

DOCKETED
USNRC

October 5, 2010 (4:45p.m.)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

October 5, 2010

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

SHAW AREVA MOX SERVICES

Mixed Oxide Fuel Fabrication Facility
Possession and Use License

Docket No. 70-3098-MLA

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

**INTERVENORS' UNOPPOSED MOTION TO RESCHEDULE ORAL
ARGUMENT TO AFTERNOON OF OCTOBER 26**

Intervenors Nuclear Information and Resource Service, Nuclear Watch South, and Blue Ridge Environmental Defense League, hereby request the Atomic Safety and Licensing Board ("ASLB") to reschedule the oral argument on Contentions 9, 10, and 11, now planned for 2:30 p.m. on October 12, 2010, to 2:30 p.m. on October 26, 2010.

Intervenors' counsel has consulted with counsel for Shaw Areva MOX Services, Inc. and the NRC Staff, who are available on the afternoon of October 26 and do not oppose this motion.

Intervenors request this schedule change because their expert, Dr. Edwin S. Lyman, has received a request from the Reactor and Fuel Cycle Technology Subcommittee of the President's Blue Ribbon Commission on America's Nuclear Future to testify on nuclear proliferation and security issues on October 12, 2010. The Subcommittee will hear testimony from 1:15 to 3:15 p.m., followed by a public comment

period until 4 p.m.¹

Dr. Lyman would like to be able to respond to the Subcommittee's request and take this opportunity to share his views. At the same time, Intervenor believe it is important for Dr. Lyman to attend the oral argument on Contentions 9, 10, and 11, so that he may assist Intervenor's counsel with respect to any technical questions that may arise. In order to allow Dr. Lyman to participate in both proceedings, Intervenor make this request to the ASLB.

Respectfully submitted,



Diane Curran

HARMON, CURRAN, SPIELBERG, & EISENBERG, L.L.P.

1726 M Street N.W., Suite 600

Washington, D.C. 20036

202-328-3500

Fax: 202-328-6918

e-mail: dcurran@harmoncurran.com

October 5, 2010

¹ See attached e-mail message from Matthew Milazzo to Edwin Lyman, letter from Hon. Pete Domenici and Dr. Per F. Peterson to Dr. Lyman, and draft meeting agenda. Intervenor note that Dr. Lyman notified them of the scheduling conflict soon after he received the e-mail request for his testimony late yesterday morning. Intervenor immediately began the process of consulting with counsel for the other parties regarding their availability on alternative dates and filed this motion as soon as agreement was reached.

CERTIFICATE OF SERVICE

I certify that on October 5, 2010, copies of Intervenor's Unopposed Motion to Reschedule Oral Argument to October 26 were served on the following parties by e-mail and first-class mail:

<p>Secretary of the Commission Rulemakings and Adjudications Staff U.S. Nuclear Regulatory Commission Mail Stop: 0-16C1 Washington, DC 20555 hearingdocket@nrc.gov</p>	<p>Lawrence G. McDade Atomic Safety & Licensing Board U.S. Nuclear Regulatory Commission Mail Stop: T-3 F23 Washington, DC 20555 lgm1@nrc.gov</p>
<p>Michael C. Farrar, Chairman Atomic Safety & Licensing Board U.S. Nuclear Regulatory Commission Mail Stop: T-3 F23 Washington, DC 20555 mcf@nrc.gov</p>	<p>Dr. Nicholas G. Trikouros Atomic Safety & Licensing Board U.S. Nuclear Regulatory Commission Mail Stop: T-3 F23 Washington, DC 20555 ngt@nrc.gov</p>
<p>Donald J. Silverman, Esq. Anna L. Vinson, Esq. Timothy P. Matthews, Esq. Morgan, Lewis & Bockius 1111 Pennsylvania Avenue N.W. Washington, D.C. 20004 avinson@morganlewis.com dsilverman@morganlewis.com; agutterman@morganlewis.com</p>	<p>Kimberly Ann Sexton, Esq. Brett Michael Klukan, Esq. Catherine Marco, Esq. Office of the General Counsel U.S. Nuclear Regulatory Commission Mail Stop: 0-15D21 Washington, DC 20555 Kimberly.sexton@nrc.gov Catherine.marco@nrc.gov Brett.Klukan@nrc.gov</p>
<p>Katie Tucker, Law Clerk Atomic Safety & Licensing Board U.S. Nuclear Regulatory Commission Washington, DC 20555 mxc7@nrc.gov</p>	<p>Glenn Carroll Nuclear Watch South P.O. Box 8574 Atlanta, GA 31106 Atom.girl@mindspring.com</p>
<p>Louis A. Zeller Blue Ridge Environmental Defense League P.O. Box 88 Glendale Springs, NC 28629 bredl@skybest.com</p>	<p>Mary Olson Nuclear Information & Resource Service P.O. Box 7586 Asheville, NC 28802 maryolson@main.nc.us</p>


