

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:

Global Laser Enrichment, LLC

(Paducah Laser Enrichment Facility)

Docket No. 70-7033-ML

June 1, 2026

**GLOBAL LASER ENRICHMENT LLC'S ANSWER OPPOSING
KENTUCKY RECOURCES COUNCIL, INC.'S
REQUEST FOR HEARING AND PETITION TO INTERVENE**

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I. INTRODUCTION

Global Laser Enrichment LLC (“GLE”) submits this Answer in opposition to the Hearing Request and Petition to Intervene (“Petition”) filed by Kentucky Resources Council, Inc. (the “Council”) on May 5, 2026,¹ pursuant to 10 C.F.R. § 2.309(i)(1) and the Atomic Safety and Licensing Board’s (“Board”) Initial Prehearing Order.² The Council seeks a hearing to oppose GLE’s application to the U.S. Nuclear Regulatory Commission (“NRC”) for a license to construct and operate a commercial uranium enrichment facility in McCracken County, Kentucky, under 10 C.F.R. Part 70.³ GLE submitted its application on June 27, 2025, and the NRC accepted it for review on August 4, 2025.⁴

¹ Kentucky Resources Council, Inc.’s Request for Hearing (May 5, 2026) (ML26125A449) (“Petition”).

² Memorandum and Order (Initial Prehearing Order) (May 12, 2026) (ML26132A299)

³ Letter from S. Long, GLE, and T. Knowles, GLE, to NRC Document Control Desk, “Global Laser Enrichment LLC PLEF License Application Submittal” (Jun. 27, 2025) (ML25179A001) (“Cover Letter”), Encl. 1b (Public) “Chapters 1 through 13 License Application for the Paducah Laser Enrichment Facility” (Jun. 27, 2025) (ML25181A812) (“License Application”).

⁴ *Id.*; Letter from S. Lav, NRC, to T. Knowles, GLE, “Acceptance of [GLE] [PLEF] License Application (Enterprise Project Identification Number L-2024-New-0004)” (Aug. 4, 2025) (ML25202A201) (“Acceptance Letter”).

The Petition should be denied because it fails to satisfy the NRC’s threshold requirements for participation in an adjudicatory proceeding—and those defects cannot be cured through later filings, incorporation by reference, or oral argument. The Commission’s standing and contention admissibility requirements are independent, mandatory prerequisites to intervention. Failure to satisfy either requirement, on its own, requires denial of a petition. Critically, those requirements must be satisfied in the petition itself. Petitioners may not file skeletal or placeholder assertions and later attempt to supply missing factual or legal support through subsequent filings or oral argument.

Here, the Council fails both requirements.

First, the Council fails to establish standing. The Petition relies on speculative assertions regarding hypothetical radiological consequences, prevailing winds, seismic activity, and other such concepts.⁵ But it fails to identify any concrete or particularized injury fairly traceable to issuance of this specific requested license. Nor does the Petition establish any basis for a presumption of standing under the Commission’s “proximity-plus” framework applicable in certain non-reactor proceedings—under which a petitioner must demonstrate not only geographic proximity to the facility, but also that the particular licensing action presents an obvious potential for offsite radiological consequences sufficient to support a presumption of injury. That failure is particularly notable here because uranium enrichment facilities present such limited risk of offsite radiological consequences that the NRC does not even require them to insure against third party nuclear liability risks. We cannot and should not presume the possibility of offsite radiological consequences—which the Council alleges—just because they are located nearby the Paducah Laser Enrichment Facility (“PLEF”).

⁵ Petition at 5-8.

Second, the Petition fails to proffer a single admissible contention under 10 C.F.R. § 2.309(f). In Contention 1, the Council argues that the U.S. Department of Energy (“DOE”) allegedly lacks authority to transfer or sell depleted uranium to GLE for use as feedstock.⁶ But that argument concerns DOE’s separate statutory authorities and commercial decisions—not whether GLE satisfies the NRC’s safety, safeguards, security, or environmental requirements for issuance of the requested uranium enrichment facility license. The Petition does not connect this claim to a finding that the NRC needs to make for this proceeding. Contention 1 is therefore outside the scope of this proceeding, is immaterial to any finding the NRC must make, and fails to raise any genuine dispute with GLE’s application.⁷

Contention 2 likewise fails to satisfy the Commission’s pleading requirements. The Petition references the National Environmental Policy Act, NUREG-2249, the Draft Environmental Impact Statement, prior scoping comments, and other filings, but never articulates an actual contention that could colorably meet the requirements of 10 C.F.R. § 2.309(f).⁸ It does not clearly identify the specific issue the Council seeks to litigate, explain the basis for that issue, identify a material deficiency in GLE’s Environmental Report or the NRC staff’s analysis, or articulate any concrete dispute requiring adjudication. Instead, the Petition attempts to preserve arguments for later development, vaguely incorporate positions in other documents by reference, and defer identification of the actual dispute the Council seeks to raise. But the Commission’s rules do not permit petitioners to submit skeletal or placeholder assertions and later develop the necessary factual or legal support through subsequent filings or oral argument. The required bases

⁶ *Id.* at 11-20.

