

October 25, 2010

Michael C. Farrar, Chair
Atomic Safety and Licensing Board
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Nicholas Trikouros, Administrative Judge
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Atomic Safety and Licensing Board
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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,

Pursuant to 10 C.F.R. § 2.336(d), the Staff herein provides notice that it has revised its Supplemental Disclosure 25 for this proceeding. The Staff has produced an amended Supplemental Disclosure 25 containing: 1) updated index of each item that was not previously disclosed in that hearing file, 2) an updated deliberative process privilege log as required by 10 C.F.R. § 2.336(b)(5), and 3) an updated sensitive information log. The Staff is continuing to preserve and maintain required privileged documents during the pendency of this proceeding. Also, attached is 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: Updated Hearing File Index for Supplemental Disclosure 25
Attachment 2: Updated Privilege Log - Deliberative Process for Supplemental
Disclosure 25
Attachment 3: Updated Sensitive Information Log for Supplemental Disclosure
25
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
Amended Supplemental Disclosure 25 – October 25, 2010

ID #	Accession Number	Document Date	Title/ Description
25-02	ML101900134	06/10/2010	2010/06/10 MFFF - RE: ACRS
25-03	ML101900136	06/10/2010	2010/06/10 MFFF - FW: ACRS

ATTACHMENT 2 SHAW AREVA MOX SERVICES, LLC HEARING FILE AND MANDATORY DISCLOSURES
DELIBERATIVE PROCESS LOG
Amended Supplemental Disclosure 25 – October 25, 2010

DP No.	Accession Number	Author Name/ Affiliation	Title/Description	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
DP-25-03	ML101900137	D. Tiktinsky, NRC/NMSS	2010/06/08 MFFF - Tomorrow's meeting on MOX ACRS prep	06/08/2010	E-Mail	E. Oesterle, K. Morrissey, D. Rahn, R. Wescott, M. Norato, J. DeJesus, M. Benson, C. Roman, C. Tripp, L. Campbell, NRC/NMSS/FCSS A. Chowdhury, CNRWA	Internal Staff email transmitting sample ACRS subcommittee briefings	30
DP-25-04	ML101900133	J. DeJesus, NRC/NMSS	2010/06/11 MFFF - Solvent and Red Oil ACRS presentation	06/11/2010	E-Mail	M. Norato, D. Tiktinsky, NRC/NMSS/FCSS	Internal Staff discussion with draft slides for solvent and red oil explosion presentation to the ACRS Also, OUO.	8

DP No.	Accession Number	Author Name/ Affiliation	Title/Description	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
DP-25-05	ML101900118	M. Norato, NRC/NRO	2010/06/17 MFFF - RE: Solvent and Red Oil ACRS presentation	06/17/2010	E-Mail	J. DeJesus, D. Tiktinsky, K. Morrissey, NRC/NMSS/FCSS	Internal Staff discussion with draft slides for solvent and red oil explosion presentation to the ACRS Also, OUO.	8
DP-25-06	ML101900035	J. DeJesus, NRC/NMSS	2010/06/23 MFFF - RE: Solvent and Red Oil ACRS presentation	06/23/2010	E-Mail	M. Norato, D. Tiktinsky, K. Morrissey, L. Campbell, NRC/NMSS/FCSS	Internal Staff discussion with draft slides for solvent and red oil explosion presentation to the ACRS Also, OUO.	11
DP-25-07	ML101900023	J. DeJesus, NRC/NMSS	2010/06/30 MFFF - Draft slides for ACRS subcommittee on MOX SER	06/30/2010	E-Mail	M. Norato, D. Tiktinsky, NRC/NMSS/FCSS	Draft slides for solvent and red oil explosion, liquid waste, HAN explosion, and HN ₃ /Metal Azide presentations to the ACRS Also, OUO.	31
DP-25-08	ML102280114	M. Norato, NRC/NRO	2010/07/12 MFFF - RE: Draft slides for ACRS subcommittee on MOX SER	07/12/2010	E-Mail	J. DeJesus, NRC/NMSS/FCSS	Internal Staff discussion regarding HAN explosion ACRS slides	2

