

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before the Licensing Board:

G. Paul Bollwerk, III, Chair  
Dr. Richard F. Cole  
Dr. Kenneth L. Mossman

In the Matter of

STRATA ENERGY, INC.

(Ross In Situ Recovery Uranium Project)

Docket No. 40-9091-MLA

ASLBP No. 12-915-01-MLA-BD01

May 25, 2012

MEMORANDUM AND ORDER

(Requesting Clarification Regarding NRC Staff's Review Schedule)

By filings dated May 21, 2012, the parties provided the Licensing Board with information potentially pertinent to the general schedule for this proceeding. In a joint report requested by the Board, applicant Strata Energy, Inc. (SEI), the Nuclear Regulatory Commission (NRC) staff, and Joint Intervenors<sup>1</sup> all indicated that they do not intend to submit a pre-draft environmental impact statement (DEIS) dispositive motion relative to any of Joint Intervenors' four admitted environmental contentions. See Letter from Counsel for the Staff, SEI, and Joint Intervenors to Licensing Board at 1 (May 21, 2012); see also Licensing Board Memorandum and Order (Requesting Information Regarding Schedule for Possible Pre-[DEIS] Summary Disposition Motions) (May 14, 2012) at 2-3 (unpublished). Additionally, the staff provided the Board with an update regarding its review schedule for the SEI application. In that report, the staff stated that based on the staff's recent acceptance of SEI responses to a set of staff requests for additional

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<sup>1</sup> Joint Intervenors are the Natural Resources Defense Council (NRDC) and the Powder River Basin Resource Council (PRBRC).

information (RAI), the staff now contemplates that “the Draft Supplemental Environmental Impact Statement (SEIS) will be issued on January 10, 2013, the Final SEIS will be issued on November 4, 2013, and the final Safety Evaluation Report (SER) will be issued on December 4, 2013.” Letter from Michelle D. Albert, NRC Staff Counsel, to Licensing Board at 1 (May 21, 2012).

With this information in hand, the Board will prepare a revised general schedule for this adjudicatory proceeding. Before doing so, however, the Board wishes to obtain clarification from the staff regarding an item that has recently come to the Board’s attention concerning the staff’s review schedule.

In a May 10, 2012 letter to SEI, the staff advised SEI that, in light of SEI’s March 30 and April 6, 2012 RAI responses,

[b]ased on [ ] the staff’s generic application review schedule, the staff is scheduled to complete a final draft [SER] within 180 days of the date of this letter. It should be noted[ ] that the final SER will not be completed and made publicly available until 30 days after the [SEIS] is finalized, assuming staff finds that the application meets applicable regulatory requirements for licensing of a Part 40 uranium recovery facility.

Letter from John L. Saxon, Project Manager, Uranium Recovery Licensing Branch, NRC Office of Federal and State Materials and Environmental Programs, to Mal James, SEI Chief Operating Officer, at 1 (May 10, 2012) (ADAMS Accession No. ML12130A149). Previously, in response to an inquiry from the Board during the December 20, 2011 initial prehearing conference, the staff indicated that there would not be a “draft SER” issued relative to the SEI application. Tr. at 171.

Given this May 10 staff statement to SEI, the Board would appreciate clarification from the staff regarding whether (1) there has been any change in plans concerning the preparation

of a “draft” SER after the staff’s December 20 statement;<sup>2</sup> and (2) the “final draft” SER will be made publicly available and/or available to Joint Intervenors and if so, when, or if not, why not.<sup>3</sup>

The Board requests that the staff provide a response addressing these matters on or before Friday, June 1, 2012.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

/RA/

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G. Paul Bollwerk, III  
CHAIR

Rockville, Maryland

May 25, 2012

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<sup>2</sup> Although the staff’s May 10 letter refers to a “final draft” SER, it is not apparent to the Board how this would be different from the “draft” SER about which the Board inquired during the December 2011 conference.

