

May 20, 2009

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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 10 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 Marissa Bailey, 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,

/RA/

Kimberly A. Sexton
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 Marissa Bailey

cc: Attached Service List

**ATTACHMENT 1 SHAW AREVA MOX SERVICES, LLC HEARING FILE AND MANDATORY DISCLOSURES
HEARING FILE INDEX
Supplemental Disclosure 10 – May 20, 2009**

ID #	Accession Number	Document Date	Title/ Description
10-01	ML090990480	04/16/2009	04/29/2009 Notice of Meeting With Shaw Areva MOX Sevices to Inform Stakeholders of the Current Status of the Licensing Review, Oversight Activities, and Construction of the MOX Fuel Fabrication Facility (MFFF) at the Savannah River Site in Aiken, SC
10-02	ML090990535	04/16/2009	04/28-29/2009 Closed Meeting Notice re: Shaw AREVA MOX Services (MOX Services) Chemical Process RAI.
10-03	ML090490119	04/17/2009	In-Office Review Summaries: Mixed Oxide Fuel Fabrication Facility (Chemical Safety) on Listed Dates.
10-04	ML091340729	04/21/2009	2009/04/21 MFFF - question related to the criticality review
10-05	ML091110414	04/24/2009	05/04/2009 Notice of Closed Meeting with Shaw AREVA MOX Services to Discuss the Use of Differential Pressure Switches.
10-06	ML091140635	04/24/2009	Press Release-09-077: NRC to Hold Management Meeting with Shaw AREVA to Discuss Progress on Mixed-Oxide Nuclear Fuel Plant.
10-07	ML090960066	04/24/2009	Summary of Closed Meetings with Shaw AREVA MOX Services to Discuss Draft Requests for Additional Information for Various Disciplines Related to the Integrated Safety Analysis Summary and License Application for the Mixed Oxide Fuel Fabrication Facility.
10-08	ML091120130	04/27/2009	05/12/2009 - 05/13/2009 Closed Meeting Notice, MOX, Draft Responses to Staff RAIs.
10-09	ML091120188	04/27/2009	05/14/2009 Notice of Closed Meeting with MOX and NRC to Discuss Draft Requests for Additonal Information Related to the Revised Physical Protection Plan for the the Mixed Oxide Fuel Fabrication Facility located in Aiken SC.
10-10	ML091270452	04/28/2009	Shaw AREVA MOX Services, Mixed Oxide Fuel Fabrication Facility - Submittal of License Application and Integrated Safety Analysis Summary Changes Based on High Alpha Waste Safety Evaluation.
10-11	ML090570569	04/29/2009	Memo to M. Bailey and A. Gody Re: Approach for Verifying Completion of Construction of the Mixed Oxide (MOX) Fuel Fabrication Facility's (MFFF) Principal Structures, Systems, and Components (PSSCS) Pursuant to 10 CFR 70.23(a)(8).
10-12	ML091340726	05/01/2009	2009/05/01 MFFF - FW: MOX Slides for April 29 Management Meeting
10-13	ML091340728	05/05/2009	2009/05/05 MFFF - FW:
10-14	ML091390172	05/05/2009	2009/05/05 MFFF -

10-15	ML091400151	05/20/2009	RED OIL EXCURSIONS IN THE MIXED OXIDE FUEL FABRICATION FACILITY OVERVIEW AND SUMMARY REPORT
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**ATTACHMENT 2 SHAW AREVA MOX SERVICES, LLC HEARING FILE AND MANDATORY DISCLOSURES
 DELIBERATIVE PROCESS LOG
 Supplemental Disclosure 10 – May 20, 2009**

