

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of:)
)
GLOBAL LASER ENRICHMENT, LLC) Docket No. 70-7033 LM
Paducah Laser Enrichment Facility)
_____)

KENTUCKY RESOURCES COUNCIL, INC.’S
REQUEST FOR HEARING

Comes the Petitioner, Kentucky Resources Council, Inc. (“Council”) by counsel, and pursuant to 10 C.F.R. 2.309, petitions for a hearing (“Petition”) before the Nuclear Regulatory Commission (“NRC” or “Commission”) in the above-captioned proceeding. For the reasons provided hereinbelow, Petitioner opposes the issuance to Global Laser Enrichment, LLC (“GLE”) of a requested license to “possess and use special nuclear material for the purpose of constructing and operating a uranium enrichment facility in McCracken County, Kentucky” 91 *Fed. Reg.* 11092 (March 6, 2026), and respectfully requests that the issue in contention presented hereinbelow be addressed and resolved prior to any final determination concerning the issuance of the requested license.

I. INTRODUCTION

This matter arises upon the application of Global Laser Enrichment LLC to the Commission for “a license to possess and use special nuclear material for the purpose of constructing and operating a uranium enrichment facility in McCracken County, Kentucky.” 91 *Fed. Reg.* 11092 (March 6, 2026). According to that *Federal Register* notice:

The requested license would authorize GLE to possess equipment capable of enriching uranium, to construct and operate a uranium enrichment facility, and to receive title to, own, acquire, receive, possess, use, transfer, and/or deliver source material, special nuclear material, and byproduct material as specified in the license for a facility that uses laser-based isotope separation technology to enrich uranium. The facility would be known as the Paducah Laser Enrichment Facility (PLEF) and would be located adjacent to the former Paducah Gaseous Diffusion Plant.² The requested license would authorize the PLEF to re-enrich depleted uranium hexafluoride (UF₆) tails and enrich natural-grade UF₆ to a maximum of 8-weight percent uranium-235.

91 *Fed. Reg.* 11092.

The *Federal Register* notice, captioned “*Global Laser Enrichment, LLC; (Paducah Laser Enrichment Facility); Notice of Receipt of Application for License; Notice of Consideration of Issuance of License; Notice of Hearing and Commission Order; Opportunity To Request a [Contested] Hearing; and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention*”

Preparation, announced the opportunity “to request a hearing and petition for leave to intervene” and provided that such a “request for a hearing and petition to intervene (petition) with respect to the action” should be filed “within 60 days after the date of the publication of this notice[.]” 91 *Fed. Reg.* at 11094.

II. COMPLIANCE WITH FILING TIMING REQUIREMENTS

1. This Petition for Hearing (Petition) is filed pursuant to and in accordance with 10 C.F.R. 2.309, which establishes the requirements for “hearing requests, petitions to intervene, requirements for standing, and contentions[.]”

2. This Petition is filed through the Commission’s e-filing system within the sixty (60) day period announced by the Commission at 91 *Fed. Reg.* 11094.

3. The *Federal Register* notice announcing the opportunity to request a hearing was published on March 6, 2026, so that in accordance with the Rules of the Commission, the sixtieth (60th) day falls on May 5, 2026, the date on which this Petition for Hearing is being filed. 10 C.F.R. 2.306(a).

4. This Petition is timely filed, within the meaning of 10 C.F.R. 2.309(b)(3)(i), since this Petition and list of contentions is filed in a proceeding “for which a Federal Register notice of agency action is published” and not later than “the time specified in any notice of hearing or notice of proposed action....” 10 C.F.R. 2.309(b)(3)(i).

