

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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

THE ATOMIC SAFETY AND LICENSING BOARDOFFICE OF THE SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

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 Intervenor's 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 Intervenor's 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 Intervenor 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.”<sup>1</sup>

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 Intervenor’s Motion for Leave to Submit Surreply, it specifically identified those locations in the record of the proceeding in which the statements which the Intervenor identified as newly raised were previously addressed and raised in the record.<sup>2</sup> And, as MOX Services highlighted, the issues raised in Intervenor’s Motion were first raised by MOX Services in September 2011, allowing Intervenor *ample* opportunity to respond.<sup>3</sup> But rather than reaching a determination as to whether those statements were, in fact, new information warranting an additional opportunity for the Intervenor 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.”<sup>4</sup>

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

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

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<sup>1</sup> Order (Granting Intervenor’s Motion for Leave to Submit Surreply) at 3 (July 19, 2012).

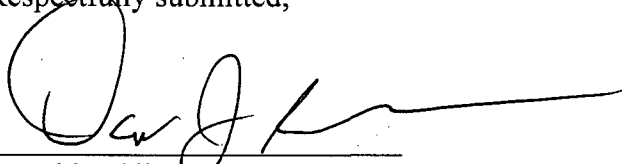
<sup>2</sup> See Shaw AREVA MOX Services, LLC’s Answer to Intervenor’s Motion for Leave to Submit Surreply at 2-4 (May 30, 2012).

<sup>3</sup> See *id.*

<sup>4</sup> Order (Granting Intervenor’s 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 'Don J. Silverman', written over a horizontal line.

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**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.

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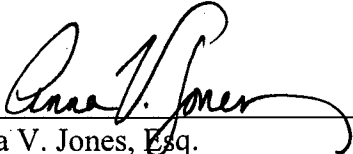
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Dated: 25 July 2012

  
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