

August 19, 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 13 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 13 – August 19, 2009**

ID #	Accession Number	Document Date	Title/ Description
13-01	ML091960081	07/16/2009	07/30/2009 Notice of Public Meeting with Shaw AREVA MOX Services and the U.S. Nuclear Regulatory Commission to Discuss Draft Responses to Request for Addition Information Related to Management Measures for Mixed Oxide Fuel Fabrication Facility.
13-02	ML091960162	07/17/2009	07/29/09 - 07/30/09 Notice of Closed Meeting with Shaw AREVA MOX Services to Discuss Human Factors and ISAS RAIs.
13-03	ML092290944	07/21/2009	2009/07/21 MFFF - FW: Draft Management Measure RAI Responses, Draft LA Chapter 15
13-04	ML092290943	07/22/2009	2009/07/22 MFFF - FW: Draft LA Ch 5, Draft Ch 16 and LA-ISA RAI Draft Responses
13-05	ML091910111	07/27/2009	06/18/2009 Meeting Summary, Meeting with Shaw AREVA MOX Services to Discuss Draft Responses to the Staffs Requests for Additional Information Related to the Criticality Safety Review for Mixed Oxide Fuel Fabrication Facility to be Built Near Aiken, SC.
13-06	ML092290685	08/13/2009	2009/08/13 MFFF - MOX LA revision 18?
13-07	ML092300716	08/13/2009	Electrical/I&C Draft RAI Responses.

**ATTACHMENT 2 SHAW AREVA MOX SERVICES, LLC HEARING FILE AND MANDATORY DISCLOSURES
 DELIBERATIVE PROCESS LOG
 Supplemental Disclosure 13 – August 19, 2009**

PDP No.	Accession Number	Author Name/ Affiliation	Title/Description	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
DP-13-01	ML092290941	K. Markham, NRC/NMSS	2009/07/15 MFFF - de-TAR'ed from EZR!!!	07/15/2009	E-Mail	D. Tiktinsky, K. Morrissey, M. Norato, M. Kotzalas, T. Hiltz, NRC/NMSS/FCSS	Draft portion of SER related to the electrolyzer. Also, OUO.	18
DP-13-02	ML092290930	D. Tiktinsky, NRC/NMSS	2009/07/23 MFFF - FW: re: pssc-053 v&v plan	07/23/2009	E-Mail	C. Roman, K. Morrissey, M. Kotzalas, NRC/NMSS/FCSS	Draft PSSC-053 Inspection Verification Plan Also, OUO.	9
DP-13-03	ML092290927	M. Barlett, NRC/NMSS	2009/07/28 MFFF - 01-14-09 MOX HP SER v13.doc	07/28/2009	E-Mail	D. Tiktinsky, K. Morrissey, NRC/NMSS/FCSS	Draft radiation safety portion of SER	13
DP-13-04	ML092290926	M. Norato, NRC/NMSS	2009/07/30 MFFF - OUO - Draft SER Input for MFFF HAW - OUO	07/30/2009	E-Mail	D. Tiktinsky, K. Morrissey, M. Kotzalas, B. Klukan, NRC/NMSS/FCSS	Draft SER input for HAW safety evaluation. Also, OUO.	14
DP-13-05	ML092290925	D. Tiktinsky, NRC/NMSS	2009/07/31 MFFF - RE: OUO - Draft SER Input for MFFF HAW - OUO	07/31/2009	E-Mail	M. Norato, K. Morrissey, C. Roman, M. Kotzalas, NRC/NMSS/FCSS	Internal comments and discussion on draft SER input for HAW safety evaluation. Also, OUO.	14