Diane Curran

From: matthew.milazzo@blueribboncommission.net
[matthew.milazzo@blueribboncommission.net]
Sent: Monday, October 04, 2010 11:42 AM
To: Edwin Lyman
Cc: Per F. Peterson
Subject: Invitation to RFCT subcommittee meeting - October 12, 2010

Dr. Lyman,

Hello. The Blue Ribbon Commission on America's Nuclear Future is holding a Reactor and Fuel Cycle Technology Subcommittee meeting in Washington, DC on October 12, 2010 and requests your participation on a panel session entitled "Limiting Future Proliferation and Security Risks" at 1:15 p.m. The meeting is at the Washington Marriott at Metro Center. (775 12th St. NW Washington, DC 20005, Phone 202-737-2200.)

Typically, each of our panelists gives a 5-10 minute presentation (can be PowerPoint slides or just spoken – we've had both) and then it becomes a Q&A session with the Commissioners. Our subcommittee chairs are Senator Pete Domenici and Dr. Per Peterson and the additional members of the subcommittee are: Dr. Albert Carnesale, Dr. Richard Meserve, Dr. Ernie Moniz, Ms. Susan Eisenhower, Dr. Allison Macfarlane, and the Honorable Phil Sharp.

We've asked the panelists to think about the following questions:

1. What major policy and technical tools exist to reduce proliferation risk, and how might U.S. domestic fuel cycle policy influence the effectiveness of these tools?
2. How can proliferation risk be assessed to support policy decisions?
3. What obligations should the U.S. assume for IAEA safeguards on new nuclear infrastructure?
4. What resources are needed to develop new policies and tools to manage and reduce proliferation risk?
5. Can and should physical protection for nuclear facilities and materials be risk-informed?
6. What should be the expectations for improved security design for new nuclear infrastructure? How should one resolve potential conflicts between security and safety?

Please let me know if you have any additional questions.