III. STANDING

5. 10 C.F.R. 2.309(a) provides that “any person whose interest may be affected by a proceeding and who desires to participate as a party must file a written request for hearing and a specification of the contentions which the person seeks to have litigated in the hearing.” The Commission, according to 10 C.F.R. 2.309(a), will grant the request for hearing if it determines that the requestor “has standing under the provisions of paragraph (d) of this section and has proposed at least one admissible contention that meets the requirements of paragraph (f) of this section.” *Id.*

6. 10 C.F.R. 2.309(d) establishes the standing requirements for both a request for hearing and for a petition for leave to intervene. With respect to standing to request a hearing, the request must state:

- (i) The name, address and telephone number of the requestor or petitioner;
- (ii) The nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding;
- (iii) The nature and extent of the requestor's/petitioner's property, financial or other interest in the proceeding; and
- (iv) The possible effect of any decision or order that may be issued in the proceeding on the requestor's/petitioner's interest.

10 C.F.R. 2.309(d)(1)(i)-(iv).

7. The name, address, and telephone number of the requestor is: Kentucky

Resources Council, Inc., Post Office Box 1070, Frankfort, Kentucky 40602. The physical address of the office of counsel for the Kentucky Resources Council, Inc. (“Council”) who is signatory to this Petition is 1600 Dundee Way, Louisville, Kentucky 40205. The phone number is (502) 551-3675.

8. The Kentucky Resources Council, Inc., is a non-profit membership organization incorporated under the laws of the Commonwealth of Kentucky and dedicated to prudent use and conservation of the natural resources of the Commonwealth. The Council provides legal representation and technical assistance, without charge, to individuals, organizations, and local communities across the Commonwealth on a wide range of environmental health, environmental justice, and energy issues. The Council is dedicated to full and fair implementation of federal, state, and local laws and regulations concerning energy development and environmental protection, and its interests as an organization will be adversely affected to the extent that a license is issued to GLE prior to resolution of the contentions raised herein.

9. Among the members of the Council who are adversely affected by the issuance of the proposed license is Mark Donham. As reflected in the *Declaration of Mark Donham*, which is attached hereto as Exhibit A and is incorporated herein by reference as if fully set forth below, Mark Donham (“Donham”) is a member in

good standing of Kentucky Resources Council and has numerous interests that are adversely affected by the issuance of the requested license.

10. Donham is a resident of Brookport, Illinois, residing at 365 Azotus Rd Brookport, IL 62910, phone 618-309-2169.

11. Donham has resided at his current location for over forty-five (45) years. His residence is approximately seventeen (17) miles northeast of the site of the former Paducah Gaseous Diffusion Plant (“PGDP”) and the two proposed new uranium enrichment plants, including the GLE facility, which are to be located within or adjacent to the PGDP site boundary.

12. To the best of his knowledge and belief, Donham’s home and property are in the direction of the prevailing winds from the proposed GLE facility.

13. Donham has been interested in environmental protection issues related to the gaseous diffusion facility at Paducah since locating in the area in 1980.

14. As a result of local public concerns, the US Dept. of Energy (“DOE”) started the Citizens’ Advisory Board (“CAB”), a Federal Advisory Committee Act-chartered federal advisory committee, to receive information and to provide recommendations to the DOE about their cleanup activities at the PGDP site. Donham served on the CAB for 8 years and was elected chair for 6 of those years.

15. During those years, Donham learned detailed information about the environmental impacts from the gaseous diffusion uranium enrichment process.

16. Donham has several interests that are and may be adversely affected by the proposed action of issuance of the requested license. Among those interests are his property interests in his residence, as well as the use and enjoyment of his property, and aesthetic and recreational interests in the natural resources of his and surrounding communities. A failure of containment and any environmental releases occurring due to accidents, including accidents associated with earthquake activity, would adversely affect all of these interests.

17. Donham, on information and belief, believes that the proposed GLE is located in a major seismic zone. While the current proposal by Global Laser (GLE) to obtain a license to build a laser isotope separation facility adjacent to the old plant site has resulted in a draft environmental impact statement, (DEIS) which is out for public comment currently, Donham believes that the DEIS does not address the potential environmental impact of a major seismic event on the site, although it does admit that it is within the zone and that the construction will be located on soils subject to liquefaction in the case of a seismic event. Donham was informed by an environmental expert associated with the proposed facility at a recent public information meeting that GLE does not yet have the design completed on how to build the plant to withstand such an event.