DP-13-06	ML092290920	K. Morrissey, NRC/NMSS	2009/08/06 MFFF - OOU - Draft SER Input for MFFF HAW - OOU	08/06/2009	E-Mail	M. Kotzalas, NRC/NMSS/FCSS	Internal comments and discussion on draft SER input for HAW safety evaluation. Also, OOU.	16
DP-13-07	ML092290921	M. Kotzalas, NRC/NMSS	2009/08/06 MFFF - FW: OOU - Draft SER Input for MFFF HAW - OOU	08/06/2009	E-Mail		Internal comments and discussion on draft SER input for HAW safety evaluation. Also, OOU.	2
DP-13-08	ML092300724		draft ser for mfff haw allcomments	08/06/2009	Draft Document	Attachment to ML092290921	Draft SER input for HAW safety evaluation. Also, OOU.	12
DP-13-09	ML092290742	W. Gloersen, NRC/NMSS	2009/08/11 MFFF - re: PSSC-053 verification plan-revised.	08/11/2009	E-Mail	D. Tiktinsky, K. Morrissey, C. Roman, NRC/NMSS/FCSS	Draft verification plan for PSSC-053. Also, OOU.	12
DP-13-10	ML092290919	M. Norato, NRC/NMSS	2009/08/11 MFFF - OOU - Revised Draft SER Input for MFFF HAW - OOU	08/11/2009	E-Mail	K. Morrissey, D. Tiktinsky, M. Kotzalas, NRC/NMSS/FCSS	Internal comments and discussion on draft SER input for HAW safety evaluation. Also, OOU.	16
DP-13-11	ML092290917	M. Norato, NRC/NMSS	2009/08/13 MFFF - OOU - Draft SER Input for MFFF HAW - OOU	08/13/2009	E-Mail	M. Kotzalas, B. Klukan, D. Tiktinsky, K. Morrissey, NRC/NMSS/FCSS	Draft SER input for HAW safety evaluation. Also, OOU.	16

**ATTACHMENT 3 SHAW AREVA MOX SERVICES, LLC HEARING FILE AND MANDATORY DISCLOSURES
SENSITIVE INFORMATION LOG
Supplemental Disclosure 13 – August 19, 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-13-01	ML092290940	D. Tiktinsky, NRC/NMSS	2009/07/16 MFFF - FW: Draft Human Factors RAI Responses	07/16/2009	E-Mail	S. Fleger, J. Higgins, M. Kotzalas, K. Morrissey, C. Roman, NRC/NMSS/FCSS	The responses contain Integrated Safety Analyses related information which is OUO-SRI	44
SE-13-02	ML092290931	D. Tiktinsky, NRC/NMSS	2009/07/23 MFFF - FW: HAW RAI Responses	07/23/2009	E-Mail	K. Morrissey, M. Norato, C. Roman, M. Kotzalas, NRC/NMSS/FCSS	The responses contain Integrated Safety Analyses related information which is OUO-SRI	22
SE-13-03	ML092290938	D. Tiktinsky, NRC/NMSS	2009/07/23 MFFF - FW: Revised Safety Evaluation	07/23/2009	E-Mail	M. Norato, K. Morrissey, C. Roman, M. Kotzalas, NRC/NMSS/FCSS	The document is the OUO-SRI version of the staff's draft Safety Evaluation Report that contain Integrated Safety Analyses related information which is OUO-SRI	95

SE-13-04	ML092080152	D. Stinson, Shaw AREVA MOX Services, LLC	Shaw AREVA MOX Services, Responses to Request for Additional Information Regarding the Review of the Safety Evaluation of the Postulated Inability to Transfer High Alpha Waste at the Mixed Oxide Fuel Fabrication Facility.	07/23/2009	Letter	NRC/Document Control Desk NRC/NMSS	The responses contain Integrated Safety Analyses related information which is OUO-SRI	5
SE-13-05	ML092080153	D. Stinson, Shaw AREVA MOX Services, LLC	Response to Request for Additional Information Regarding the Review of the Safety Evaluation of the Postulated Inability to Transfer High Alpha Waste at the Mixed Oxide Fuel Fabrication Facility.	07/23/2009	Letter	NRC/Document Control Desk NRC/NMSS	The responses contain Integrated Safety Analyses related information which is OUO-SRI	14
SE-13-06	ML092290928	D. Tiktinsky, NRC/NMSS	2009/07/28 MFFF - FW: Evaluation of Draft Human Factors RAI Responses	07/28/2009	E-Mail	K. Morrissey, C. Roman, M. Kotzalas, NRC/NMSS/FCSS D. Gwyn, MOX Services	The document contain Integrated Safety Analyses related information which is OUO-SRI	29

