

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD
Before Administrative Judges:

Michael C. Farrar, Chairman
Nicholas G. Trikouros
Lawrence G. McDade

In the Matter of

SHAW AREVA MOX SERVICES

(Mixed Oxide Fuel Fabrication Facility)

Docket No. 70-3098-MLA

ASLBP No. 07-856-02-MLA-BD01

September 16, 2010

ORDER

(Rescheduling Oral Argument)

After receipt of the final briefing document on the issue, the Board set oral argument for September 21, 2010 on the Intervenors¹ motion for admission of three new contentions. See Licensing Board Order (Scheduling Oral Argument) (Sept. 3, 2010) at 1 (unpublished). On September 8, 2010, the Applicant moved to reschedule the argument because its lead counsel will be unavailable on September 21 due to a previously-scheduled international commitment. See Shaw Areva Mox Services' Motion to Reschedule Oral Argument and to Close Argument Based on SUNSI at 1 (Sept. 8, 2010) [hereinafter Shaw AREVA Motion].

Thereafter, the Board notified the parties informally that the oral argument would be rescheduled, and then worked with them to settle on an oral argument date as early as practicable given scheduling conflicts of the parties and the Judges. Accordingly, oral argument is hereby RESCHEDULED for Tuesday, October 12, 2010 at 2:30 pm EDT, to be held in the Atomic Safety and Licensing Board Panel's Rockville Hearing Room. The Board expects that the argument will last no longer than 90 minutes.

In the same document, the Applicant also moved to close the proceeding to the public, asserting that the Applicant, in arguing its position, would need to refer to, or otherwise to discuss, sensitive unclassified non-safeguards information (SUNSI). See Shaw AREVA Motion

¹ Intervenors are Nuclear Information and Resource Service, Nuclear Watch South, and Blue Ridge Environmental Defense League.

at 2. The Board is aware that the Intervenor have requested that the NRC publicly disclose certain SUNSI designated information contained in the pleadings. See Intervenor's Letter Transmitting Motion for Admission of Contentions 9, 10, and 11 (July 26, 2010). To date, the substance of that issue has not yet been resolved, but as a procedural matter the NRC Staff and the Intervenor do not object to closing the proceeding in this instance, pending resolution of the issue of which information is appropriately protected as SUNSI. See Shaw AREVA Motion at 2.

Accordingly, in the interest of efficiency, but without signifying any Board conclusion as to the NRC Staff's SUNSI designation of the prior pleadings, we will close the hearing to avoid any potential disclosure problems. In the interim, we expect that the Intervenor, the Applicant, and the NRC Staff will, as promised, work together to develop a process by which inappropriately designated SUNSI information will be released to the public. See Shaw AREVA Motion at 3. In that regard, at the conclusion of oral argument, the Board will hold a brief conference with the parties to discuss their proposed resolution of the overall SUNSI classification issues.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Michael C. Farrar, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
September 16, 2010²

² Copies of this Order were sent this date by e-mail to counsel for (1) Applicant Shaw AREVA MOX Services, (2) the NRC Staff, and (3) Intervenor Blue Ridge Environmental Defense League (BREDL), Nuclear Watch South (NWS), and the Nuclear Information and Resource Service (NIRS).

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
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Shaw AREVA MOX Services, LLC) Docket No. 70-3098-MLA
)
(Mixed Oxide Fuel Fabrication Facility)
Possession and Use License))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (RESCHEDULING ORAL ARGUMENT) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Docket No. 70-3098-MLA
LB ORDER (RESCHEDULING ORAL ARGUMENT)

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 16th day of September 2010