DP No.	Accession Number	Author Name/ Affiliation	Title/Description	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
DP-25-09	ML102280115	M. Norato, NRC/NRO	2010/07/12 MFFF - RE: Draft slides for ACRS subcommittee on MOX SER	07/12/2010	E-Mail	J. DeJesus, D. Tiktinsky, NRC/NMSS/FCSS	Internal Staff discussion regarding liquid waste ACRS slides	2
DP-25-10	ML102280111	J. DeJesus, NRC/NMSS	2010/07/12 MFFF - RE: Draft slides for ACRS subcommittee on MOX SER	07/12/2010	E-Mail	M. Norato, D. Tiktinsky, NRC/NMSS/FCSS	Internal Staff discussion with draft slides regarding liquid waste presentation to the ACRS Also, OOU.	11
DP-25-11	ML102280116	M. Norato, NRC/NRO	2010/07/13 MFFF - RE: Draft slides for ACRS subcommittee on MOX SER	07/13/2010	E-Mail	J. DeJesus, D. Tiktinsky, NRC/NMSS/FCSS	Internal Staff discussion regarding liquid waste ACRS slides	3
DP-25-12	ML102280110	J. DeJesus, NRC/NMSS	2010/07/14 MFFF - RE: Draft slides for ACRS subcommittee on MOX SER	07/14/2010	E-Mail	M. Norato, D. Tiktinsky, K. Morrissey, NRC/NMSS/FCSS	Internal Staff discussion with draft slides regarding HAN explosion presentation to the ACRS Also, OOU.	9
DP-25-13	ML102280108	M. Norato, NRC/NRO	2010/07/22 MFFF - RE: Draft slides for ACRS subcommittee on MOX SER	07/22/2010	E-Mail	J. DeJesus, D. Tiktinsky, K. Morrissey, L. Campbell, NRC/NMSS/FCSS	Internal Staff discussion with draft slides regarding solvent and red oil explosion presentation to the ACRS Also, OOU.	10

DP No.	Accession Number	Author Name/ Affiliation	Title/Description	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
DP-25-14	ML102280104	D. Tiktinsky, NRC/NMSS	2010/07/23 MFFF - MOX FIRE SAFETY REVIEW dt comments.pptx	07/23/2010	E-Mail	R. Wescott, K. Morrissey, L. Campbell, NRC/NMSS/FCSS	Draft slides and comments on fire safety review presentation to the ACRS Also, OUO.	16
DP-25-15	ML102280105	D. Tiktinsky, NRC/NMSS	2010/07/23 MFFF - ARCS Presentation_HN3 and Metal Azide Explosions_rev0 dt comments.pptx	07/23/2010	E-Mail	J. DeJesus, K. Morrissey, M. Norato, L. Campbell, NRC/NMSS/FCSS	Draft slides and comments regarding HN ₃ and metal azide presentation to the ACRS Also, OUO.	9
DP-25-16	ML102280106	D. Tiktinsky, NRC/NMSS	2010/07/23 MFFF - ARCS Presentation_Liquid Waste_rev1 dt comments.pptx	07/23/2010	E-Mail	J. DeJesus, M. Norato, K. Morrissey, L. Campbell, NRC/NMSS/FCSS	Draft slides and comments regarding liquid waste presentation to the ACRS Also, OUO.	10
DP-25-17	ML102280107	D. Tiktinsky, NRC/NMSS	2010/07/23 MFFF - ARCS Presentation_HAN Explosion_rev1 dt comments.pptx	07/23/2010	E-Mail	J. DeJesus, M. Norato, K. Morrissey, L. Campbell, NRC/NMSS/FCSS	Draft slides and comments for HAN presentation to the ACRS Also, OUO.	8
DP-25-18	ML102280102	C. Tripp, NRC/NMSS	2010/07/26 MFFF - RE: Slides for ACRS	07/26/2010	E-Mail	D. Tiktinsky, K. Morrissey, NRC/NMSS/FCSS	Internal Staff discussion regarding aqueous polishing presentation to ACRS	2