⁷ The Council’s argument is also legally incorrect, but the parties need not discuss that here as the argument is outside of scope.

⁸ *Id.* at 20-25.

for standing and contention admissibility must appear in the petition itself. The Board and parties are not required to comb through other filings or speculate as to what claims a petitioner may later seek to assert.

The Commission’s admissibility standards are intentionally strict. They exist to ensure that NRC adjudications are limited to concrete, properly supported disputes material to the agency’s licensing determinations—not generalized policy objections or issues petitioners hope to develop later through litigation. We do not have the required concrete, properly supported, material dispute with the Council’s Petition. And therefore we need go no further.

The Petition does not identify any genuine, material dispute appropriate for adjudication in this proceeding. Its defects are facial and dispositive. Because the Council has failed to establish standing or submit an admissible contention satisfying 10 C.F.R. § 2.309(f), no further adjudicatory process is warranted, and the Board should deny the Petition in its entirety.

II. BACKGROUND

A. GLE’s License Application

On June 27, 2025, GLE submitted an application for a license to possess and use source material, special nuclear material, and byproduct material at its proposed PLEF pursuant to 10 C.F.R. Parts 70, 30, and 40.⁹ The requested license would authorize GLE to construct and operate the PLEF in McCracken County, Kentucky, where GLE would provide uranium enrichment services for commercial nuclear power customers. As described in the application, GLE will

⁹ Cover Letter at 1. GLE also submitted its Environmental Report on December 30, 2024, pursuant to an NRC-approved exemption and in accordance with 10 C.F.R. § 51.45. *See* Letter from T. Knowles, GLE, to NRC Document Control Desk, “Global Laser Enrichment, LLC Environmental Report Submittal” (Dec. 30, 2024) (ML24365A110), Encl. 1, “Environmental Report for the Paducah Laser Enrichment Facility (Chapters 1 through 11)” (Dec. 31, 2024) (ML24365A111) (“Environmental Report”); Letter from S. Lav, NRC, to T. Knowles, GLE, “Approval of the [GLE] Exemption Request to Bifurcate Submittal of the Environmental Report in Advance of the Safety and Safeguard Analysis Report for the [PLEF] (Enterprise Project Identifier L-2024-LL3-0023)” (Aug. 19, 2024) (ML24184B971) (“GLE Exemption”).

utilize laser-based isotope separation technology to enrich UF₆ up to 8 weight percent uranium-235. GLE plans to use as feedstock certain DOE inventories of depleted UF₆, much of which is currently located at the legacy Paducah Gaseous Diffusion Plant (“PGDP”), and natural UF₆ from commercial conversion facilities.¹⁰

GLE’s license application included the enclosures required by 10 C.F.R. § 70.22 to demonstrate that GLE satisfies the applicable requirements of 10 C.F.R. Part 70 to construct and operate a uranium enrichment facility:

- 1) License Application Chapters 1–13, prepared consistent with NUREG-1520, Rev. 2, “Standard Review Plan for the Review of a License Application for a Fuel Cycle Facility;”
- 2) Fundamental Nuclear Material Control Plan, describing the program for the control and accounting of special nuclear material;
- 3) Physical Security Plan, describing the physical and transportation security programs;
- 4) Emergency Plan, for responding to the radiological hazards of an accidental release;
- 5) Integrated Safety Analysis Summary;
- 6) Decommissioning Funding Plan; and
- 7) Nuclear Material Transportation Security Plan.

The NRC staff provided a sufficiency determination on August 4, 2025, and formally accepted the application for review.¹¹

B. NRC Requirements for Enrichment Facility License

The NRC may issue a license for a uranium enrichment facility only if it determines that the application satisfies the requirements of the Atomic Energy Act of 1954, as amended (“AEA”), and applicable NRC regulations governing the safe and secure possession and use of

¹⁰ See Environmental Report at ii.

¹¹ Acceptance Letter at 1.

nuclear material. The NRC may issue a license for the construction and operation of a uranium enrichment facility upon determining, among other things, that issuance of the license will not be inimical to the common defense and security or to the health and safety of the public.¹² Section 193 requires the NRC to consider matters relating to radiological safety, safeguards, physical security, and the protection of classified and sensitive nuclear technology associated with uranium enrichment operations.

The NRC's regulatory review of a uranium enrichment facility application is conducted primarily under 10 C.F.R. Part 70, including the additional requirements applicable to certain fuel cycle facilities in Subpart H. Under that framework, the NRC evaluates whether the facility can be constructed, operated, secured, and ultimately decommissioned in a manner that protects public health and safety and is not inimical to the common defense and security. Among other things, the NRC evaluates measures relating to nuclear criticality safety, radiation and chemical protection, accident prevention and mitigation, material control and accounting, physical security, safeguards, emergency preparedness, and decommissioning, including measures designed to prevent theft, diversion, sabotage, or unauthorized dissemination of sensitive nuclear technology and information.