18. Donham is concerned that the movement and handling of the depleted uranium cylinders present a risk of releases that may adversely affect his

above-noted interests. The DEIS acknowledges that except for the actual isotope separation process, the rest of the enrichment process will be similar to that of the gaseous diffusion process, including movement of old cylinders of depleted uranium, heating them, transferring the gas to facilities that will separate the hydrogen fluoride from the uranium, transporting the uranium to the separation facility, and handling the wastes from the process. Donham is concerned that all of those processes have historically resulted in releases to the environment of pollutants, and that such releases may adversely affect his interests.

19. Donham is concerned with the potential for air emissions from the proposed facility and the lack of information in the draft Environmental Impact Statement concerning the composition, fate, and transport of the emissions.

20. Donham is employed as the Produce Manager of Midtown Market in Paducah, Kentucky, which during the growing season, carries significant locally grown produce, including some from the West Paducah area. While Donham was chair of the CAB, the Kentucky state environmental agency did a survey of garden produce from gardens very close to the old plant site and found detectable levels of radionuclides. Donham additionally grows and sells produce on his own property for consumption and for sale to local restaurants and individuals and is concerned that airborne routine or accidental releases of radionuclides from the facility processes and activities may adversely affect his income, employment, and health.

21. For the reasons above stated and in the attached Declaration, which is incorporated herein by reference as if fully set forth below, Donham satisfies the standing requirements of 10 C.F.R. 2.309(d), and Kentucky Resources Council has associational standing to represent member Donham's interests in this matter.

IV. CONTENTIONS

22. Numerical Paragraphs 1-21 of this Petition are incorporated by reference as if fully set forth below.

23. 10 C.F.R. 2.309(a) requires that a requestor seeking a hearing must file a written request and a "specification of contentions[.]"

24. This Petition satisfies the requirement for a written request for hearing.

25. With respect to the specification of contentions "which the person seeks to have litigated in the hearing[.]" 10 C.F.R. 2.309(f)(1) requires in relevant part (since this is not a request for hearing under § 52.103(b) or § 53.1452(b) of this chapter) that such contentions be set forth with particularity and include:

- (i) Provide a specific statement of the issue of law or fact to be raised or controverted...
- (ii) Provide a brief explanation of the basis for the contention;
- (iii) Demonstrate that the issue raised in the contention is within the scope of the proceeding;

(iv) Demonstrate that the issue raised in the contention is material to the findings the NRC must make to support the action that is involved in the proceeding;

(v) Provide a concise statement of the alleged facts or expert opinions which support the requestor's/petitioner's position on the issue and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the requestor/petitioner intends to rely to support its position on the issue;

(vi) [P]rovide sufficient information to show that a genuine dispute exists with the applicant/licensee on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief[.]

10 C.F.R. 2.309(f)(1).

26. Contentions are required to be based on “documents or other information available at the time the petition is to be filed, such as the application, supporting safety analysis report, environmental report or other supporting document filed by an applicant or licensee, or otherwise available to a petitioner.”

10 C.F.R. 2.309(f)(2).

27. Where, as here, the Petition for Hearing is required to be filed before completion of the environmental documentation requirements of the National Environmental Policy Act, the NRC regulations specifically provide for and contemplate that contentions will be filed based on the existing documents, such as the applicant’s environmental report and any draft Environmental Impact

Statement (“DEIS”) and may be later supplemented with additional contentions to the extent that inadequacies in the final EIS justify such supplementation. This is clear in 10 C.F.R. 2.309(f)(2), which provides that “[o]n issues arising under the National Environmental Policy Act, participants shall file contentions based on the applicant's environmental report. Participants may file new or amended environmental contentions after the deadline in paragraph (b) of this section (e.g., based on a draft or final NRC environmental impact statement, environmental assessment, or any supplements to these documents) if the contention complies with the requirements in paragraph (c) of this section.” Requestor Council specifically reserves the right to file new and amended environmental contentions after today’s deadline when the final EIS and record of decision are published.