PDP No.	Accession Number	Author Name/ Affiliation	Title/Description	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
DP-10-01	ML091340719	D. Tiktinsky, NRC/NMSS	2009/04/17 MFFF - Action requested - Concurrence for memo related to the approach to meeting 10 CFR70.23(a)8 for MOX	04/17/2009	E-Mail	M. Bailey, B. Klukan, W. Gloersen, D. Seymour, T. Gody, M. Kotzalas, K. Morrissey, C. Roman, NRC/NMSS/FCSS NRC/OGC NRC/RII	Memo Regarding, and Attaching Draft of, Proposal for 10 CFR 70.23(a)(8) Construction Completion Verification Project Also Contains OUO-SRI	104
DP-10-02	ML091340720	W. Gloersen, NRC/RII	2009/04/20 MFFF - re: 70.23a8 CIPIMS proposal	04/20/2009	E-Mail	D. Tiktinsky, NRC/NMSS/FCSS	Proposal for 10 CFR 70.23(a)(8) Construction Completion Verification Project	6
DP-10-03	ML091060667	D. Tiktinsky, NRC/NMSS	Approach for Verifying Completion of Construction, of the Mixed Oxide Fuel Fabrication Facility's Principal Structures, Systems, and Components Pursuant to 10 CFR 70.23(a)(8).	04/29/2009	Report, Technical		Draft Approach for Verifying Completion of Construction of MOX's PSSCs Pursuant to 10 CFR 70.23(a)(8)	6

DP-10-04	ML091400153	Brookhaven National Lab (BNL)	Risk Assessment of Red Oil Excursions in the MOX Facility	05/01/2009	Report, Technical		Draft Report on Risk Assessment of Red Oil Excursions in the MOX Facility Also OUO-SRI and contains proprietary information.	133
DP-10-05	ML091400169	Brookhaven National Lab (BNL)	Appendices	05/01/2009	Report, Technical		Appendices to Draft Report on Risk Assessment of Red Oil Excursions in the MOX Facility Also OUO-SRI	68
DP-10-06	ML091340723	C. Roman, NRC/NMSS	2009/05/04 MFFF -	05/04/2009	E-Mail	D. Tiktinsky, NRC/NMSS/FCSS	Draft Management Meeting Summary	8
DP-10-07	ML091400175	NRC/RES	Resolution of comments on Risk Assessment of Red Oil Excursions in the MOX Facility Report December 2008 (Draft)	05/08/2009	Report, Technical		Draft Resolution of comments on Risk Assessment of Red Oil Excursions in the MOX Facility Report December 2008 Also OUO-SRI	14
DP-10-08	ML091340676	C. Roman, NRC/NMSS	2009/05/11 MFFF - mtg summary	05/11/2009	E-Mail	K. Wagner, NRC/NMSS/FCSS	Draft Meeting Summary	7

DP-10-09	ML091340677	M. Norato, NRC/NMSS	2009/05/12 MFFF - RE: Red Oil Report Final Draft by BNL	05/12/2009	E-Mail	F. Gonzalez, M. Kotzalas, NRC/NMSS/FCSS	Staff discussion regarding report review	2
DP-10-10	ML091340724	M. Kotzalas, NRC	2009/05/14 MFFF - RE: ACI 349 Section 7.6.1	05/14/2009	E-Mail	M. Shannon, NRC/NMSS/FCSS	Internal Staff Discussion Regarding Regulatory Compliance Also OUO-SRI	2

**ATTACHMENT 3 SHAW AREVA MOX SERVICES, LLC HEARING FILE AND MANDATORY DISCLOSURES
SENSITIVE INFORMATION LOG
Supplemental Disclosure 10 – May 20, 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.”

SE No.	Accession Number	Author Name/ Affiliation	Title/Description	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
SE-10-01	ML090490146	Tiktinsky D, NRC/NMSS	Enclosure 1: In-Office Review Summary for May 20-22, 2008, July 30-31, and August 21, 2008, Related to Azides (OUO).	04/17/2009	In-Office Review Summary	M. Kotzalas, NRC/NMSS/FCSS	In office review summaries discuss specific ISA events that are either of high or medium consequence, which are OUO-SRI.	5
SE-10-02	ML090490251	Tiktinsky D, NRC/NMSS	Enclosure 2: In-Office Review Summary for September 9, 2008, October 1-2, October 14-15, and October 28 Related to Azides (OUO).	04/17/2009	In-Office Review Summary	M. Kotzalas, NRC/NMSS/FCSS	In office review summaries discuss specific ISA events that are either of high or medium consequence, which are OUO-SRI.	6