As a federal agency, the NRC's review is also subject to the National Environmental Policy Act ("NEPA"), which requires federal agencies to evaluate the environmental impacts of major federal actions significantly affecting the quality of the human environment.¹³ Under 10 C.F.R. § 51.20(b)(10), issuance of a license for a uranium enrichment facility requires preparation of an Environmental Impact Statement ("EIS"). The NRC therefore prepares an EIS

¹² See 42 U.S.C. § 2077 (describing this standard in connection with special nuclear material licenses); *see also* 10 C.F.R. § 70.31(d) (applying this standard explicitly to enrichment facility licensing).

¹³ 42 U.S.C. § 4332(2)(C).

evaluating the environmental impacts associated with the proposed licensing action.¹⁴ To support that review, an applicant submits an Environmental Report describing the proposed action, alternatives, and anticipated environmental impacts, which the NRC independently reviews and evaluates.¹⁵ The NRC also conducts a public scoping process and issues the EIS in two stages: first, a Draft Environmental Impact Statement (“DEIS”) for public comment, and then a Final Environmental Impact Statement (“FEIS”) responding to those comments.

The Commission must ultimately determine whether issuance of the requested license would be consistent with the Atomic Energy Act’s governing standards—that is, whether the proposed licensing action would provide reasonable assurance of adequate protection of public health and safety and would not be inimical to the common defense and security. Those safety, security, and environmental determinations define the scope of the NRC’s review and the issues material to this proceeding.

C. Procedural History

As noted, the NRC staff formally accepted GLE’s application for review on August 4, 2025.¹⁶ On March 6, 2026, the NRC published a notice in the *Federal Register* announcing receipt of the application for license and, among other things, an opportunity to request a hearing and petition for leave to intervene, with a deadline of May 5, 2026 to do so.¹⁷

¹⁴ *Id.*; 10 C.F.R. § 51.20(b)(10).

¹⁵ 10 C.F.R. § 51.45.

¹⁶ Acceptance Letter at 1.

¹⁷ 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, 91 Fed. Reg. 11,092, 11,094 (Mar. 6, 2026) (“Hearing Opportunity Notice”).

While this filing window was open, the NRC published the DEIS for its review of GLE’s license application and invited members of the public to submit comments by May 11, 2026.¹⁸ The DEIS evaluates the environmental impacts associated with issuance of a license to GLE under 10 C.F.R. Part 51.

The Kentucky Resources Council, Inc. filed the instant Petition on May 5, 2026.¹⁹ The Office of the Secretary referred the Petition to the Atomic Safety and Licensing Board Panel on May 7, 2026, which on May 11, 2026 established the Board in this docket.²⁰ The Board then issued an Initial Prehearing Order on May 12, 2026.²¹

III. THE PETITION SHOULD BE DENIED BECAUSE THE COUNCIL HAS FAILED TO ESTABLISH STANDING

The Council fails to establish standing to intervene in this proceeding. The Council asserts representational standing based on the declaration of one of its members, Mr. Mark Donham, but fails to demonstrate that Mr. Donham satisfies the traditional requirements for standing in his own right because the Petition does not plausibly allege any concrete or particularized injury arising from the proposed PLEF. Nor does the Council establish—or even attempt to establish—any basis for a presumption of standing based on proximity to the facility.

¹⁸ Global Laser Enrichment, LLC; Paducah Laser Enrichment Facility; Draft Environmental Impact Statement, 91 Fed. Reg. 14,882 (Mar. 27, 2026); Environmental Impact Statement for the Global Laser Enrichment, LLC License Application for the Paducah Laser Enrichment Facility – Draft Report for Comment (March 2026) (ML26061A085) (“DEIS”).

¹⁹ Petition at 1.

²⁰ Memorandum from C. Stafford to E. Roy Hawkens, “Request for Hearing Regarding the Application for License from Global Laser Enrichment, LLC for the Paducah Laser Enrichment Facility (Docket No. 70-7033)” (May 7, 2026) (ML26127A333) (referring the Petition); Establishment of Atomic Safety and Licensing Board (May 11, 2026) (ML26131A150).

²¹ Memorandum and Order (Initial Prehearing Order) (May 12, 2026) (ML26132A299). This order was later amended to account for the referral of a second petition from Michael McVicker. *See* Memorandum and Order (Amending Initial Prehearing Order) (May 18, 2026) (ML26138A184).

Because the Council has failed to establish representational standing through Mr. Donham, the Petition should be denied.

