

April 20, 2011

Michael C. Farrar, Chair  
Atomic Safety and Licensing Board  
Mail Stop: T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Nicholas Trikouros, Administrative Judge  
Atomic Safety and Licensing Board  
Mail Stop: T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Lawrence G. McDade, Administrative Judge  
Atomic Safety and Licensing Board  
Mail Stop: T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

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

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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 33 to its Mandatory Disclosures: 1) an index of each item in the hearing file and 2) a deliberative due process privilege log as required by 10 C.F.R. § 2.336(b)(5). 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 Peter Habighorst, Acting 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,

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Kimberly A. Sexton  
Counsel for the NRC Staff

Farrar  
McDade  
Trikouros

Enclosures: Attachment 1: Hearing File Index  
Attachment 2: Privilege Log - Deliberative Process  
Affidavit of David Tiktinsky  
Declaration of Peter Habighorst

cc: Attached Service List

**ATTACHMENT 1 SHAW AREVA MOX SERVICES, LLC HEARING FILE AND MANDATORY DISCLOSURES**  
**HEARING FILE INDEX**  
**Supplemental Disclosure 33 – April 20, 2011**

<b>ID #</b>	<b>Accession Number</b>	<b>Document Date</b>	<b>Title/ Description</b>
33-01	ML110660038	04/05/2011	Memo to C. Bladey re; Notice of Opportunity to Request a Hearing for an Amendment to the Construction Authorization for the Mixed Oxide Fuel Fabrication Facility under Construction on the Savannah River Site in Aiken, SC.

**ATTACHMENT 2      SHAW AREVA MOX SERVICES, LLC HEARING FILE AND MANDATORY DISCLOSURES  
 DELIBERATIVE PROCESS LOG  
 Supplemental Disclosure 33 – April 20, 2011**

<b>DP No.</b>	<b>Accession Number</b>	<b>Author Name/ Affiliation</b>	<b>Title/Description</b>	<b>Document Date</b>	<b>Document Type</b>	<b>Addressee / Addressee Affiliation</b>	<b>Comment</b>	<b>Page Count</b>
DP-33-01	ML111040413	J. Hammelman, NRC/NMSS	2011/04/04 MFFF - Three chemical safety slides	04/04/2011	E-Mail	D. Tiktinsky, J. DeGange,, NRC/NMSS/FCSS	Staff draft chemical safety slides for May 2011 public meeting.	6
DP-33-02	ML111040422	J. Marcano, NRC/NMSS	2011/04/05 MFFF - Proposed MOX QAPD RAI's	04/05/2011	E-Mail	D. Tiktinsky, L. Campbell, K. Morrissey, S. Soto, D. Arroyo, S. Atack, NRC/NMSS/FCSS	Draft staff RAIs for Revision 10 of the MOX Quality Assurance Data Package.	5
DP-33-03	ML111040409	L. Campbell, NRC/NMSS	2011/04/05 MFFF - FW: MOX MFFF QADP March 2011 Submittal.docx	04/05/2011	E-Mail	K. Morrissey, D. Tiktinsky, NRC/NMSS/FCSS	Forward between staff of an internal staff email regarding changes to MOX Services' Quality Assurance Data Package.	4
DP-33-04	ML111040403	W. Gloersen, NRC/RGN-II	2011/04/06 MFFF - re: CIVP-024 - draft	04/06/2011	E-Mail	D. Tiktinsky, K. Morrissey, C. Roman, J. DeGagne, NRC/NMSS/FCSS	Draft staff PSSC verification plan for the gloveboxes.  Also, OOU.	9

<b>DP No.</b>	<b>Accession Number</b>	<b>Author Name/ Affiliation</b>	<b>Title/Description</b>	<b>Document Date</b>	<b>Document Type</b>	<b>Addressee / Addressee Affiliation</b>	<b>Comment</b>	<b>Page Count</b>
DP-33-05	ML111040398	J. Marcano, NRC/NMSS	2011/04/06 MFFF - Latest Rev MOX QAPD RAI's	04/06/2011	E-Mail	D. Tiktinsky, L. Campbell, K. Morrissey, S. Soto, D. Arroyo, S. Atack,, NRC/NMSS/FCSS	Draft staff RAIs for Revision 10 of the MOX Quality Assurance Data Package.	4
DP-33-06	ML111040395	J. DeGange, NRC/NRO	2011/04/07 MFFF - sintering furnace	04/07/2011	E-Mail	D. Tiktinsky, NRC/NMSS/FCSS	Draft staff PSSC verification plan for the sintering furnace.  Also, OOU.	8

April 20, 2011

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)

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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 20<sup>th</sup> day of April, 2011.

April 20, 2011

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 PETER HABIGHORST

I, Peter Habighorst, do hereby state as follows:

1. I am employed as the Acting 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/***

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Peter Habighorst

Executed in Rockville, MD,  
this 20th day of April, 2011.

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 20th day of April, 2011:

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*/RA/*

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