

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

G. Paul Bollwerk, III, Chairman
Dr. Kaye D. Lathrop
Dr. Craig M. White

In the Matter of

AREVA ENRICHMENT SERVICES, LLC

(Eagle Rock Enrichment Facility)

Docket No. 70-7015-ML

ASLBP No. 10-899-02-ML-BD01

February 24, 2011

NOTICE OF OPPORTUNITY TO PARTICIPATE
IN UNCONTESTED/MANDATORY HEARING

(Procedures for Participation by Interested Governmental Entities
Regarding Environmental Portion of Enrichment Facility Licensing Proceeding)

In this 10 C.F.R. Part 70 proceeding regarding the request of applicant AREVA Enrichment Services, LLC, (AES) to construct and operate its proposed Eagle Rock Enrichment Facility (EREF) in Bonneville County, Idaho, on February 10, 2011, the NRC staff issued a notice of the availability of its final environmental impact statement (FEIS) analyzing the National Environmental Policy Act (NEPA)-related environmental aspects of the AES application (NUREG-1945, ADAMS Accession Nos. ML11014A005 (Volume 1) and ML11014A006 (Volume 2)). See Notice of Availability of [FEIS] for the [AES] Proposed [EREF] in Bonneville County, ID, 76 Fed. Reg. 9054 (Feb. 16, 2011). In accord with Atomic Energy Act (AEA) section 274l, 42 U.S.C. § 2021(l), using the agency's E-Filing system,¹ on or before Monday,

¹ The process for accessing and using the agency's E-Filing system is described in the July 23, 2009 notice of hearing that was issued by the Commission for this proceeding. See

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April 4, 2011, any interested State, local governmental body, or affected, federally-recognized Indian Tribe may file with the Licensing Board in this proceeding a statement of any issues or questions about which the State, local governmental body, or Indian Tribe wishes the Board to give particular attention as part of the environmental/FEIS-related portion of the uncontested/mandatory hearing process associated with the AES application and the staff's environmental review of that application.² Such a statement of issues/questions may be accompanied by any supporting documentation that the State, local governmental body, or Indian Tribe sees fit to provide. Any statements of issues/questions and supporting documentation (if any) received by Board by the deadline indicated above will be made part of the record of this proceeding.

¹(. . . continued)

Notice of Receipt of Application for License; Notice of Consideration of Issuance of License; Notice of Hearing and Commission Order and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation; In the Matter of AREVA Enrichment Services, LLC (Eagle Rock Enrichment Facility), 74 Fed. Reg. 38,052, 38,055 (Jul. 30, 2009) (CLI-09-15, 70 NRC 1, 10-11 (2009)).

² The scope of, and procedural protocols associated with, the uncontested/mandatory hearing in this proceeding are set forth in the Licensing Board's orders of May 19, June 4, and June 30, and December 17, 2010, as well as its October 7, 2010 scheduling order. See Licensing Board Initial Scheduling Order (May 19, 2010) at 3-7 (unpublished); Licensing Board Order (Clarifying Initial Scheduling Order) (June 4, 2010) at 2-5 (unpublished); Licensing Board Order (Setting Aside Hold-Dates for Mandatory Hearings) (June 30, 2010) at 2 (unpublished); Licensing Board Memorandum and Order (Initial General Schedule; Revision to Mandatory Hearing Procedures; Inviting Written Limited Appearance Statements; Participation by Interested Governmental Entities) (Oct. 7, 2010) at 2-3 (unpublished); Licensing Board Memorandum and Order (Providing Presentation Topics and Administrative Directives Associated with Mandatory Hearing on Safety Matters) (Dec. 17, 2010) (unpublished).

Previously, the Board issued a notice regarding participation by States, local governmental bodies, and Indian Tribes in the AEA/safety-related portion of this proceeding, see Atomic Safety and Licensing Board; Notice of Opportunity to Participate in Uncontested/Mandatory Hearing (Procedures for Participation by Interested Governmental Entities Regarding Safety Portion of Enrichment Facility Licensing Proceeding), 75 Fed. Reg. 63,213 (Oct. 14, 2010), which was the subject of an evidentiary hearing on January 25, 2011, in the Atomic Safety and Licensing Board Panel's Rockville, Maryland hearing room, see Tr. at 90-272.