A. Standing Requirements

The AEA requires the Commission to grant “any person whose interest may be affected by the proceeding” a hearing upon request and to make them a party to the proceeding.²² As part of determining who has sufficient interest to intervene, NRC regulations require that a petitioner establish standing by providing, among other things, the “nature and extent” of its “property, financial or other interest” in the proceeding and “the possible effect” of any decision that may be issued in the proceeding.²³ In short, to have standing, a petitioner must show that the proposed action would “injure [its] property, financial or other interests.”²⁴

In evaluating whether a petitioner has standing, the Commission applies “contemporaneous judicial concepts.”²⁵ A petitioner must show three factors: (1) it has or will “suffer a distinct and palpable injury” in fact that is (2) “fairly traceable to the challenged action” and (3) is “likely to be redressed by a favorable decision.”²⁶ Each of the elements must be “pled with specificity.”²⁷ Importantly, to be fairly traceable, the chain of causation for the injury “must

²² 42 U.S.C. § 2239(a)(1)(A).

²³ 10 C.F.R. § 2.309(d)(1).

²⁴ *Exelon Generation Co. & PSEG Nuclear, LLC* (Peach Bottom Atomic Power Station, Units 2 & 3), CLI-05-26, 62 NRC 577, 579 (2005).

²⁵ *Fla. Power & Light Co.* (Turkey Point Nuclear Generating Plants, Units 3 & 4), CLI-15-25, 82 NRC 389, 394 (2005).

²⁶ *Id.*; see also *Calvert Cliffs 3 Nuclear Project, LLC and UniStar Nuclear Op. Servs., LLC* (Calvert Cliffs Nuclear Power Plant, Unit 3), CLI-09-20, 70 NRC 911, 913 (2009).

²⁷ *Calvert Cliffs*, CLI-09-20, 70 NRC at 913.

be plausible.”²⁸ The petitioner bears the burden of setting forth a clear and coherent argument for standing and intervention.²⁹

To demonstrate a distinct and palpable injury, a petitioner must show—again with specificity—that there is a “realistic danger” of sustaining a “direct injury” that is “concrete and particularized.”³⁰ An injury that is “hypothetical,” “conjectural,” or “too speculative” will not suffice.³¹ In proceedings before the NRC, “unsupported general references to radiological consequences” are not enough to establish a basis for injury.³² Further, “[m]ere potential exposure to minute doses of radiation within regulatory limits does not constitute a distinct and palpable injury on which standing can be founded.”³³

An organization may show standing on its own behalf, or it may assert a right to represent the interests of its members. For representational standing, an organization must identify at least one member who qualifies for standing in his or her own right.³⁴ It must also (1) show that the interests it seeks to protect are germane to its own purpose; (2) show that it is authorized by that member to request a hearing on his or her behalf; and (3) show that neither the claim asserted nor the relief requested requires an individual member’s participation in the

²⁸ *Turkey Point*, CLI-15-25, 82 NRC at 394-95.

²⁹ *Commonwealth Edison Co.* (Zion Nuclear Power Station, Units 1 and 2), CLI-99-04, 49 NRC 185, 194 (1999).

³⁰ *Nw. Airlines, Inc. v. Fed. Aviation Admin.*, 795 F.2d 195, 201 (D.C. Cir. 1986) (citing *Babbitt v. United Farm Workers Nat’l Union*, 442 U.S. 289, 298 (1979)); *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 401-02 (2013).

³¹ *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992).

³² *Sacramento Mun. Util. Dist.* (Rancho Seco Nuclear Generating Station), LBP-92-23, 36 NRC 120, 130 (1992).

³³ *Nuclear Fuel Servs., Inc.* (Erwin, Tenn.), LBP-04-5, 59 NRC 186, 195 (2004) (internal quotation marks removed) (citing *Babcock and Wilcox* (Apollo, Pa. Fuel Fabrication Facility), LBP-93-4, 37 NRC 72, 87-88 (1993)) (ruling that a petitioner living twenty miles away failed to establish standing by referencing the Environmental Assessment to argue that she might receive some dose of radiation within the legal limits).

³⁴ *Priv. Fuel Storage, LLC* (Indep. Spent Fuel Storage Installation), CLI-98-13, 48 NRC 26, 30 (1998).

organization's legal action.³⁵ In addition to the other requirements, the same standing requirements as an individual are required to be shown for representational standing.

In proceedings on the licensing of large light water reactors, the Commission provides petitioners within 50 miles of a proposed facility a presumption of standing.³⁶ The Commission has declined to expand this presumption to non-reactor licensing proceedings and instead assesses whether there should be a presumption of standing based on geographic proximity on a case-by-case basis.³⁷ For non-reactor proceedings, the Commission applies a "proximity-plus" framework under which a Board determines whether the particular licensing action warrants a proximity-based presumption of standing. Thus, unlike proceedings involving advanced reactor licensing where a Board may be beholden to Commission direction to presume standing,³⁸ for non-reactors, the Commission has empowered a Board to assess the issue on a case-by-case basis under a "proximity-plus" framework.³⁹

For a petitioner in a particular non-reactor licensing proceeding to be afforded a presumption of standing based on proximity to the action, the petitioner must show that (1) the licensing action involves a significant source of radioactivity, (2) the radioactivity produces an obvious potential for offsite consequences, and (3) the petitioner is sufficiently close to the site to

³⁵ *Id.* at 30-31.