SE-10-03	ML090490291	Tiktinsky D, NRC/NMSS/FCSS	Enclosure 3: In-Office Review Summary for September 30, 2008, through October 2, 2008, Related to Radiolysis Events (OUO).	04/17/2009	In-Office Review Summary	M. Kotzalas, NRC/NMSS/FCSS	In office review summaries discuss specific ISA events that are either of high or medium consequence, which are OUO-SRI.	2
SE-10-04	ML090490338	Tiktinsky D, NRC/NMSS/FCSS	Enclosure 4: In-Office Review Summary for August 21, 2008, Related to HAN Events (OUO).	04/17/2009	In-Office Review Summary	M. Kotzalas, NRC/NMSS/FCSS	In office review summaries discuss specific ISA events that are either of high or medium consequence, which are OUO-SRI.	2
SE-10-05	ML090490372	Tiktinsky D, NRC/NMSS/FCSS	Enclosure 5: In-Office Review Summary for November 18-20, 2008, Related to HAN Events (OUO).	04/17/2009	In-Office Review Summary	M. Kotzalas, NRC/NMSS/FCSS	In office review summaries discuss specific ISA events that are either of high or medium consequence, which are OUO-SRI.	8
SE-10-06	ML090490412	Tiktinsky D, NRC/NMSS/FCSS	Enclosure 6: In-Office Review Summary for November 18, 2008, Related to Off Gas Treatment Events.	04/17/2009	In-Office Review Summary	M. Kotzalas, NRC/NMSS/FCSS	In office review summaries discuss specific ISA events that are either of high or medium consequence, which are OUO-SRI.	2

SE-10-07	ML090490523	Tiktinsky D, NRC/NMSS/FCSS	Enclosure 7: In-Office Review Summary for December 09-10, 2008, and January 27-29, 2009, Related to Off Gas Treatment Events.	04/17/2009	In-Office Review Summary	M. Kotzalas, NRC/NMSS/FCSS	In office review summaries discuss specific ISA events that are either of high or medium consequence, which are OUO-SRI.	4
SE-10-08	ML091270457	Shaw AREVA MOX Services, LLC	Enclosure 1 - Proposed Change Pages to MFFF License Application and Enclosure 2 - Proposed Change Pages to MFFF Integrated Safety Analysis Summary.	04/28/2009			This document describes systems in detail and contains accident information and is withheld as security-related information. Also, contains proprietary information.	22
SE-10-09	ML091060686	NRC/NMSS	Table-Approach for Verifying Completion of Construction, of the Mixed Oxide Fuel Fabrication Facility's Principal Structures, Systems, and Components Pursuant to 10 CFR 70.23(a)(8).	04/29/2009	Table		This document describes systems in detail and is withheld as security-related information. Also, contains proprietary information.	21

SE-10-10	ML091390171	D. Gwyn, MOX Services	2009/04/30 MFFF - NRC Meeting	04/30/2009	E-Mail	D. Tiktinsky, NRC/NMSS/FCSS	This document describes systems in detail and contains accident information and is withheld as security-related information. Also, contains proprietary information.	19
SE-10-11	ML091340722	D. Tiktinsky, NRC/NMSS	2009/05/01 MFFF - FW: NRC Meeting	05/01/2009	E-Mail	T. Johnson, K. Morrissey, C. Roman, M. Kotzalas, NRC/NMSS/FCSS	This document describes systems in detail and contains accident information and is withheld as security-related information. Also, contains proprietary information.	19

May 19, 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.

/Original Signed By/

David Tiktinsky

Executed in Rockville, MD
this 19th day of May, 2009

May 20, 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 MARISSA BAILEY

I, Marissa Bailey, do hereby state as follows:

1. I am employed as the 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.

/Original Signed By/

Marissa Bailey

Executed in Rockville, MD
this 20th day of May, 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 20th day of May, 2009:

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/RA/

Kimberly A. Sexton
Counsel for the NRC Staff