CONTENTION I: THE DEPARTMENT OF ENERGY IS NOT EMPOWERED OR AUTHORIZED BY LAW TO TRANSFER TITLE TO THE URANIUM TO GLE

28. Numerical Paragraphs 1-27 of this Petition are incorporated herein by reference as if fully set forth below.

29. The threshold question for licensing of the GLE facility is a question of law regarding access to the feedstock for the proposed laser enrichment facility, which is whether the Department of Energy (DOE) has the legal authority to sell or transfer to GLE the depleted uranium currently stored at the former Paducah Gaseous Diffusion Plant. On information and belief, Requestors assert that the

Department of Energy lacks such statutory authority to sell or transfer depleted uranium to GLE.

30. Senate Report 117-39 accompanying S. 2792, a bill for the National Defense Authorization Act for Fiscal Year 2022, included a provision for the General Accounting Office (“GAO”) to review the two former federal uranium enrichment sites at Portsmouth, in Ohio, and Paducah, in Kentucky.

31. In response to the Congressional directive, the GAO produced a report published in July 2022 captioned *Nuclear Waste Cleanup: DOE’s Efforts to Manage Depleted Uranium Would Benefit from Clearer Legal Authorities*. GAO-22-105471 (“2022 GAO Report”). This report examined: (1) the DOE Office of Environmental Management (EM’s) response to the facilities’ COVID-19 shutdown and effects on the facilities’ cost and schedule estimates, (2) EM’s agreements to provide DUF6 to other entities, and (3) EM’s plans for depleted uranium oxide and hydrofluoric acid. A copy of this report is attached as Exhibit B to this Petition for Hearing.

32. The 2022 GAO Report summarized one aspect of the responsibility of the DOE EM regarding the nuclear waste remaining at the two former federal facilities that is pertinent to this licensing request – DOE EM’s responsibility for management of depleted uranium. The Report summarized and framed the issues in this manner:

EM has three agreements to reserve nearly 30,000 cylinders of DUF6 (about 44 percent of the inventory) for use by other entities. If the agreements are finalized, the agency may not need to convert all its DUF6 and could reduce operations of the conversion facilities by roughly 30 years, potentially saving over \$2 billion in operations costs. EM has two agreements to transfer ownership of nearly 5,500 cylinders to the National Nuclear Security Administration for two separate programs, but the plans and timing of one agreement are uncertain. EM has also reserved over 24,000 cylinders to sell to a private company. However, **DOE’s authority to sell depleted uranium is doubtful, as it appears to be inconsistent with the 1996 legislation governing DOE uranium disposition.** Clarifying DOE’s authority to sell depleted uranium could help avoid litigation that could interrupt DOE’s efforts to sell DUF6.

July 2022 GAO Report, Highlights (Emphasis added).

33. The July 2022 GAO Report explored in depth the question of the statutory authority to sell or transfer the DUF6 to Global Laser Enrichment:

To examine EM’s agreements to provide DUF6 to other entities, we reviewed documentation related to the agreements and interviewed agency officials and company representatives. Specifically, we reviewed memorandums of agreement that EM has with NNSA and a sales agreement that EM has with Global Laser Enrichment (GLE)—a private company that plans to enrich DUF6 to natural uranium levels—to understand the amount of DUF6 reserved and conditions for each agreement. Further, we reviewed legislation regarding the sale of uranium to better understand what forms of uranium are covered by legislation, as well as the required conditions related to the sale of uranium.

July 22 GAO Report, p. 4 (Emphasis added).

34. In reviewing the agreements that DOE had as of July 2022 to provide DUF6 to other entities, the GAO noted that “EM has two agreements to provide DUF6 to [the National Nuclear Safety Administration] and a third agreement to sell DUF6 to a private company.... EM has not yet sold DUF6 to the private

company but, under current law, DOE's authority to do so in the future is doubtful." 2022 GAO Report, *supra*, at 18.