DP No.	Accession Number	Author Name/ Affiliation	Title/Description	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
DP-25-19	ML102280101	D. Tiktinsky, NRC/NMSS	2010/07/28 MFFF - RE: ARCS Presentation_Solvent and Red Oil Explosions_rev1 dht comments.pptx	07/28/2010	E-Mail	D. Tiktinsky, M. Norato, K. Morrissey, L. Campbell, NRC/NMSS/FCSS	Draft slides and internal staff discussion regarding solvent and red oil explosion presentation to the ACRS Also, OUO.	13
DP-25-20	ML102280099	M. Norato, NRC/NRO	2010/07/28 MFFF - RE: ARCS Presentation_Solvent and Red Oil Explosions_rev1 dht comments.pptx	07/28/2010	E-Mail	J. DeJesus, D. Tiktinsky, K. Morrissey, L. Campbell, NRC/NMSS/FCSS	Internal Staff discussion regarding red oil presentation to the ACRS	2
DP-25-21	ML102280097	J. DeJesus, NRC/NMSS	2010/07/30 MFFF - RE: ARCS Presentation_HN3 and Metal Azide Explosions_rev0 dt comments.pptx	07/30/2010	E-Mail	D. Tiktinsky, M. Norato, K. Morrissey, L. Campbell, NRC/NMSS/FCSS	Draft slides and comments regarding HN ₃ and metal azide presentation to the ACRS Also, OUO.	10
DP-25-22	ML102280098	J. DeJesus, NRC/NMSS	2010/07/30 MFFF - RE: ARCS Presentation_HAN Explosion_rev1 dt comments.pptx	07/30/2010	E-Mail	D. Tiktinsky, M. Norato, K. Morrissey, L. Campbell, NRC/NMSS/FCSS	Draft slides and comments for HAN explosion presentation to the ACRS Also, OUO.	10
DP-25-23	ML102280095	J. DeJesus, NRC/NMSS	2010/08/02 MFFF - RE: Draft slides for ACRS subcommittee on MOX SER	08/02/2010	E-Mail	M. Norato, D. Tiktinsky, NRC/NMSS/FCSS	Internal Staff discussion regarding waste presentation to the ACRS	3

DP No.	Accession Number	Author Name/ Affiliation	Title/Description	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
DP-25-24	ML102280096	M. Norato, NRC/NRO	2010/08/02 MFFF - RE: Draft slides for ACRS subcommittee on MOX SER	08/02/2010	E-Mail	J. DeJesus, D. Tiktinsky, NRC/NMSS/FCSS	Internal Staff discussion regarding waste presentation to the ACRS	3
DP-25-25	ML102280090	J. DeJesus, NRC/NMSS	2010/08/03 MFFF - RE: Draft slides for ACRS subcommittee on MOX SER - Solvent/Red Oil Explosion	08/03/2010	E-Mail	M. Norato, D. Tiktinsky, K. Morrissey, L. Campbell, NRC/NMSS/FCSS	Internal Staff discussion regarding red oil presentation to the ACRS	2
DP-25-26	ML102280091	M. Norato, NRC/NRO	2010/08/03 MFFF - Draft slides for ACRS subcommittee on MOX SER - Solvent/Red Oil Explosion	08/03/2010	E-Mail	J. DeJesus, D. Tiktinsky, K. Morrissey, S. Soto, L. Campbell, NRC/NMSS/FCSS	Internal Staff discussion regarding red oil presentation to the ACRS	2
DP-25-27	ML102280092	M. Norato, NRC/NRO	2010/08/03 MFFF - RE: Draft slides for ACRS subcommittee on MOX SER	08/03/2010	E-Mail	J. DeJesus, D. Tiktinsky, S. Soto, L. Campbell, NRC/NMSS/FCSS	Internal Staff discussion regarding waste presentation to the ACRS	4
DP-25-28	ML102280094	J. DeJesus, NRC/NMSS	2010/08/03 MFFF - RE: Draft slides for ACRS subcommittee on MOX SER	08/03/2010	E-Mail	M. Norato, D. Tiktinsky, S. Soto, L. Campbell, NRC/NMSS/FCSS	Draft slides and internal Staff comments regarding liquid waste presentation to the ACRS Also, OOU.	14