³⁶ *Interim Storage Partners LLC* (WCS Consol. Interim Storage Facility), LBP-19-7, 90 NRC 31, 47 (2019).

³⁷ *Id.*; see *Informal Hearing Procedures for Materials Licensing Adjudications*, 54 Fed. Reg. 8,269, 8,272 (Feb. 28, 1989).

³⁸ See *Long Mott Energy, LLC* (Long Mott Generating Station), LBP-26-1, 103 NRC __, __ (Jan. 22, 2026) (slip op. at 8, 13) (applying a 50-mile proximity presumption to a small modular reactor because "reconsidering Commission precedents is beyond this Board's authority" and "[w]ithin the last five years, the Commission has reaffirmed that while the presumption does not apply to all proceedings, it does apply to construction permits for power reactors").

³⁹ See *Informal Hearing Procedures for Materials Licensing Adjudications*, 54 Fed. Reg. at 8,272 (discussing "the Commission's rejection of the fifty-mile standard for materials licensing").

be affected presumptively by an offsite consequence.⁴⁰ Absent this showing, “there is no presumption of standing based upon geographic proximity” for proceedings on non-reactor facilities.⁴¹ Where a petitioner cannot establish “proximity-plus” standing, it must establish standing under the traditional standing principles discussed above.

B. The Council’s Representative Member Fails to Meet Traditional Standing Requirements in His Own Right

The Council has failed to show that its member, Mr. Mark Donham, whose declaration it relies upon to establish representational standing, satisfies the requirements for standing in his own right because the Petition does not demonstrate that Mr. Donham will suffer any injury if the NRC issues GLE a license for the PLEF. The Council asserts several theories of injury, including (1) Mr. Donham’s “belief” that his property is located in the direction of prevailing winds from the PLEF site, (2) his belief that the PLEF site is “in a major seismic zone,” and (3) PLEF’s use of certain processes for handling depleted uranium cylinders that are allegedly “similar” to those used at the former gaseous diffusion facility at the site.⁴²

Based on those assertions, the Council speculates that “pollutants” and “airborne routine or accidental releases of radionuclides” could be released from the facility and “may adversely affect [Mr. Donham’s] income, employment, and health” or interfere with his property interests, including the growing of produce on his property.⁴³ These hypothetical, speculative, and

⁴⁰ *U.S. Army Installation Command* (Schofield Barracks, Oahu, Haw., and Pohakuloa Training Area, Island of Hawaii, Haw.), LBP-10-4, 71 NRC 216, 231-32 (2010) (holding that the petitioner’s failure to “show that the onsite radioactivity produces an obvious potential for offsite consequences” is fatal to her standing argument under the proximity plus framework).

⁴¹ *USEC, Inc.* (Am. Centrifuge Plant), CLI-05-11, 61 NRC 309, 311 (2005).

⁴² Petition at 6-8.

⁴³ *Id.* at 7-8.

factually incorrect assertions fall far short of demonstrating a “realistic danger” of a “direct injury” that is “concrete and particularized.”

The Petition provides no plausible basis to conclude that the PLEF, if licensed and operated in accordance with NRC requirements, would result in offsite radiological impacts that would cause Mr. Donham to suffer any distinct and palpable injury. Instead, the Council offers unsupported hypothetical scenarios in which radionuclide particles could somehow reach Mr. Donham’s property. The Council discusses Mr. Donham selling and consuming produce grown on his land but never explains any credible pathway by which such produce would become contaminated or otherwise cause harm. Rather, the Council relies on speculative assertions based on Mr. Donham’s “beliefs,” without meaningful support from GLE’s application, Environmental Report, or the DEIS, and includes at least one inaccurate characterization of the DEIS.⁴⁴ Unsupported general references to radiological consequences are insufficient to establish standing, and the Council fails to identify any plausible basis for concluding that operation of the PLEF would interfere with Mr. Donham’s use of his property or ability to grow produce.

The Council likewise fails to explain how the “prevailing winds” from the PLEF site could cause any injury to Mr. Donham or his property.⁴⁵ Even assuming Mr. Donham’s characterization of local wind patterns was accurate, the Petition never identifies any credible mechanism by which operation of the PLEF would result in harmful radiological impacts to his property, produce, or health. Instead, the Council relies on speculative and unsupported assertions untethered from GLE’s application, Environmental Report, or the DEIS. Because the Council

⁴⁴ *Id.* at 6-8.