35. With respect to the DOE EM agreement to sell DUF6 to GLE, the report concluded that DOE lacked the statutory authority to sell the DUF6 to a private company, providing this analysis. Requestor Council adopts and incorporates by reference as if fully set forth below the analysis of the 2022 GAO Report concerning the lack of specific statutory authority for DOE to engage in the sale of DUF6 to a private company. Since that legal authority is central to the consideration of licensing GLE to engage in receipt, management, conversion, and waste disposal of such DUF6 material, the analysis is reprinted at length:

EM has an agreement to sell DUF6 to a private company, Global Laser Enrichment. The agreement reserves about 24,300 cylinders of DUF6 located at the Paducah site for future sale. EM would sell DUF6 to GLE in exchange for natural uranium hexafluoride. According to EM officials, selling the agreed-upon amount of DUF6 to GLE could save EM an estimated 24 years of conversion operations and potentially over \$2 billion in operating costs. This agreement is contingent on GLE constructing and beginning operations of a laser enrichment facility at the Paducah site by the end of 2030.

EM has not yet begun sales of DUF6 to GLE, as GLE has not yet constructed the Paducah Laser Enrichment Facility. As of May 2022, GLE representatives told us that they were taking steps toward licensing and construction of the Paducah Laser Enrichment Facility, though they were unable to share the timelines for the completion of these activities because of commercial sensitivities. However, GLE representatives told us that they believe they are on schedule to meet their obligations as described in the agreement with EM. For example, GLE representatives told us that they have spent time in Kentucky identifying where to build the facility and that they have been meeting with both DOE officials and Nuclear Regulatory

Commission officials. According to GLE representatives, as of May 2022, GLE is also evaluating how it could help fill U.S. nuclear energy industry needs for low-enriched uranium and conversion because of concerns about U.S. reliance on nuclear fuel supply from Russia. GLE representatives said that acquiring DUF6 from EM would be essential for GLE to carry out these plans.

In addition to the approximately 24,300 cylinders already reserved under the current agreement, GLE has also expressed interest in acquiring additional DUF6 cylinders at the Portsmouth site that are currently reserved for NNSA. According to GLE representatives, they are interested in all DUF6 with an assay level at or above 0.25 percent uranium-235. However, they also said that they would be open to evaluating DUF6 of other assay levels for use. [Figure 6 showing the breakdown of the DUF6 inventory, omitted].

EM officials believe that they have the authority to sell DUF6 to GLE. According to EM officials, the Department of Energy Organization Act and the Atomic Energy Act of 1954, as amended, authorize EM to enter into agreements and to sell, transfer, exchange, store, and accept special nuclear, source, and by-product material.

However, as we stated in 2008, we believe that DOE's legal authority to sell its depleted uranium inventory is doubtful. We reported that 1996 legislation governing DOE's disposition of its uranium dictates that DOE may not sell "any" uranium except as consistent with its provisions. While the legislation then specifies the conditions for DOE's sale or transfer of a number of certain types of uranium—including ensuring that certain transactions do not have an adverse material impact on the domestic uranium industry—it does not specify conditions for the sale or transfer of depleted uranium, including DUF6. Therefore, DOE likely lacks such authority.

2022 GAO Report, *supra*, at pp. 21-24.

36. As noted in the GAO Report, the Atomic Energy Act of 1954, as amended, gives DOE general authority under certain conditions to sell, lease, distribute, or otherwise make available source material, including uranium.

Congress, however, limited this authority in 1996 when it passed the USEC

Privatization Act, which prohibits the Secretary of Energy from transferring or selling any uranium except as consistent with the act's specific terms and conditions. USEC Privatization Act, Pub. L. No. 104-134, § 3112, 110 Stat. 1321, 1321-344, 42 U.S.C. § 2297h-10.

