

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

August 30, 2011

ORDER

(Granting Applicant's Motion for Clarification or Correction)

Shaw AREVA MOX Services (the Applicant) has moved unopposed for clarification or correction of our July 26, 2011 Memorandum and Order.¹ Specifically, the Applicant seeks clarification of that order insofar as it left open the possibility that this proceeding, to be conducted under Subpart L of 10 C.F.R. Part 2, might upon party request be converted to Subpart G.²

In the circumstances and posture of this case, and in light of the other parties' lack of opposition,³ the Applicant is entitled to the essence of the relief sought. Accordingly, the text of the challenged

¹ Unopposed Motion for Clarification or Correction of Board Memorandum and Order Dated July 26, 2011 (July 27, 2011) at 3 [hereinafter Motion].

² Id. at 1-3 (referencing Licensing Board Memorandum and Order (Summarizing Prehearing Conference Call, Revising Protective Order, and Scheduling Evidentiary Hearing) (July 26, 2011) at 3 n.14 (unpublished)).

³ The Applicant represents that the NRC Staff does not oppose the instant motion and that the Intervenor also "do not oppose the motion with respect to its narrow request to clarify that 10 C.F.R. § 2.310(d) does not apply to this proceeding." Motion at 3.

footnote 14 in our July 26, 2011 Memorandum and Order is hereby withdrawn and replaced with the following language, which explains our reasons for taking this action:

14. The circumstances and posture of this case, including the type of facility involved, create no occasion for us to consider the extent to which, if at all, there might in other circumstances be residual availability for Subpart G that survived the Commission's resolution of related questions in Crow Butte Res., Inc. (North Trend Expansion Project), CLI-09-12, 69 NRC 535, 571-73 (2009).

It is so ORDERED.

THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Michael C. Farrar, Chairman
ADMINISTRATIVE JUDGE

/RA/

Lawrence G. McDade
ADMINISTRATIVE JUDGE

/RA/

Nicholas G. Trikouros
ADMINISTRATIVE JUDGE

Rockville, Maryland
August 30, 2011

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) Intervenors 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)	
)	
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 (GRANTING APPLICANT'S MOTION FOR CLARIFICATION OR CORRECTION) 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 (GRANTING APPLICANT'S MOTION FOR CLARIFICATION OR CORRECTION)

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 30th day of August 2011