DP No.	Accession Number	Author Name/ Affiliation	Title/Description	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
DP-25-29	ML102280088	M. Norato, NRC/NRO	2010/08/04 MFFF - RE: ARCS Presentation_HN3 and Metal Azide Explosions_rev2 comments.pptx	08/04/2010	E-Mail	J. DeJesus, D. Tiktinsky, K. Morrissey, L. Campbell, NRC/NMSS/FCSS	Draft slides for HN ₃ and metal azide presentation to the ACRS Also, OUO.	10
DP-25-30	ML102280117	J. DeJesus, NRC/NMSS	2010/08/04 MFFF - RE: ARCS Presentation_HN3 and Metal Azide Explosions_rev2 comments.pptx	08/04/2010	E-Mail	M. Norato, D. Tiktinsky, K. Morrissey, L. Campbell, NRC/NMSS/FCSS	Internal Staff discussion regarding HN ₃ /Metal Azide and HAN slides for the ACRS	2
DP-25-31	ML102280089	M. Norato, NRC/NRO	2010/08/04 MFFF - Draft slides for ACRS subcommittee on MOX SER - HAN Explosions (EXP-04)	08/04/2010	E-Mail	J. DeJesus, D. Tiktinsky, K. Morrissey, L. Campbell, NRC/NMSS/FCSS	Internal Staff discussion regarding HAN explosion presentation to the ACRS	2
DP-25-32	ML102280083	M. Norato, NRC/NRO	2010/08/05 MFFF - RE: ARCS Presentation_HN3 and Metal Azide Explosions_rev2 comments.pptx	08/05/2010	E-Mail	J. DeJesus, D. Tiktinsky, K. Morrissey, L. Campbell, NRC/NMSS/FCSS	Internal staff comments regarding HN ₃ and metal azide presentation to the ACRS Also, OUO.	3
DP-25-33	ML102280082	D. Tiktinsky, NRC/NMSS	2010/08/05 MFFF - RE: ACRS SubCommittee Presentation on MOX FFF DI&C Software Safety Evaluation Draft (1).ppt	08/05/2010	E-Mail	D. Rahn, K. Morrissey, L. Campbell, NRC/NMSS/FCSS	Internal Staff discussion regarding digital instrumentation and control presentation to the ACRS	2

DP No.	Accession Number	Author Name/ Affiliation	Title/Description	Document Date	Document Type	Addressee / Addressee Affiliation	Comment	Page Count
DP-25-34	ML102280081	D. Tiktinsky, NRC/NMSS	2010/08/06 MFFF - ACRS	08/06/2010	E-Mail	A. Chowdhury, CNWRA K. Morrissey, L. Campbell, NRC/NMSS/FCSS	Draft Staff and contractor slides regarding seismic design presentation to the ACRS	9
DP-25-35	ML102280080	D. Tiktinsky, NRC/NMSS	2010/08/11 MFFF - RE: Reconciliation memo	08/11/2010	E-Mail	L. Campbell, K. Morrissey, NRC/NMSS/FCSS	Internal Staff discussion regarding hot shorts	3

ATTACHMENT 3 SHAW AREVA MOX SERVICES, LLC HEARING FILE AND MANDATORY DISCLOSURES
SENSITIVE INFORMATION LOG
Amended Supplemental Disclosure 25 – October 25, 2010

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-25-07	ML101900054	D. Tiktinsky, NRC/NMSS	2010/06/22 MFFF - ACRS Software Presentation 20Aug V0.ppt ouo	06/22/2010	E-Mail	K. Morrissey, L. Campbell, M. Benson, D. Rahn, D. Tiktinsky, NRC/NMSS/FCSS	MOX Services’ draft slides for software presentation to the ACRS are OUO-SRI because they contain information related to IROFS for the MFFF	13

October 25, 2010

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 25th day of October, 2010.

October 25, 2010

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 25th day of October, 2010.

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 25th day of October, 2010:

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/RA/

Kimberly A. Sexton
Counsel for the NRC Staff