37. Respectfully, until the legal question of the authority (or lack thereof) of DOE to sell the DUF6 to GLE is resolved, no further action towards issuance of a license to GLE should occur. Assuring that any transfer or sale of DUF6 by DOE to any private company, including GLE, is lawful and that such a transfer or sale is not *ultra vires*, is essential in assuring a clear delineation of responsibility for the management of, and liability for any release of, the DUF6 material and any byproduct wastes from the enrichment process.

38. The question of DOE's lack of statutory authority regarding sale or transfer of the DUF6 to a private party such as GLE, is not new, as was noted in the 2022 GAO Report. In a 2008 GAO Report titled *Nuclear Material: DOE Has Several Potential Options for Dealing with Depleted Uranium Tails, Each of Which Could Benefit the Government*, GAO-08-606R (Mar. 31, 2008). The GAO recommended that Congress consider clarifying DOE's statutory authority to manage depleted uranium, including explicit direction about whether and how DOE may sell or transfer the tails in their depleted form. A copy of that 2008

GAO Report is attached as Exhibit C and is incorporated herein by reference as if fully set forth below.

39. The 2008 GAO Report responded to a request from Congress to evaluate DOE's potential options for beneficially reusing or indefinitely storing its depleted uranium "tails" and the potential value of DOE's tails and factors that affect the value.

40. The 2008 GAO Report noted that "[i]n general, DOE's potential options for its tails include selling the tails 'as is,' re-enriching the tails, or storing them indefinitely. However, we believe that DOE's current legal authority to sell its depleted uranium inventory in its current unprocessed form is doubtful and under rules of statutory construction, DOE likely lacks such authority." 2008 GAO Report, *supra*, at p. 2.

41. The analysis provided by GAO supporting that conclusion is reprinted here, and is incorporated herein by reference as if fully set forth below:

While selling the tails in their current unprocessed form is a potential option, we believe that DOE's authority to conduct such sales is doubtful because of specific statutory language in 1996 legislation governing DOE's disposition of its uranium. The enclosure contains our analysis of DOE's authority to sell or transfer its depleted uranium in its current form, as well as to re-enrich and sell the tails and to store the tails indefinitely. As our analysis explains, in 1996, Congress enacted section 3112 of the USEC Privatization Act,¹ which limits DOE's general authority, under the Atomic Energy Act or otherwise, to sell or transfer uranium. In particular, section 3112 explicitly bars DOE from selling or transferring "any uranium"—including but not specifically limited to certain forms of natural and enriched uranium—"except as consistent with this section." Section 3112 then specifies

conditions for DOE's sale or transfer of natural and enriched uranium of various types, including conditions in section 3112(d) for sales of natural and low-enriched uranium from DOE's inventory. To ensure the domestic uranium market is not flooded with large amounts of government material, in section 3112(d), Congress required DOE to determine that any such inventory sales will not have a material adverse impact on the domestic uranium industry. Congress also required in section 3112(d) that DOE determine it will receive adequate payment—at least “fair market value”—if it sells this uranium and that DOE obtain a determination from the President that such materials are not necessary for national security.

Nowhere, however, does section 3112(d) or any other provision of section 3112 explicitly provide conditions for DOE to transfer or sell depleted uranium. Because section 3112(a) states that DOE may not “transfer or sell any uranium . . . except as consistent with this section,” and because no other part of section 3112 sets out the conditions for DOE to transfer or sell depleted uranium, we believe that, under rules of statutory construction, DOE likely lacks authority to sell the tails. While courts have not addressed this question before and thus the outcome is not free from doubt, this interpretation applies the plain language of the statute. It also respects the policy considerations and choices Congress made in 1996 when presented with the disposition of DOE's valuable uranium in a crowded and price-sensitive market. Finally, this reading of DOE's authority is consistent with how courts address changes in circumstances after a law is passed. Specifically, statutes written in comprehensive terms apply to unanticipated circumstances if the new circumstances reasonably fall within the scope of the plain language. Thus, under the current terms of section 3112, DOE's sale of its tails would be covered by the statute's general prohibition on sale of uranium, even if tails were not part of the universe Congress explicitly had in mind when it enacted the statute in 1996.