⁴⁵ *See id.* at 6 (stating that it is Mr. Donham’s “belief” that his “home and property are in the direction of the prevailing winds from the proposed GLE facility”).

bears the burden of setting forth a clear and coherent basis for standing, these assertions are insufficient to establish injury in fact.

The Council also asserts that pollutants and radionuclide particles could reach Mr. Donham's property because certain aspects of GLE's depleted uranium handling processes are allegedly similar to processes previously used at the former PGDP, 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."⁴⁶ But the Council never explains how those alleged similarities establish any plausible risk of harm from operation of the proposed PLEF. Nor does the Council meaningfully engage with GLE's application, Environmental Report, or the NRC's DEIS, all of which address the safety of depleted uranium handling and facility operations.⁴⁷ Instead, the Council relies on speculative assertions that contamination associated with the former PGDP could somehow recur at the proposed PLEF without identifying any factual or technical basis for that claim.⁴⁸ These unsupported references to possible radiological consequences are insufficient to establish standing. To the extent the Council also alleges unidentified "pollutants" or other emissions, the Petition does not clearly explain what pollutants are at issue, how they would be released, or how they could plausibly cause injury to Mr. Donham or his property.⁴⁹

The Council likewise fails to substantiate its assertion that seismic activity could cause injury to Mr. Donham or his property. The argument is premised largely on Mr. Donham's

⁴⁶ *Id.* at 7-8.

⁴⁷ *See, e.g.*, DEIS at 3-60-65; Environmental Report at 4-111-19; *see generally* License Application at 12-1-3 (Chapter 12 describes GLE's Fundamental Nuclear Material Control Plan).

⁴⁸ *See* Petition at 8 (stating, with no support, that the mentioned processes at the former PGDP "have historically resulted in releases to the environment of pollutants.").

⁴⁹ *See id.* at 8.

incorrect “belief” that the PLEF site is located within the New Madrid Seismic Zone,⁵⁰ even though both GLE’s Environmental Report and the NRC’s DEIS state that the site is outside of the New Madrid Seismic Zone.⁵¹ Nor is it true, as the Council suggests, that the facility is not designed to address seismic conditions. To the contrary, the NRC’s DEIS states that “[p]otential seismic hazards would be mitigated through design to ensure that the PLEF structures can withstand the local geotechnical and seismic conditions consistent with NRC and U.S. Geological Survey guidance for critical facilities in seismically active regions.”⁵² Beyond its unsupported assertions regarding seismic location and facility design, the Council provides no factual or technical basis for concluding that earthquake activity could result in a release affecting Mr. Donham or his property. The Council’s speculation regarding hypothetical seismic accidents and “failure of containment” therefore fails to establish any plausible or fairly traceable injury arising from NRC issuance of the requested license.⁵³ These unsupported references to possible radiological consequences are insufficient to establish standing.

The Council has the burden to clearly and coherently demonstrate standing, and here it has failed to show that Mr. Donham would suffer an injury, let alone a direct injury from any realistic danger. It is well established that “unsupported general references to radiological consequences” are not sufficient to establish standing in an NRC proceeding, but this is precisely what the Council has put forth.⁵⁴ Further, mere potential exposure to radiation within legal dose

⁵⁰ *Id.* at 7 (stating “Donham, on information and belief, believes that the proposed GLE is located in a major seismic zone.”). *But see id.*, Ex. A where Mr. Donham’s “belief” is stated nowhere; nor is a seismic zone discussed at all.

⁵¹ DEIS at 3-19; Environmental Report at 3-19, 32.

⁵² DEIS at 4-2.

⁵³ *See* Petition at 7 (stating that Mr. Donham “believes that the proposed GLE is located in a major seismic zone”).

⁵⁴ *See Rancho Seco*, LBP-92-23, 36 NRC at 130.

limits is insufficient to establish standing,⁵⁵ and the Council has not shown with any degree of certainty that Mr. Donham will be exposed to even the most minute amounts of radioactivity as a result of the NRC issuing a license to GLE.⁵⁶ The Council has failed to show it has representational standing through the declaration of Mr. Donham.

C. The Council Has Not Established Any Basis for a Proximity-Based Presumption of Standing

The Council does not argue that either it or its representative, Mr. Donham, qualifies for a presumption of standing based on proximity to the proposed PLEF. Nor could it. The Petition contains only a single statement that Mr. Donham’s property is located “approximately 17 miles” from the PLEF site but puts forth nothing to demonstrate that operation of the facility presents the type of “obvious potential for offsite consequences” required to support “proximity-plus” standing in a non-reactor licensing proceeding.⁵⁷ Indeed, as discussed above, the Council has failed to demonstrate that Mr. Donham would be exposed to even minute amounts of radioactivity or otherwise suffer any injury as a result of operation of the proposed facility. Because the Council has failed to establish either traditional standing or any basis for a proximity-based presumption of standing, the Petition should be denied.

