary Review Discussion	6



January 16, 2009

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
SHAW AREVA MOX SERVICES	)	Docket No. 70-3098-MLA
	)	
(Mixed Oxide Fuel Fabrication Facility)	)	ASLBP No. 07-856-02-MLA-BD01

AFFIDAVIT OF DAVID TIKTINSKY CONCERNING  
MANDATORY DISCLOSURE  
REQUIREMENT OF 10 C.F.R. § 2.336(c)

I, David Tiktinsky, do hereby state as follows:

1. I am employed as a Senior Project Manager in the Division of Fuel Cycle Safety and Safeguards in the Nuclear Regulatory Commission's ("NRC") Office of Nuclear Material Safety and Safeguards. I serve as the Senior Project Manager for the Mixed Oxide Fuel Fabrication Facility license application to possess and use special nuclear material. Among other things, I am managing the preparation of the hearing file and mandatory disclosures in connection with the license application issue in this proceeding.

2. I hereby certify that all relevant materials required to be disclosed pursuant to 10 C.F.R. § 2.336 (b) and (c) in the captioned proceeding have been disclosed, and that the disclosures are accurate and complete as of the date of this certification.

3. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

  
\_\_\_\_\_  
David Tiktinsky

Executed in Bethesda, MD  
this 16th day of January, 2009

January 16, 2009

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
SHAW AREVA MOX SERVICES	)	Docket No. 70-3098-MLA
	)	
(Mixed Oxide Fuel Fabrication Facility)	)	ASLBP No. 07-856-02-MLA-BD01

DECLARATION OF MARGIE KOTZALAS

I, Margie Kotzalas, do hereby state as follows:

1. I am the acting Deputy Director of the Division of Fuel Cycle Safety and Safeguards in the Office Nuclear Material Safety and Safeguards of the United States Nuclear Regulatory Commission ("NRC"). My supervisory responsibilities include oversight of the NRC Staff's review and evaluation of the Shaw Areva Mixed Oxide Fuel Fabrication Facility License Application.

2. As part of their responsibilities in preparing the hearing file and mandatory disclosures for these proceedings, NRC Staff members under my supervision identified certain documents as privileged because they contained information concerning the Staff's deliberative process. Those documents are listed in Attachment 2 to the Mandatory Supplemental Disclosures submission of the Staff's Hearing File.

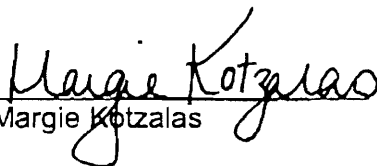
3. I have personally reviewed the documents identified as privileged in Attachment 2, and have determined, in accordance with the guidance set forth in Management Directive 3.4, that they contain predecisional information concerning the Staff's review of the license application. All documents contain either the Staff's analyses, recommendations, opinions, or evaluations, and may not necessarily reflect the final agency position with respect to the matters discussed therein. Each of the

documents comprises part of the deliberative process necessary to the Staff's review of the pending license application.

4. Further, I have determined that disclosures of these documents could result in harm to the agency, in that it would (a) prematurely disclose the preliminary views of individual Staff members and/or the Staff prior to reaching a final agency decision, and could thus create confusion as to the actual policy or views of the NRC Staff; (b) hinder the efficiency of the Staff, in that forced disclosure of its internal discussions on an unresolved issue would tend to chill all future deliberations and would interfere with the Staff's ability to engage in a free exchange of opinions and analyses prior to publishing its final review documents; and (c) imply or suggest incorrectly that the opinions of the Staff members involved in these communications are actually the final decisions of the agency, while no such final decision has yet been made.

5. Accordingly, I formally invoke the deliberative process privilege with respect to each of the documents listed in Attachment 2 to the Mandatory Supplemental Disclosures submission of the Staff's Hearing File.

6. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

  
Margie Kotzalas

Executed in Rockville, MD  
this 16th day of January, 2009.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
SHAW AREVA MOX SERVICES	)	Docket No. 70-3098-MLA
Mixed Oxide Fuel Fabrication Facility	)	
	)	
(License Application for Possession and	)	ASLBP No. 07-856-02-MLA-BD01
Use of Byproduct, Source and Special	)	
Nuclear Materials)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the "LETTER IN THE MATTER OF SHAW AREVA MOX SERVICES, LLC" in the above captioned proceeding have been served on the following persons by deposit in the United States Mail; through deposit in the Nuclear Regulatory Commission internal mail system as indicated by an asterisk(\*); and by electronic mail as indicated by a double asterisk (\*\*) on this 16<sup>th</sup> day of January, 2009:

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/RA/

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