42. As of this filing, Requestor is unaware of Congress having passed legislation providing DOE with authority to sell or transfer depleted uranium, including the DUF6 proposed to be sold and transferred to GLE as feedstock for the Paducah facility.

43. Because section 3112(a) states that DOE may not “transfer or sell any uranium . . . except as consistent with this section,” and because no other part of section 3112 sets out the conditions for DOE to transfer or sell depleted uranium, DOE lacks authority to sell the depleted uranium tails to GLE. In addition to the plain language of the law, it is clear from the legislative history of the 1996 law that Congress was well-aware of the existence of the depleted uranium stockpiles and addressed liability and DOE management of the depleted uranium, but did not include authorization in Section 3112 of the Act for sale or transfer of the depleted uranium. Senate Report 104-173, 104th Congress, 1st Session, is attached as Exhibit D.

44. The Senate Report underscores that Section 12 of the bill, which was codified as section 3112 of the USEC Privatization Act, is intended to “prohibit all sales and transfers of uranium by the Department of Energy to other entities except as consistent with this section.” *Id.*, p. 27.

45. The issue of whether the DOE has statutory authority to sell or otherwise transfer the feedstock for the proposed GLE facility for which the license is being sought, is demonstrably within the scope of this proceeding, since it addresses the very material proposed to be accepted, handled, transferred, processed, and disposed. Respectfully, the NRC cannot issue a license nor find that the public interest is served by issuance of a license to GLE to manage

depleted uranium tails that under law it is not empowered to receive by sale or otherwise from DOE due to DOE's lack of authority to effect such transfer.

46. This contention provides all necessary facts, and no expert opinions are required regarding the question of law. Sufficient information has been provided to show that a genuine dispute exists with the applicant for license on a material issue of law or fact. The application fails to provide sufficient documentation and justification under law that the DUF6 can be lawfully sold or transferred to it from DOE.

47. Requestor respectfully requests that this Contention be accepted and a hearing be scheduled on this Contention and suggests further that disposition of this Contention is amenable to summary disposition inasmuch as it is purely a question of law regarding the authority of DOE to sell or transfer the DUF6 to GLE.

CONTENTION II: LACK OF COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

48. Numerical Paragraphs 1-47 of this Petition are incorporated herein as if fully set forth below.

49. As noted above, 10 C.F.R. 2.309(f)(2) provides, with respect to Petitions for Hearing that are required to be filed before completion of the environmental documentation requirements of the National Environmental Policy Act, the NRC regulations specifically provide for and contemplate that contentions

will be filed based on the existing documents, such as the applicant's environmental report and any draft Environmental Impact Statement ("DEIS") and may be later supplemented with additional contentions to the extent that inadequacies in the final EIS justify such supplementation. This is clear in 10 C.F.R. 2.309(f)(2), which provides that "[o]n issues arising under the National Environmental Policy Act, participants shall file contentions based on the applicant's environmental report. Participants may file new or amended environmental contentions after the deadline in paragraph (b) of this section (e.g., based on a draft or final NRC environmental impact statement, environmental assessment, or any supplements to these documents) if the contention complies with the requirements in paragraph (c) of this section."

50. Requestor Council filed written comments concerning the "scoping" of the environmental documentation for the requested license, which are attached hereto as Exhibit E, and are incorporated herein by reference. Additionally, Will Herrick filed comments in response to the NRC public notice concerning the scoping of the EIS for the GLE PLEF, on behalf of KRC, and his comments are attached hereto as Exhibit F and are incorporated herein by reference. The materiality of the comments is apparent since they relate to the NEPA documentation required for this requested license. Since the Environmental Impact Statement ("EIS") is still in draft form, Requestor does not seek a hearing on the

adequacy of the DEIS *at this time*, but reserves these Contentions and will submit comments in response to the public notice published at 91 *Federal Register* 14882 in order to allow the NRC to adequately address prior to the completion of the NEPA review process, those specific concerns identified in the Requestor's scoping comments and as will be further discussed in the comments to be submitted prior to the May 11, 2026 close of the public comment period on the DEIS. To the extent that the FEIS fails to broaden the scope and engage in analyses as identified in the scoping comments, requestor specifically reserves the right to be heard on those inadequacies and failures. Deferral of hearing at this juncture is intended to allow the NRC to correct any failures and to broaden the scope and analyses to include all issues identified in the scoping comments in Exhibits E and F.