Although Mr. Donham is a member of the Council and has authorized the Council to represent him, he does not have standing in his own right. The Council has not argued that Mr. Donham qualifies for a “proximity-plus” presumption of standing and has failed to establish that

⁵⁵ See *Erwin*, LBP-04-5, 59 NRC at 195 (citing Apollo, Pa. Fuel Fabrication Facility, LBP-93-4, 37 NRC at 87-88).

⁵⁶ Of note, the Price-Anderson Act does not apply to a uranium enrichment facility constructed after 1990, reflecting the inherently lower risk of radioactive exposure even in case of a nuclear incident. See Atomic Energy Act § 193(e) (codified at 42 U.S.C. § 2243(e)), as amended by the Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990, Pub. L. 101-575, 104 Stat. 2835; see NUREG/CR-7293, “The Price-Anderson Act: 2021 Report to Congress,” at 1-7 (Dec. 2021) (ML21335A064).

⁵⁷ Petition at 6; *id.*, Ex. A ¶ 2.

he satisfies the traditional requirements for standing because it has not shown that Mr. Donham would suffer any injury in fact fairly traceable to NRC issuance of a license to GLE. Accordingly, the Council's Petition should be denied for lack of standing.

IV. THE PETITION SHOULD BE DENIED BECAUSE THE COUNCIL FAILS TO OFFER AN ADMISSIBLE CONTENTION

Even if the Council had established standing, the Petition should be denied because it fails to proffer any admissible contention. The Council advances two contentions, neither of which satisfies the NRC's contention admissibility requirements under 10 C.F.R. § 2.309(f)(1)(i)-(vi), and improperly attempts to preserve, reserve, or incorporate additional claims and arguments.

The Council's Contention 1 focuses on an argument that is out of scope, immaterial, and irrelevant to this licensing proceeding. The Council argues that DOE lacks statutory authority to transfer or sell depleted uranium to GLE for use as feedstock. But although the Council devotes nearly ten pages to that argument, it never explains why DOE's authority to transfer or sell depleted uranium is within the scope of this proceeding, material to any NRC finding required for issuance of the requested uranium enrichment facility license, or otherwise relevant to the NRC's licensing determination. Simply put, the Council's argument depends entirely on a separate future DOE transfer decision that is not before the NRC in this proceeding.

The Council's Contention 2 is inadmissible because it is out of scope, immaterial, lacks specificity, and fails to raise a genuine dispute with the DEIS due to its mischaracterizations and incorrect readings of the DEIS and an NRC rule. In this second contention, the Council incorrectly characterizes the NRC's final rule codifying NUREG-2249 as a proposed rule and erroneously asserts that NRC staff relied on the rulemaking itself as the basis for findings in the DEIS. The Council also ignores the portions of the DEIS explaining NRC staff's evaluation of

the applicability of certain NUREG-2249 (the “NR GEIS”) findings to the PLEF. As a result, the Council fails to raise any genuine dispute with GLE’s Environmental Report or the DEIS and fails to identify any material issue relevant to the NRC’s licensing determination.

Finally, the Council improperly attempts to preserve future contentions regarding the FEIS and incorporate by reference arguments raised elsewhere. First, the Council attempts to reserve the right to file new or amended contentions following issuance of the FEIS, even though any such new or amended contention must independently satisfy the NRC’s requirements under 10 C.F.R. § 2.309(c)(1). Second, the Council attempts to incorporate by reference arguments made in two public comments submitted during the PLEF EIS scoping process, even though the Commission does not permit blanket incorporation by reference of non-admitted contentions as the “sole support” for a claim. Third, the Council attempts to incorporate by reference the six contentions proffered by petitioner Michael McVicker, even though incorporation by reference does not relieve the Council of its obligation to demonstrate independently that those proposed contentions satisfy the Commission’s admissibility requirements. Each effort improperly attempts to circumvent the Commission’s specificity and admissibility requirements and should be rejected.

At bottom, the Petition repeatedly fails to engage with GLE’s application, GLE’s Environmental Report, or the NRC staff’s DEIS, instead relying on generalized policy objections, speculation, and legal arguments untethered from the NRC’s licensing standards.

A. Contention Admissibility Requirements

Under 10 C.F.R. § 2.309(a), the Commission will deny a request for hearing unless “at least one admissible contention” is put forth that meets each of the six requirements in 10 C.F.R. § 2.309(f)(1). If a proposed contention fails to meet even one of the six requirements, that

contention is inadmissible.⁵⁸ These standards are “strict by design”⁵⁹ so that the Commission affords a hearing only to petitioners who “proffer at least some minimal factual and legal foundation in support of their contentions.”⁶⁰ In turn, this creates a clearer, more focused record of decision.⁶¹ More importantly, this threshold ensures that NRC hearings adjudicate only those issues appropriate for resolution in an NRC hearing—namely, “genuine, substantive safety and environmental issues.”⁶²

A petitioner must demonstrate each of the six contention admissibility requirements under 10 C.F.R. § 2.309(f)(1) with particularity.⁶³ A Board cannot simply “infer” unarticulated bases of a contention.⁶⁴ The basis for a contention must be set forth with reasonable specificity to warrant further exploration of the proposed contention.⁶⁵ More detail regarding each of the six requirements is provided below.

