

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

Before Administrative Judges:

William J. Froehlich, Chairman  
G. Paul Bollwerk, III  
Nicholas G. Trikouros

In the Matter of  
RARE ELEMENT RESOURCES, INC.  
(Bear Lodge Project)

Docket No. 40-38367-ML  
ASLBP No. 16-945-01-MLA-BD01  
February 11, 2016

ORDER

(Suspending Deadline for Filing Reply Pleading under Section 2.309(i)(2)  
and Scheduling Telephone Conference Call to Establish Further Procedures)

On May 4, 2015, Rare Element Resources, Inc. (Applicant or RER) submitted an application to the NRC<sup>1</sup> for a source materials license under 10 C.F.R. Part 40 to possess and process source material<sup>2</sup> in conjunction with RER's processing of rare earth elements in Crook and Weston Counties, Wyoming. The Application was noticed in the Federal Register on November 16, 2015, which provided an opportunity for any person whose interest may be affected by the Application to petition to intervene and request a hearing.<sup>3</sup> On January 15, 2016, the Defenders of the Black Hills filed, via email, a petition to intervene and request for hearing.<sup>4</sup>

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<sup>1</sup> RER Application for Source Material Possession License, 1 at § 5.0, 2 at § 6.0 (ADAMS Accession No. ML15134A434) [hereinafter Application].

<sup>2</sup> Source material is defined by 10 C.F.R. § 40.4 as "ores which contain by weight one-twentieth of one percent (0.05%) or more of: (i) Uranium, (ii) thorium or (iii) any combination thereof."

<sup>3</sup> Rare Element Resources, Inc.; Bear Lodge Project, 80 Fed. Reg. 70846 (Nov. 16, 2015).

<sup>4</sup> Letter from Charmaine White Face, Coordinator, Defenders of the Black Hills, to Kenneth Kalman, NRC Office of Nuclear Material Safety and Standards (Jan. 14, 2016) (ADAMS Accession No. ML16028A112).

On January 21, 2016, RER submitted a request to the NRC Staff to temporarily suspend work on the Application, including NRC's technical review.<sup>5</sup> Citing financial difficulties, RER stated it has decided to suspend all permitting and licensing efforts, and estimated that the suspension will last for approximately 12 months.<sup>6</sup> In response to RER's request, the NRC Staff suspended all work on the application review.<sup>7</sup>

RER also sent a letter to the Commission on January 21, 2016, requesting it suspend any adjudicatory proceedings related to the project until the NRC Staff's licensing review process resumes.<sup>8</sup> The Commission referred the request for hearing and its associated filings to the Atomic Safety and Licensing Board Panel on February 1, 2016.<sup>8</sup> This Licensing Board was established by order of the Chief Administrative Judge on February 9, 2016.<sup>9</sup>

#### I. Telephonic Conference Call

In order to address the pleadings filed in this docket related to RER's application for a license to possess and use source material associated with the Bear Lodge Project, the Licensing Board will convene a telephonic conference call during the week of February 22, 2016. The Licensing Board wishes to discuss with the Applicant, the Defenders of the Black Hills, and the NRC Staff (hereinafter the participants), the current status of and future

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<sup>5</sup> Letter from Jaye Pickarts, RER Chief Operating Officer, to Andrew Persinko, Deputy Dir., NRC Div. of Decommissioning, Uranium Recovery, & Waste Programs (Jan. 21, 2016) (ADAMS Accession No. ML16022A191).

<sup>6</sup> Id.

<sup>7</sup> See Letter from Michael A. Norato, Acting Deputy Dir., NRC Div. of Decommissioning, Uranium Recovery, and Waste Programs, to Jaye Pickarts, RER Chief Operating Officer (Feb. 1, 2016) (ADAMS Accession No. ML16032A140).

<sup>8</sup> Memorandum from Annette L. Vietti-Cook, NRC Office of the Secretary, to E. Roy Hawkens, Chief Administrative Judge, Atomic Safety and Licensing Board Panel (Feb. 1, 2016) (ADAMS Accession No. ML16032A183).

<sup>9</sup> Establishment of Atomic Safety and Licensing Board (Feb. 9, 2016) (unpublished).

schedule for the case, and related issues.<sup>10</sup> In preparation for this conference, the participants shall communicate to prepare a joint schedule of their availability for a 1:30 PM EST conference call on February 22, 23, or 25, 2016. One representative of the participants shall notify the Board's law clerk, Julie Reynolds-Engel, of their joint availability no later than 12 PM EST on Wednesday, February 17, 2016.<sup>11</sup>

II. Reply Pleading under Section 2.309(i)(2)

The deadline for the filing of a reply pleading<sup>12</sup> by the Defenders of the Black Hills is suspended pending the conclusion of the conference call.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

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William J. Froehlich, Chairman  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
February 11, 2016

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<sup>10</sup> The related issues include the processing of the application, the petition for intervention and request for hearing and the responses thereto, the request by Defenders of the Black Hills for exemption from use of the Electronic Information Exchange, and the letters filed requesting a suspension of the adjudicatory proceeding.

<sup>11</sup> Ms. Reynolds-Engel can be reached at (301) 415-5680 or by email at julie.reynolds-engel@nrc.gov.

<sup>12</sup> 10 C.F.R. § 2.309(i)(2).

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NUCLEAR REGULATORY COMMISSION

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RARE ELEMENT RESOURCES, INC. ) Docket No. 40-38367-ML  
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Suspending Deadline for Filing Reply Pleading under Section 2.309(i)(2) and Scheduling Telephone Conference Call to Establish Further Procedures)** in the above-captioned proceeding have been served upon the following persons by Electronic Information Exchange.

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Docket No. 40-38367-ML

**ORDER (Suspending Deadline for Filing Reply Pleading under Section 2.309(i)(2) and Scheduling Telephone Conference Call to Establish Further Procedures)**

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[Original Signed by Clara Sola \_\_\_\_\_]  
Office of the Secretary of the Commission

Dated at Rockville, Maryland  
this 11<sup>th</sup> day of February, 2016