

July 25, 2012 (2:55 p.m.)

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF THE SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

THE ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:
Michael C. Farrar, Chairman
Lawrence G. McDade
Dr. Nicholas G. Trikouros

In the Matter of:

SHAW AREVA MOX SERVICES, LLC

(Mixed Oxide Fuel Fabrication Facility
Possession and Use License)

July 25, 2012

Docket No. 70-3098-MLA

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

**Shaw AREVA MOX Services’
Unopposed Motion for Extension and Alternative Schedule**

On July 19, 2012, the Atomic Safety and Licensing Board (Board) in the above-captioned proceeding issued an “Order (Granting Intervenors’ Motion for Leave to Submit Surreply)” and gave Shaw AREVA MOX Services (MOX Services) until July 30, 2012 to answer the Surreply. MOX Services respectfully requests an extension of time and alternative schedule as follows:

MOX Services requests that it submit its answer to the Intervenors’ Surreply as part of its initial filing in response to the Board’s June 29, 2012 Memorandum and Order and July 16, 2012 Order (both relating to the Board’s requests for further information on Contentions 9 and 11). Thus MOX Services’ answer to the Surreply would be due by October 15, 2012. In addition, the NRC Staff would be permitted to address the Surreply by December 19, 2012, the Intervenors would be permitted to respond by January 31, 2013, and MOX Services would be permitted to submit a final reply by February 14, 2013. Similar to the Board’s recognition in granting leave

to file the Surreply, the procedure proposed above “will not prejudice...the timing...of this proceeding.”¹

Pursuant to 10 CFR § 2.323(b), counsel for MOX Services has consulted with Staff and Intervenor counsel, neither of whom objects to the request set forth above.

* * *

As a separate matter, MOX Services wishes to state for the record that, in its view, the Board’s July 19, 2012 Order granting leave to file the Surreply did not contain an adequate justification for the relief granted. In MOX Services’ May 30, 2012 Answer to Intervenors’ Motion for Leave to Submit Surreply, it specifically identified those locations in the record of the proceeding in which the statements which the Intervenors identified as newly raised were previously addressed and raised in the record.² And, as MOX Services highlighted, the issues raised in Intervenors’ Motion were first raised by MOX Services in September 2011, allowing Intervenors *ample* opportunity to respond.³ But rather than reaching a determination as to whether those statements were, in fact, new information warranting an additional opportunity for the Intervenors to respond, the Board was entirely silent on this question and justified the relief it granted solely on the basis that it would “not [in the Board’s view] prejudice either the timing or the substance of this proceeding.”⁴

That justification does not address the sufficiency of Intervenors’ Motion. Nor does it, in MOX Services’ view, provide an adequate basis for granting the Intervenors’ Motion.

Nevertheless, we seek no reconsideration of the Board’s decision, but reserve all rights of appeal

¹ Order (Granting Intervenors’ Motion for Leave to Submit Surreply) at 3 (July 19, 2012).

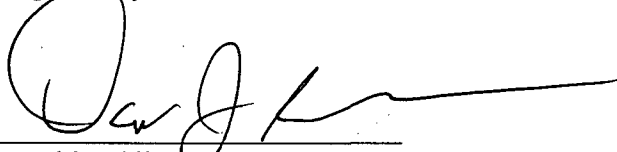
² See Shaw AREVA MOX Services, LLC’s Answer to Intervenors’ Motion for Leave to Submit Surreply at 2-4 (May 30, 2012).

³ See *id.*

⁴ Order (Granting Intervenors’ Motion for Leave to Submit Surreply) at 3 (July 19, 2012); see generally *id.*

of this and any other Board decision on the matter in accordance with applicable NRC procedural requirements.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Donald J. Silverman', written over a horizontal line.

Donald J. Silverman, Esq.
Timothy P. Matthews, Esq.
Anna Vinson Jones, Esq.
MORGAN, LEWIS & BOCKIUS, LLP
1111 Pennsylvania Ave, N.W.
Washington, DC 20004
Phone (202) 739-5502
E-mail: dsilverman@morganlewis.com

Counsel for Shaw AREVA MOX Services, LLC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

THE ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:
Michael C. Farrar, Chairman
Lawrence G. McDade
Dr. Nicholas G. Trikouros

In the Matter of

SHAW AREVA MOX SERVICES, LLC

(Mixed Oxide Fuel Fabrication Facility
Possession and Use License)

July 25, 2012

Docket No. 70-3098-MLA

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

CERTIFICATE OF SERVICE

I hereby certify that on July 25, 2012, copies of "Shaw AREVA MOX Services' Unopposed Motion for Extension and Alternative Schedule," were served upon the persons listed below by email and first class mail.

Secretary of the Commission
Rulemakings and Adjudications Staff
U.S. Nuclear Regulatory Commission
Mail Stop: 0-16 C1
Washington, D.C. 20555-0001
Hearing.Docket@nrc.gov

Michael C. Farrar, Chair
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Mike.Farrar@nrc.gov

Lawrence G. McDade
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Lawrence.McDade@nrc.gov

Dr. Nicholas G. Trikouros
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Nicholas.Trikouros@nrc.gov

Office of Commission Appellate Adjudication
U.S. Nuclear Regulatory Commission
Mail Stop: O-7 H4M
Washington, DC 20555-0001
OCAAMAIL.Resource@nrc.gov

Diane Curran
Harmon, Curran, Spielberg, & Eisenberg, LLP
1726 M Street N.W., Suite 600
Washington, D.C. 20036
DCurran@harmoncurran.com

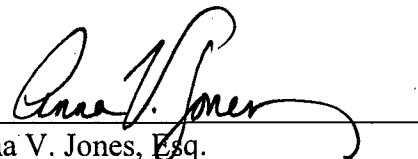
Office of General Counsel
U.S. Nuclear Regulatory Commission
Mail Stop: O-15 D21
Washington, DC 20555-0001
Christopher Hair
Christopher.Hair@nrc.gov
Brett Klukan
Brett.Klukan@nrc.gov
Catherine Scott
Catherine.Scott@nrc.gov
Marcia Simon
Marcia.Simon@nrc.gov

Law Clerk
Atomic Safety and Licensing Board Panel
Law Clerks
Mail Stop: T-3 E2B
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Joshua A. Kirstein
Josh.Kirstein@nrc.gov
Shelbie Lewman
Shelbie.Lewman@nrc.gov

Glenn Carroll
Nuclear Watch South
P.O. Box 8574
Atlanta, GA 31106
Atom.Girl@mindspring.com

Mary Olson
Nuclear Information and Resource Service
P.O. Box 7586
Asheville, NC 28802
MaryOlson@main.nc.us

Louis A. Zeller
Blue Ridge Environmental Defense League
P.O. Box 88
Glendale Springs, NC 28629
BREDL@skybest.com



Anna V. Jones, Esq.
Counsel for Shaw AREVA MOX Services, LLC

Dated: 25 July 2012