

**Response to “Comment of Tom Clements, Director, Savannah River Site Watch, [www.srswatch.org](http://www.srswatch.org), at Nuclear Regulatory Commission Meeting on MOX Plant Construction, Aiken, SC, January 15, 2015**

Q: Given the funding problem, we can thus expect in the FY 2016 budget request that DOE will once again attempt to put the MOX plant construction on “cold standby.” Is the NRC prepared to monitor shut-down activities if it proceeds?

A: The NRC has guidance in Generic letter 87-15 “Commission Policy Statement on Deferred Plants” which was written for Part 50 Reactor Licensees with a construction permit. The staff would follow that guidance, as applicable, for a Plutonium Fuel fabrication facility with a construction authorization if DOE determines that it will place the project in cold standby.

Q: Can the NRC demonstrate that the MOX project is indeed 60% complete?

A: The NRC has used information related to percent completion, as provided by the applicant, as in input to our determination of whether “good cause” had been demonstrated in order to extend the construction authorization. The NRC has no independent way to verify this number and relies on DOE/NNSA’s and MOX Services numbers. The NRC’s regulatory responsibility relates to nuclear safety and security and not construction management. This question is better directed at DOE/NNSA.

Q: Should the NRC have taken into account things beyond its jurisdiction, competency or regulatory authority in considering the construction authorization request? Congressional appropriations for the MOX project are clearly not within the NRC’s expertise or area of oversight. But, there are questions pertinent to the NRC concerning budget impacts. Given the reduced budget, have any safety-related jobs been eliminated or have construction activities been eliminated or modified which have safety impacts and are any short cuts being taken to avoid further delays to any project schedule (if such a schedule actually exists)?

A: The NRC evaluated all of the factors presented by the applicant in order to evaluate whether “good cause” has been provided to extend the CA. The evaluation was documented in the staff’s order and SER related to the time extension for the CA.

As for impacts of budget on safety related jobs, the NRC maintains a robust inspection program at the MFFF commensurate with the level of construction activities being performed at the site. Between the inspections that are performed by our Region 2 office and the NRC resident inspector, the NRC would be able to identify the impacts, if any, on MOX Services safety programs.

Q: Lack of qualified vendors and workers reflects poor planning on the part of the licensee and is not directly of regulatory concern to the NRC unless those issues impact ability to construct the facility according to regulations. Likewise, any claim of a “delay” in start of construction is not an NRC matter and any claimed “delay” may well have been due to internal matters with the contractor and DOE. That many problems were foreseen, yet ignored, by the licensee and the National Nuclear Security Administration does not lead to the apparent conclusion by the NRC that mismanagement and poor planning is a valid reason to issue a 10-year construction authorization extension, valid until 2025.

A: As outlined in the staff's SER and order to MOX Services, the NRC evaluated the justification provided by MOX Services in their request for an extension of the CA. The determination of "good cause" was based on a combination of factors. The staff's determination of "good cause" concluded that the reasons provided were acceptable and that the extension requested is reasonable based on the uncertainty of funding for construction.

Q: The NRC's approval of the license extension essentially embraces the unfortunate situation of the poor project management by NNSA and CB&I AREVA MOX Services.

A: See answer to the above question. The NRC regulatory decision was based on the determination of "good cause" and did not evaluate program management of the MOX facility by NNSA and MOX Services (which is outside of NRC's regulatory jurisdiction).

Q: As the NRC has taken into account the problems outside its scope in reviewing the status of the license, it is incumbent upon the NRC to now reveal just when it thinks that the project will be concluded within the additional 10 years it has allotted for construction.

A: The construction completion date for the MFFF is dependent on factors outside of the control of the NRC. NRC's regulatory responsibilities related to safety and security will be performed during construction, startup and operation (assuming a license is granted to possess and use special nuclear material). The NRC has no information regarding the completion date of construction of the MFFF.

Q: The 10-year license extension thus appears to have put the NRC in the position of simply accepting that more construction delays are inevitable.

A: As stated above, the NRC determined that MOX Services had demonstrated "good cause" to extend to CA. The NRC has regulatory responsibility for nuclear safety and security at the MFFF as directed by Congress. The NRC has no regulatory responsibility regarding the timing of construction.

Q: As NRC will have been aware of this as well, one can only wonder if the NRC has become complicit in further delays in the MOX project given the 10-year license extension that has been granted.

A: As stated in an earlier response, the construction completion date for the MFFF is dependent on factors outside of the control of the NRC. NRC's regulatory responsibilities related to nuclear safety and security will be performed during construction and operation (assuming a license is granted to possess and use special nuclear material).