

August 17, 2012

G. Paul Bollwerk, III, Chair
Administrative Judge
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dr. Kenneth L. Mossman
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Dr. Richard F. Cole
Administrative Judge
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Washington, DC 20555-0001

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

Dear Administrative Judges:

In its August 7, 2012 Memorandum and Order (Requesting Scheduling Input), the Atomic Safety and Licensing Board (Board) directed the parties to provide input regarding adjustments to this proceeding's schedule to account for certain deadlines contained in the newly revised 10 C.F.R. Part 2.¹ Specifically, the Board asked the parties to address: (1) extending from 14 to 25 days the period, governed by 10 C.F.R. § 2.309(i)(1), for the Applicant and Staff to file an answer to any new or amended contentions; and (2) extending from 30 to 45 days the Board's time to rule on the admissibility of any new or amended contentions. The statement of considerations for the new Part 2 rule indicates that absent a Board order reflecting an agreement by the parties or some other basis for different time periods, the deadlines in the new Part 2 rule will govern new or amended contentions filed in this proceeding. The Board asked for a joint reply, if possible.

The parties have not reached a consensus. First, the Natural Resources Defense Council and the Powder River Basin Resource Council (Joint Intervenors) support a shift to the new rule timelines. If the Board extends the period for the Applicant and Staff to file answers to new and amended contentions, they would request that they not be limited to seven days for their reply. Rather, they would request 14 days for the reply as they would be replying to two answers.

Strata Energy, Inc. prefers to maintain the schedule that the Board outlined in its June 13, 2012 Memorandum and Order. Strata's preference is based on the fact that the license application was filed under the previous hearing procedures, the hearing was requested under the old hearing procedures, and the first phase of this hearing was conducted under the old hearing procedures. Strata does not see any need to extend timeframes for filings in this matter. Thus, Strata does not believe that shifting the current hearing procedures to the new ones is necessary. Therefore, Strata does not support changing the deadlines in this proceeding.

¹ Amendments to Adjudicatory Process Rules and Related Requirements, 77 Fed. Reg. 46,562 (Aug. 3, 2012).

Finally, the Staff does not have a strong preference for maintaining the shorter deadlines contained in the current schedule, and so would support a schedule revision that comports with the new 10 C.F.R. Part 2 statement of considerations effectiveness account. At this point, the Staff would not support an extension of time for the Joint Intervenors to file a reply to Applicant and Staff's answers, as the new Part 2 does not provide that additional time. But the Staff notes that the Joint Intervenors are not barred from requesting an extension for filing their reply when we get to that point in the proceeding.

Respectfully submitted,

/Signed (electronically) by/

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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STRATA ENERGY, INC.)	Docket No. 40-9091-MLA
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(Ross In Situ Recovery Uranium Project))	ASLBP No. 12-915-01-MLA-BD01
)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the JOINT RESPONSE TO THE BOARD MEMORANDUM AND ORDER (REQUESTING SCHEDULING INPUT) in the above-captioned proceeding have been served via the Electronic Information Exchange (EIE) this 17th day of August, 2012:

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