The Board will use such statements of issues/questions and supporting documents as appropriate to inform its prehearing questions to the staff and applicant AES and its inquiries at the oral hearing currently scheduled for mid-to-late June or mid-July 2011, at a location in Idaho in the vicinity of the proposed EREF.³ The Board may also request that one or more of the particular States, local governmental bodies, or Indian Tribes providing a statement of issues/questions send representatives to the hearing to participate as the Board may deem appropriate, including answering Board questions and/or making a statement for the purpose of assisting the Board's exploration of one or more of the issues raised by the State, local governmental body, or Indian Tribe in the prehearing filings described above.⁴ The decision on

³ The Board anticipates issuing an additional order providing details regarding the schedule associated with, and the location of, the summer 2011 evidentiary hearing on environmental/NEPA-related matters in the near future, which would include dates associated with possible additional participation by any State, local governmental body, or Indian Tribe that, in accord with this notice, provides a timely statement of issues/questions for the Board to consider in the mandatory/uncontested hearing.

⁴ States, local governments, or Indian Tribes should be aware that the uncontested/mandatory hearing is separate and distinct from the NRC's contested hearing process, which has not been invoked in this proceeding. While States, local governments, or Indian Tribes participating as described above may take any position they wish, or no position at all, with respect to the AES application or the staff's associated environmental review, they should be cognizant that, due to the inherently adversarial nature of such proceedings, many of the procedures and rights applicable to the NRC's contested hearing process generally are not available with respect to this uncontested hearing. Participation in the NRC's contested hearing process is governed by 10 C.F.R. § 2.309 (for persons or entities, including States, local governments, or Indian Tribes, seeking to file contentions of their own) and 10 C.F.R. § 2.315(c) (for interested States, local governments, and Indian Tribes seeking to participate with respect to contentions filed by others). Participation in this uncontested hearing does not affect the right of a State, local governmental entity, or Indian Tribe to participate in any separate contested hearing process that might be requested relative to this proceeding.

Additionally, States, local governmental bodies, and Indian Tribes should be aware that, in accord with 10 C.F.R. § 2.315(a), the Board is currently accepting written limited appearance statements regarding this proceeding, and anticipates conducting one or more oral limited appearance sessions in conjunction with the planned summer 2011 evidentiary hearing sessions. See Notice of Hearing (Notice of Evidentiary Hearing and Opportunity to View Hearing via Webstreaming; Opportunity To Submit Written Limited Appearance Statements), 76 Fed. Reg. 387, 388 (Jan. 4, 2011). A written limited appearance statement or oral limited

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whether to request the presence of representatives of a State, local governmental body, or Indian Tribe at the hearing to participate in the oral hearing is solely at the Board's discretion. The Board's request will specify the issue or issues that the representatives should be prepared to address.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

G. Paul Bollwerk, III
CHAIRMAN

Rockville, Maryland

February 24, 2011

⁴(. . . continued)
appearance session presentation would provide an alternative participation opportunity for the representative of an interested governmental entity that does not wish to submit a statement of issues/questions in accord with this notice, but does want to provide the Board with its views regarding the issues in this proceeding. The process for making an oral limited appearance statement will be outlined in a Federal Register notice issued prior to those sessions.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
AREVA ENRICHMENT SERVICES, LLC)	DOCKET NO. 70-7015-ML
(Eagle Rock Enrichment Facility))	
)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **NOTICE OF OPPORTUNITY TO PARTICIPATE IN UNCONTESTED/MANDATORY HEARING (Procedures for Participation by Interested Governmental Entities Regarding Environmental Portion of Enrichment Facility Licensing Proceeding)**, dated February 24, 2011, have been served upon the following persons by Electronic Information Exchange.

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AREVA ENRICHMENT SERVICES, LLC (Eagle Rock Enrichment Facility) – 70-7015-ML
NOTICE OF OPPORTUNITY TO PARTICIPATE IN UNCONTESTED/MANDATORY HEARING
(Procedures for Participation by Interested Governmental Entities Regarding Environmental
Portion of Enrichment Facility Licensing Proceeding)

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[Original signed by Linda D. Lewis]_____
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 24th day of February 2011