

May 27, 2010

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

Dear Ms. Curran,

Per your request in your letter dated May 20, 2010, the NRC staff ("Staff") has enclosed one copy of each of the following documents:

SE No.	Accession Number	Title/Description	Document Date
SE-18-03	ML093570532	Shaw AREVA MOX Services, LLC - Responses to Requests for Additional Information re Review of Fundamental Nuclear Material Control Plan & Instrumentation & Control Security Aspects for License Application Request.	12/17/2009
SE-18-04	ML093570533	MOX Fuel Fabrication Facility Material Control & Accounting & Fundamental Nuclear Material Control Plan, Enclosure 2.	12/17/2009
SE-15-07	ML092870426	2009/10/07 MFFF - FW: Draft MC&A Responses, MC&A Plan, Exemption Request (ouo)	10/07/2009
SE-08-03	ML090160570	Enclosure 1 re: RAI-OUO, Fundamental Nuclear Material Control Plan MOX Fuel Fabrication Facility Application Dated September 27, 2006.	02/26/2009
SE-08-06	ML090710832	2009/03/10 MFFF - Transmittal of RAI for fundamental material control plan	03/10/2009
SE-05-02	ML083460361	2008/12/09 MFFF - FW: COMPLETE SET OF MC&A RAI QUESTIONS FOR MOX REVIEW	12/09/2008

SE No.	Accession Number	Title/Description	Document Date
SE-05-03	ML083460370	2008/12/04 MFFF - FW: MOX RAI FOR DECEMBER MEETING	12/04/2008
N/A	ML062860340	MOX Fuel Fabrication Facility (MFFF) Material Control and Accounting (MC&A) Fundamental Nuclear Material Control (FNMC) Plan General Discussion, Revision.	05/31/2006
N/A	ML101460258	2008/06/13 MFFF - FW: Initial MOX RAIs for June 24, 2008 Meeting	06/13/2008

The Staff indexed the first seven documents in the Sensitive Information Logs of its fifth, eighth, fifteenth, and eighteenth supplemental disclosure of its hearing file. The last two documents were not located on any of the logs because of an error as discussed below. The requested documents contain security-related information subject to withholding from public disclosure as sensitive unclassified non-safeguards information ("SUNSI") under 10 C.F.R. § 2.390. As such, the copies of these documents now in your possession contain Controlled Information. The copies must be kept and protected in accord with the applicable terms and conditions of the Protective Order.

In the same letter, you also made reference to some documents that you believed may not have been identified by the NRC staff ("Staff") in its monthly hearing file. To that end, you enumerated two examples of document collections you believed missing from Staff's hearing file: (1) responses from the applicant to NRC Requests for Information ("RAIs") dated December 4, 2008 and December 11, 2008 and (2) draft RAIs discussed at a June 25, 2008 meeting between the staff and the applicant or written responses to those RAIs. To clarify, the Staff's approach to RAIs was one in which it prepared draft RAIs, sent those to the applicant, and then met with the applicant to discuss the draft RAIs and draft responses. RAIs were only issued formally after they were discussed with the applicant to ensure a proper understanding of the questions. There was never a formal issuance of draft RAIs and the applicant never formally, or in draft form, responded to the draft RAIs. The only documents that were generated as a result of the meetings were either formal RAIs or the formal responses from the applicant. Formal responses to RAIs do not always come by way of numbered responses to the staff's question, but rather could include, for instance, an updated Fundamental Nuclear Material Control Plan ("FNMCP") that addresses the RAIs.

The Staff wishes to make you aware that while the Staff was performing a comprehensive review of its files to ensure that all documents that should have been identified in the Staff's hearing file had been so identified, the Staff discovered errors and inconsistencies in its initial hearing file. It appears that the initial Hearing File Index did not include all the publicly available documents that should have been identified at that time for the time frame of September 2006 through August 2008. Likewise, the initial Sensitive Information Log did not identify all the sensitive information that should have been identified for the same time period. As an example, one of the documents among others inadvertently not included on the Hearing File Index was an e-mail from the Staff to the Applicant transmitting draft RAIs to be discussed at the June 25, 2008 meeting to discuss the Material Control and Accounting Plan. Per the terms of 10 C.F.R. § 2.336(d), we will file an updated hearing file, or ask for an extension of time, by Monday, June 7, 2010, as the error was discovered on Monday, May 24, 2010.

Also, the Staff discovered inconsistencies in the initial Deliberative Process Log. Documents numbered DP-01-351 through DP-01-448 are mislabeled. As addressed in the chart below, the identification fields for those documents are incorrect to varying degrees. The Staff will produce with its updated hearing file a corrected version of the initial Deliberative Process Log.

DP Nos.	Accession Number	Correct DP Nos. for Author Name, Addressee, and Comment	Description of Problem
DP-01-351 DP-01-353 DP-01-354	ML082000611 ML082001161 ML082001168	Not Applicable	Accession Number, Title/Description, Document Date, Document Type, and Page Count match. Author Name, Addressee, and Comment fields are wrong. No corresponding DP number for correct Author Name, Addressee, and Comment.
DP-01-355 DP-01-356 DP-01-357 DP-01-358	ML082001150 ML082000311 ML082000309 ML082000429	DP-01-353 DP-01-354 DP-01-355 DP-01-356	Accession Number, Title/Description, Document Date, Document Type, and Page Count match. To find the proper Author Name, Addressee, and Comment, you need to look back two DP numbers.
DP-01-359	ML082000253	Not Applicable	Accession Number, Title/Description, Document Date, Document Type, and Page Count match. Author Name, Addressee, and Comment fields are wrong. No corresponding DP number for correct Author Name, Addressee, and Comment.
DP-01-360	ML082001136	DP-01-357	Accession Number, Title/Description, Document Date, Document Type, and Page Count match. To find the proper Author Name, Addressee, and Comment, you need to look back three DP numbers.
DP-01-361	ML082000257	Not Applicable	Accession Number, Title/Description, Document Date, Document Type, and Page Count match. Author Name, Addressee, and Comment fields are wrong. No corresponding DP number for correct Author Name, Addressee, and Comment.
DP-01-362 thru DP-01-448		Take DP number and subtract 4 to get the correct DP number for Author Name, Address, and Comment	Accession Number, Title/Description, Document Date, Document Type, and Page Count match. To find the proper Author Name, Addressee, and Comment, look back four DP numbers.

Respectfully submitted,

/RA/

Brett Michael Patrick Klukan
Counsel for the NRC Staff

Enclosures, as stated

cc: Attached Service List (Without Enclosures)

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

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 27th day of May, 2010:

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