

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
March 17, 2016

MEMORANDUM

(Regarding Information Concerning
Status of License Review Suspension)

On February 22, 2016, the Licensing Board conducted a telephone conference with the participants to this proceeding, including applicant Rare Element Resources, Inc. (RER), the NRC Staff, and petitioner Defenders of the Black Hills (Defenders or Petitioner). A principal focus of the conference was a then-pending RER request to suspend this proceeding in light of a recent Staff determination, also made at RER's request, to suspend Staff review of the RER license application that is the subject of Defenders' challenge before the Board.¹ During that conference, in response to a Board inquiry, the Staff indicated that if Staff's current license review suspension is lifted at some point in the future, that action would be reflected in the public record by a letter from the Staff to RER, not by another Federal Register notice.²

¹ See Tr. at 6. RER indicated in its suspension request to the Staff that the review deferral would be for approximately one year. See id.

² See Tr. at 29–30.

Now pending before the Licensing Board is a March 4, 2016, filing in which Petitioner indicates its desire to withdraw its hearing petition,³ which potentially would have the impact of terminating this adjudicatory proceeding. Under the circumstances, the Board wishes to inquire of applicant RER and the NRC Staff whether, in the event RER makes a request to lift the current Staff license review suspension and/or the Staff makes a determination regarding such an RER request, either (or both) would commit to providing Petitioner with a copy of the correspondence making and responding to that RER request contemporaneous with issuance of that request/determination.

The Board asks that RER and the Staff provide a response to this inquiry (which may be in a joint pleading) on or before Wednesday, March 23, 2016.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

William J. Froehlich, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
March 17, 2016

³ See Reply of Defenders of the Black Hills to ASLB Order Dated Feb. 24, 2016 (Mar. 4, 2016) at 3.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
RARE ELEMENT RESOURCES, INC.) Docket No. 40-38367-ML
)
(Bear Lodge Project))
)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MEMORANDUM (Regarding Information Concerning Status of License Review Suspension)** in the above-captioned proceeding have been served upon the following persons by Electronic Information Exchange.

U.S. Nuclear Regulatory Commission
Office of Commission Appellate
Adjudication
Mail Stop O-7H4M
Washington, DC 20555-0001
ocaamail@nrc.gov

Christopher Hair, Esq.
Susan.Vrahoretis, Esq.
U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop O-15D21
Washington, DC 20555-0001
Christopher.Hair@nrc.gov
Susan.Vrahoretis@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop O-16C1
Washington, DC 20555-0001
hearingdocket@nrc.gov

OGC Mail Center
OGCMailCenter@nrc.gov

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

Charmaine White Face, Coordinator
Defenders of the Black Hills
PO Box 2003
Rapid City, SD 57709
bhdefenders@msn.com

William J. Froehlich, Chair
Administrative Judge
William.Froehlich@nrc.gov

G. Paul Bollwerk, III
Administrative Judge
Paul.Bollwerk@nrc.gov

Nicholas G. Trikouros
Administrative Judge
Nicholas.Trikouros@nrc.gov

Julie Reynolds-Engel, Law Clerk
Julie.Reynolds-Engel@nrc.gov

Docket No. 40-38367-ML

**MEMORANDUM (Regarding Information Concerning Status of License Review
Suspension)**

Tyson R. Smith, Esq.
Carlos L. Sisco, Paralegal
Winston & Strawn, LLP
101 California Street
San Francisco, CA 94111
TrSmith@winston.com
CSisco@winston.com

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

Dated at Rockville, Maryland
this 17th day of March, 2016