51. Requestor specifically reserves the right to supplement this Petition for Hearing to include as new contentions, any failures of the NRC to properly include within the scope of the FEIS, and to analyze with respect to direct, indirect, and cumulative effects and with respect to reasonable alternatives, each of the issues and concerns raised by Requestor during the comment periods on the NEPA scoping and DEIS.

52. In addition to those specific issues and concerns presented in Exhibits E and F, Requestor incorporates by reference as if fully set forth below, Contentions 1 through 6 presented in the *Petition for Leave to Intervene and*

Request for Hearing filed in this Docket by Petitioner Michael McVicker (ML26122A001) and further reserves the opportunity to petition to intervene if a hearing is granted in that case.

53. Finally, Requestor presents and reserves an additional contention regarding the lack of compliance to date of the NRC with the requirements of the National Environmental Policy Act.

54. The contention relates to the failure to develop and provide sufficient site-specific analysis of the proposed facility, in contravention of NEPA and 10 C.F.R. Part 51, by substituting and utilizing the conclusions of a draft Generic Environmental Impact Statement (NUREG-2249) as a surrogate for required site-specific environmental analysis. Under NEPA, an agency may not rely on a draft GEIS or a proposed rule to satisfy binding obligations for a specific licensing action. Tiering is permitted only to final, publicly resolved, and codified NEPA documents. See 40 C.F.R. § 1502.20; 40 C.F.R. § 1501.11; APA § 706(2)(D).

55. Section 1.4.3 of the DEIS states: "[t]he NRC is proposing to revise its regulations to codify the findings of the draft generic environmental impact statement (GEIS), NUREG-2249..." The section further states: "[t]his EIS incorporates NR GEIS Category 1 technical analyses and findings... for 34 environmental issues that are relevant to the proposed action." The reliance on a draft GEIS to sidestep site-specific analysis for 34 issues, even though the GEIS

has not been finalized or codified, and by its very nature fails to account for the unique seismic and other conditions of the proposed facility and surrounding properties, is unlawful. Reliance on the draft GEIS as a surrogate for site-specific analysis is in violation of NEPA and the APA.

56. A genuine and material dispute exists here, since Requestor asserts that the DEIS incorporates the draft GEIS in violation of applicable law. The NRC staff cannot lawfully fulfill its NEPA obligations by relying on a draft document that has not undergone final public resolution or codification.

57. As to the materiality of the Contention, without a permissible source for and site-specific analysis to support the 34 issues, the Commission lacks the information necessary to make a reasoned decision. This omission is material to the adequacy of the environmental review and fatal to NEPA compliance. This contention challenges the procedural adequacy of the DEIS under NEPA and is raised to preserve the issue to the extent that the agency does not reverse course, cease reliance on the draft GEIS, and conduct the requisite site-specific analysis. This contention raises a procedural compliance issue of law and does not require expert testimony.

58. Requestor specifically reserves the right to file new and amended environmental contentions, and to reassert and modify the above-noted

contentions, after today's deadline when the final EIS and record of decision are published.

CONCLUSION

For the foregoing reasons, Requestor Kentucky Resources Council, Inc. respectfully requests that this Petition for Hearing be granted as to all contentions, and for any other relief to which it may be entitled.

Date: May 5, 2026

Respectfully submitted,

Signed (electronically) by Tom FitzGerald

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CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 2.305, I hereby certify that, on May 5, 2026, copies of the foregoing were served upon the Electronic Information Exchange (the NRC's E-Filing System), in the above-captioned docket.

Signed (electronically) by Tom FitzGerald

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