SE-13-07	ML092290915	D. Gwyn, MOX Services	2009/08/04 MFFF - Draft Emergency Plan Evaluation RAI Responses, Revised Plan	08/04/2009	E-Mail	K. Morrissey, D. Tiktinsky, N. Simpson, NRC/NMSS/FCSS	The document contains Integrated Safety Analyses related information which is OUO-SRI	51
SE-13-08	ML092290922	K. Morrissey, NRC/NMSS	2009/08/04 MFFF - RAI response review	08/04/2009	E-Mail	M. Kotzalas, D. Tiktinsky, NRC/NMSS/FCSS D. Gwyn, MOX Services	The document contains Integrated Safety Analyses related information which is OUO-SRI	9
SE-13-09	ML092290923	K. Morrissey, NRC/NMSS	2009/08/04 MFFF - FW: Draft Emergency Plan Evaluation RAI Responses, Revised Plan	08/04/2009	E-Mail	M. Bartlett, D. Tiktinsky, NRC/NMSS/FCSS	The responses contain Integrated Safety Analyses related information which is OUO-SRI	51
SE-13-10	ML092290856	K. Morrissey, NRC/NMSS	2009/08/07 MFFF - FW: Emergency Plan Evaluation	08/07/2009	E-Mail	M. Bartlett, D. Tiktinsky, M. Kotzalas, C. Roman, NRC/NMSS/FCSS	The responses contain Integrated Safety Analyses related information which is OUO-SRI	89
SE-13-11	ML092290739	D. Gwyn, MOX Services	2009/08/12 MFFF - PSSC-003	08/12/2009	E-Mail	D. Tiktinsky, W. Gloersen, K. Morrissey, NRC/NMSS/FCSS	The responses contain Integrated Safety Analyses related information (IROFS) which is OUO-SRI	44
SE-13-12	ML092290737	D. Gwyn, MOX Services	2009/08/13 MFFF - PSSC-010 Double Walled Pipe	08/13/2009	E-Mail	D. Tiktinsky, W. Gloersen, K. Morrissey, NRC/NMSS/FCSS	The responses contain Integrated Safety Analyses related information (IROFS) which is OUO-SRI	33

SE - 13-13	ML092300656	MOX Services	LA Elect11-4 final	08/17/2009	Draft Document	Attachments to ML092300716	The responses contain Integrated Safety Analyses related information (IROFS) which is OOU-SRI	19
SE - 13-14	ML092300663	MOX Services	final rais elec responses	08/17/2009	Draft Document	Attachments to ML092300716	The responses contain Integrated Safety Analyses related information (IROFS) which is OOU-SRI	19
SE - 13-15	ML092300671	MOX Services	final la i&c section 11.5	08/17/2009	Draft Document	Attachments to ML092300716	The responses contain Integrated Safety Analyses related information (IROFS) which is OOU-SRI	16
SE - 13-16	ML092300675	MOX Services	final l&c rai responses	08/17/2009	Draft Document	Attachments to ML092300716	The responses contain Integrated Safety Analyses related information (IROFS) which is OOU-SRI	54
SE - 13-17	ML092300680	MOX Services	2882_001	08/17/2009	Draft Document	Attachments to ML092300716	The responses contain Integrated Safety Analyses related information (IROFS) which is OOU-SRI	6

August 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 August, 2009

August 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

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 19th day of August, 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 19th day of August, 2009:

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/RA/

Kimberly A. Sexton
Counsel for the NRC Staff