

November 2, 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
Administrative Judge
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dr. Richard F. Cole
Administrative Judge
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
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:

Pursuant to 10 C.F.R. §§ 2.336(b) and (c) and 2.1203 and the Memorandum and Order (Additional Provisions Governing Mandatory Disclosures/Hearing File Updates) issued by the Atomic Safety and Licensing Board (Board) on May 2, 2012, the U.S. Nuclear Regulatory Commission (NRC) staff (Staff) provides the Board and the parties with an index listing documents required to be disclosed by the Staff (Attachment 1). These documents may be viewed by accessing the hearing file for this proceeding that is maintained by the NRC's Office of the Secretary. The Staff is also attaching one index listing documents that, under 10 C.F.R. § 2.390, are exempt from disclosure and for which the Staff is asserting a privilege or immunity (Attachment 2).

Along with the attached lists, the Staff is providing affidavits (1) certifying that all relevant materials have been disclosed to the extent required by 10 C.F.R. § 2.336(b) and (c), as modified by the Board's Memorandum and Order (Additional Provisions Governing Mandatory Disclosures/Hearing File Updates) (May 2, 2012) (unpublished); and (2) formally invoking the deliberative process privilege for certain documents.

Respectfully submitted,

/Signed (electronically) by/

Emily Monteith
Counsel for the NRC Staff
U.S. Nuclear Regulatory Commission
Mail Stop O-15 D21
Washington, DC 20555-0001
(301) 415-2718
Emily.Monteith@nrc.gov

Enclosures: Attachment 1: Hearing File Index
Attachment 2: Deliberative Process Log
Affidavit of John Saxton
Declaration of Andrew Persinko

cc: Attached Service List

ATTACHMENT 1
STRATA ROSS HEARING FILE AND MANDATORY DISCLOSURES
HEARING FILE INDEX
Update – November 2, 2012

	Accession Number	Document Date	Title/Description
714	ML12285A260	09/21/2012	Letter to Mr. Tim Metz from Strata Energy.
715	ML12299A040	10/24/2012	Letter from Strata to Wyoming Department of Environmental Quality re: Ross Project Permit to Mine changes for the Merit Agreement.

ATTACHMENT 2
STRATA ROSS HEARING FILE AND MANDATORY DISCLOSURES
DELIBERATIVE PROCESS LOG
Update – November 2, 2012

Certain documents otherwise subject to inclusion in the hearing file and mandatory disclosures for this proceeding have been determined by the NRC Staff to contain information subject to withholding from public disclosure as predecisional, deliberative information. Pursuant to 10 C.F.R. § 2.336(b)(5), the Staff is providing this log to identify the following documents withheld under the deliberative process privilege.

ID#	Accession Number	Author/Affiliation	Title/Description	Document Date	Document Type	Addressee/Affiliation	Comment	Page Count
DP-00-218	ML12277A001	Saxton, John (NRC)	2012/09/28 Strata Energy Ross LA - RE: NRC definitions of effluent	09/28/2012	E-Mail	Burrows, Ronald (NRC); Cohen, Stephen (NRC)	Internal discussion among NRC employees regarding effluents	8

November 2, 2012

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

AFFIDAVIT OF JOHN SAXTON CONCERNING
MANDATORY DISCLOSURE
REQUIREMENT OF 10 C.F.R. § 2.336(c)

I, John Saxton, do hereby state as follows:

1. I am employed as a Hydrogeologist in the U.S. Nuclear Regulatory Commission's Office of Federal and State Materials and Environmental Management Programs, Division of Waste Management and Environmental Protection, Decommissioning and Uranium Recovery Licensing Directorate. Among my responsibilities, I serve as Project Manager for Strata Energy, Inc.'s (Strata) application for a license to be used in connection with the proposed Ross *in situ* uranium recovery project. In this capacity, I am managing the preparation of the NRC Staff's hearing file and mandatory disclosures in connection with Strata's application.

2. I hereby certify that all materials that the Staff must disclose in this proceeding under 10 C.F.R. § 2.336(b) and (c), as modified by the Atomic Safety and Licensing Board's Memorandum and Order (Additional Provisions Governing Mandatory Disclosures/Hearing File Updates) (May 2, 2012) (unpublished), have been disclosed, and that the disclosures are accurate and complete as of the date of this certification.

3. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed in Accord with 10 CFR 2.304(d)

John Saxton
U.S. Nuclear Regulatory Commission
Mail Stop T-8F5
Washington, DC 20555-0001
301-415-0697
John.Saxton@nrc.gov

Executed in Rockville, MD
this 2nd day of November, 2012

November 2, 2012

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

DECLARATION OF ANDREW PERSINKO

I, Andrew Persinko, do hereby state as follows:

1. I am employed as Deputy Director in the Nuclear Regulatory Commission's Office of Federal and State Materials and Environmental Management Programs, Division of Waste Management and Environmental Protection, Decommissioning and Uranium Recovery Licensing Directorate. My supervisory responsibilities include oversight of the NRC Staff's review and evaluation of Strata Energy, Inc.'s (Strata) application for a license to be used in connection with the proposed Ross *in situ* uranium recovery (ISR) project.

2. As part of their responsibilities in preparing the hearing file and mandatory disclosures for this proceeding, NRC staff members under my supervision identified one document as privileged because it contains information concerning the Staff's deliberative process. That document is listed in Attachment 2 to the Staff's November Update to the Hearing File, which I understand will be filed on November 2, 2012.

3. I have personally reviewed the document identified as privileged in Attachment 2 and have determined, in accordance with the guidance set forth in Management Directive 3.4, that the document contains predecisional information concerning the Staff's review of Strata's license application. This document contains the Staff's analyses, recommendations, opinions or evaluations, and it may not necessarily reflect the final agency position with respect to the

matters discussed therein. This document comprises part of the deliberative process necessary to the Staff's review of Strata's license application.

4. Further, I have determined that disclosure of the document could result in harm to the agency, in that it would (a) prematurely disclose the preliminary views of individual Staff members or the Staff prior to reaching a final agency decision, potentially creating confusion as to the actual policy or views of the NRC Staff; (b) hinder the efficiency of the Staff, in that forced disclosure of its internal discussions on an unresolved issue would tend to chill all future deliberations and would interfere with the Staff's ability to engage in a free exchange of opinions and analyses prior to publishing its final review documents; and (c) imply or suggest incorrectly that the opinions of the Staff members involved in these communications are actually the final decisions of the agency, when no such final decision has yet been made.

5. Accordingly, I formally invoke the deliberative process privilege with respect to the document listed in Attachment 2 to the Staff's November Update to the Hearing File, dated November 2, 2012.

6. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

/Executed in Accord with 10 CFR 2.304(d)/

Andrew Persinko
U.S. Nuclear Regulatory Commission
Mail Stop T-8F5
Washington, DC 20555-0001
301-415-7479

Executed in Rockville, Maryland
this 2nd day of November, 2012

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R § 2.305 (revised), I hereby certify that copies of the foregoing "NRC STAFF'S NOVEMBER 2012 UPDATE TO HEARING FILE AND DISCLOSURES" in the above-captioned proceeding have been served via the Electronic Information Exchange (EIE) this 2nd day of November, 2012.

/Signed (electronically) by/

Emily Monteith
Counsel for the NRC Staff
U.S. Nuclear Regulatory Commission
Mail Stop O-15 D21
Washington, DC 20555-0001
(301) 415-2718
Emily.Monteith@nrc.gov

Date of Signature: November 2, 2012