Thanks again,
Matt

~~~~~  
Matthew D. Milazzo  
Deputy Staff Director  
Blue Ribbon Commission on America's Nuclear Future  
1000 Independence Ave. SW  
Washington, DC. 20585  
voice 202.457.8784  
fax 202.457.8789  
[matthew.milazzo@blueribboncommission.net](mailto:matthew.milazzo@blueribboncommission.net)  
<http://brc.gov>

# BLUE RIBBON COMMISSION ON AMERICA'S NUCLEAR FUTURE

October 4, 2010

Dr. Edwin Lyman  
Union of Concerned Scientists  
1825 K St. NW Suite 800  
Washington, DC 20006

Dear Dr. Lyman:

At the direction of the President, the Secretary of Energy has formed the Blue Ribbon Commission on America's Nuclear Future to conduct a comprehensive review of policies for managing the back end of the nuclear fuel cycle – including used nuclear fuel and high-level wastes – and recommend a plan for moving ahead. The Commission charter and membership are enclosed for your information.

The Commission has formed three subcommittees: one focused on Reactor and Fuel Cycle Technology, a second on issues of Transportation and Storage, and a third focused on Disposal. We chair the subcommittee on Reactor and Fuel Cycle Technology.

Our subcommittee is holding a public meeting in Washington, DC, on October 12<sup>th</sup> at the Washington Marriott at Metro Center located at 775 12<sup>th</sup> Street, NW. The meeting will primarily focus on the waste management implications of nuclear fuel cycle alternatives. The meeting will also address proliferation and security risks associated with new fuel cycle technologies.

We invite you to participate in a panel discussion entitled, "Limiting Future Proliferation and Security Risks" on October 12<sup>th</sup> at 1:15 p.m. This panel will discuss the following questions:

1. What major policy and technical tools exist to reduce proliferation risk, and how might U.S. domestic fuel cycle policy influence the effectiveness of these tools?
2. How can proliferation risk be assessed to support policy decisions?
3. What obligations should the U.S. assume for IAEA safeguards on new nuclear infrastructure?
4. What resources are needed to develop new policies and tools to manage and reduce proliferation risk?
5. Can and should physical protection for nuclear facilities and materials be risk-informed?

6. What should be the expectations for improved security design for new nuclear infrastructure? How should one resolve potential conflicts between security and safety?

We ask that you keep your initial presentation to ten minutes or less to allow sufficient time for questions from the subcommittee members, and we request that a one-page summary of your presentation be provided in advance to the subcommittee. If desired, we welcome you to submit a more lengthy statement and supporting materials electronically or in writing. The one-page summary, your full presentation and any supporting materials should be submitted to [brc@nuclear.energy.gov](mailto:brc@nuclear.energy.gov) by October 7<sup>th</sup>.

Please contact Matthew Milazzo, the Commission Deputy Staff Director, at 202-457-8784 if you have any questions or need additional information regarding this invitation.

With best regards,



The Honorable Pete V. Domenici  
Co-Chairman  
Reactor and Fuel Cycle Technology  
Subcommittee



Dr. Per F. Peterson  
Co-Chairman  
Reactor and Fuel Cycle Technology  
Subcommittee

DRAFT AGENDA – SUBJECT TO CHANGE

**Blue Ribbon Commission on America's Nuclear Future  
Reactor and Fuel Cycle Technology Subcommittee Meeting  
October 12, 2010, Washington Marriott at Metro Center  
775 12<sup>th</sup> St., Washington, DC 20005**

**Tuesday, October 12**

**8:15 – 8:20 a.m. Introduction/Agenda Review – Tim Frazier, DOE Designated Federal Officer**

**8:20 – 8:30 a.m. – Comments by Subcommittee Chairs – Sen. Domenici and Dr. Peterson**

**8:30 – 10:15 a.m. – Waste management implications of fuel cycle alternatives (Panel #1, 1 hr 45 min)**

- Dr. Kathryn McCarthy, Idaho National Laboratory
- Dr. Cathryn Carson, University of California Berkeley
- Dr. Mark Abkowitz, Nuclear Waste Technical Review Board
- Dr. Arjun Makhijani, Institute for Energy and Environmental Research (IEER)
- Dr. Hussein Khalil, Argonne National Laboratory

**10:15 – 10:30 a.m. - Break**

**10:30 – 12:15 p.m. – Evaluating the advantages and disadvantages of new fuel cycles (Panel #2, 1 hr 45 min)**

- Dr. Erich Schneider, University of Texas
- Dr. Everett Redmond, Nuclear Energy Institute (NEI)
- Dr. Andrew Sowder, Electric Power Research Institute (EPRI)
- Mr. Christopher Paine, Natural Resources Defense Council (NRDC)
- Dr. Mujid Kazimi, MIT

**12:15 p.m. – 1:15 p.m. – Lunch Break (Not Provided)**

**1:15 – 3:15 p.m. – Limiting future proliferation and security risks (Panel #3, 2.0 hr)**

- Dr. James Acton, Carnegie Endowment for International Peace
- Dr. Robert Bari, Brookhaven National Laboratory
- Dr. Richard Garwin
- Dr. Edwin Lyman, Union of Concerned Scientists
- Dr. Robert Gallucci, John D. and Catherine T. MacArthur Foundation
- Dr. Lawrence Scheinman, Center for Nonproliferation Studies

**3:15 – 4:00 p.m. – Public Comment**

**4:00 p.m. – End of public session**