<sup>3</sup> The NRC’s website, as updated on May 22, 2012, indicates that the tentative date for staff completion of the “final draft” SER for the Ross facility is June 15, 2013, which is less than six months before the tentative date of December 4, 2013, provided for staff issuance of the “final” SER. See Application Review Schedule for Ross, <http://www.nrc.gov/materials/uranium-recovery/license-apps/ross/ross-schedule.html> (last visited May 24, 2012). In contrast, under the terms of the staff’s May 10 letter, the “final draft” SER is scheduled to be completed by November 6, 2012, which is more than a year before the December 2013 date for issuance of the “final” SER.

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)  
(Materials License Application) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MEMORANDUM AND ORDER (Requesting Clarification Regarding NRC Staff's Review Schedule)** have been served upon the following persons by Electronic Information Exchange.

U.S. Nuclear Regulatory Commission.  
Atomic Safety and Licensing Board Panel  
Mail Stop T-3F23  
Washington, DC 20555-0001

G. Paul Bollwerk, III, Chair  
Administrative Judge  
[paul.bollwerk@nrc.gov](mailto:paul.bollwerk@nrc.gov)

Dr. Richard F. Cole  
Administrative Judge  
[richard.cole@nrc.gov](mailto:richard.cole@nrc.gov)

Dr. Kenneth L. Mossman  
Administrative Judge  
[kenneth.mossman@nrc.gov](mailto:kenneth.mossman@nrc.gov)

Anthony C. Eitreim, Esq.  
Chief Counsel  
[ace1@nrc.gov](mailto:ace1@nrc.gov)  
James Maltese, Law Clerk  
[james.maltese@nrc.gov](mailto:james.maltese@nrc.gov)

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

U.S. Nuclear Regulatory Commission  
Office of the General Counsel  
Mail Stop O-15D21  
Washington, DC 20555-0001  
Molly Barkman Marsh, Esq.  
[molly.barkmanmarsh@nrc.gov](mailto:molly.barkmanmarsh@nrc.gov)  
Brett Klukan  
[brett.klukan@nrc.gov](mailto:brett.klukan@nrc.gov)  
Carrie Safford, Esq.  
[carrie.safford@nrc.gov](mailto:carrie.safford@nrc.gov)  
Catherine Scott, Esq.  
[clm@nrc.gov](mailto:clm@nrc.gov)  
Michelle Albert, Esq.  
[michelle.albert@nrc.gov](mailto:michelle.albert@nrc.gov)  
OGC Mail Center:  
[OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov)

U.S. Nuclear Regulatory Commission  
Office of the Secretary of the Commission  
Mail Stop O-16C1  
Washington, DC 20555-0001  
Hearing Docket  
[hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov)

STRATA ENERGY, INC., Ross In Situ Recovery Uranium Project - Docket No. 40-9091-MLA  
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Strata Energy, Inc.  
Thompson & Pugsley, PLLC  
1225 19<sup>th</sup> Street, NW, Suite 300  
Washington, DC 20036  
Christopher S. Pugsley, Esq.  
[cpugsley@athompsonlaw.com](mailto:cpugsley@athompsonlaw.com)

Powder River Basin Resource Council  
934 N. Main Street  
Sheridan, WY 82801  
Shannon Anderson, Esq.  
[sanderson@powderriverbasin.org](mailto:sanderson@powderriverbasin.org)

Natural Resource Defense Council  
1152 15<sup>th</sup> Street, NW, Suite 300  
Washington, DC 20005  
Geoffrey H. Fettus, Esq.  
Senior Project Attorney  
[gfettus@nrdc.org](mailto:gfettus@nrdc.org)  
Andres J. Restrepo, Esq.  
Legal Fellow  
[arestrepo@nrdc.org](mailto:arestrepo@nrdc.org)

[original signed by Christine M. Pierpoint ]  
Office of the Secretary of the Commission

Dated at Rockville, Maryland  
this 25<sup>th</sup> day of May 2012