⁵⁸ See *Yankee Atomic Elec. Co.* (Yankee Nuclear Power Station), CLI-96-7, 43 NRC 235, 262 (1996); *Private Fuel Storage, LLC* (Indep. Spent Fuel Storage Installation), CLI-99-10, 49 NRC 318, 325 (1999); *Connecticut Yankee Atomic Power Co.* (Haddam Neck Plant), LBP-01-21, 54 NRC 33, 47 (2001).

⁵⁹ *Dominion Nuclear Conn., Inc.* (Millstone Nuclear Power Station, Units 2 and 3), CLI-01-24, 54 NRC 349, 358 (2001). The requirements are intended, among other things, to ensure that a petitioner reviews the application and supporting documents prior to filing contentions; that contentions are supported by at least some facts or expert opinion known to the petitioner at the time of filing; and that there exists a genuine dispute before a contention is admitted for litigation, to avoid the practice of filing contentions that lack any factual support and seeking to flesh them out later through discovery. See *Long Island Lighting Co.* (Shoreham Nuclear Power Station, Unit 1), LBP-91-35, 34 NRC 163, 167-68 (1991).

⁶⁰ *Duke Energy Corp.* (Oconee Nuclear Station Units 1, 2, and 3), CLI-99-11, 49 NRC at 334 (1999). “

⁶¹ Changes to Adjudicatory Process; Final Rule, 69 Fed. Reg. 2,182, 2,202 (Jan. 14, 2004).

⁶² *Id.*; *PPL Susquehanna, LLC* (Susquehanna Steam Elec. Station, Units 1 and 2), CLI-15-8, 81 NRC 500, 504 (2015); see also *Holtec Decommissioning Int'l, LLC*; *Holtec Palisades, LLC*; & *Palisades Energy, LLC* (Palisades Nuclear Plant), CLI-25-03, 101 NRC 197, 202 (2025).

⁶³ 10 C.F.R. § 2.309(f)(1) (“A request for hearing or petition for leave to intervene must set forth with particularity the contentions sought to be raised.”).

⁶⁴ *USEC, Inc.* (Am. Centrifuge Plant), CLI-06-10, 63 NRC 451, 457 (2006).

⁶⁵ See, e.g., *Kan. Gas & Elec. Co.* (Wolf Creek Generating Station, Unit 1), LBP-84-1, 19 NRC 29, 34 (1984) (citing *Philadelphia Elec. Co.* (Peach Bottom Atomic Power Station, Units 2 and 3), ALAB-216, 8 AEC 13, 20–21 (1974)); *Commonwealth Edison Co.* (Braidwood Nuclear Power Station, Units 1 & 2), LBP-85-20, 21 NRC 1732, 1742 (1985), *rev'd and remanded on other grounds*, CLI-86-8, 23 NRC 241 (1986).

The first contention admissibility requirement is that each contention must state the specific legal or factual issue to be raised or controverted, and the second requires that each contention provide a brief explanation of the basis for the contention.⁶⁶ These two requirements ensure that the petitioner clearly identifies the issues it seeks to litigate and the basis for those claims at the outset of the proceeding.⁶⁷

The third contention admissibility requirement provides that each contention must demonstrate that the issue raised is within the proceeding's scope.⁶⁸ The Commission defines the scope of a proceeding by the notice of hearing and order referring the matter to the Board.⁶⁹ Any contention that falls outside that scope must be rejected.⁷⁰ Issues unrelated to the license application or the NRC's review of that application are consequently outside the scope of the proceeding.⁷¹ Any challenges must be to the content of the license application itself, as judged

⁶⁶ 10 C.F.R. § 2.309(f)(1)(i)-(ii).

⁶⁷ See, e.g., *Public Serv. Co. of N.H.* (Seabrook Station, Units 1 & 2), ALAB-942, 32 NRC 395, 427-28 (1990); see also *Southern Nuclear Operating Co.* (Early Site Permit for Vogtle ESP Site), LBP-08-2, 67 NRC 54, 73, 78 (2008) (holding that contention was not put forth with reasonable specificity so as to put the other parties on notice as to what issues they will have to defend against or oppose).

⁶⁸ 10 C.F.R. § 2.309(f)(1)(iii).

⁶⁹ See *Florida Power & Light Co.* (Turkey Point Nuclear Generating Plant, Units 3 & 4), LBP-01-6, 53 NRC 138, 151 (2001); *PPL Susquehanna LLC* (Susquehanna Steam Electric Station, Units 1 & 2), LBP-07-10, 66 NRC 1, 23 (2007); *Northeast Nuclear Energy Co.* (Millstone Nuclear Power Stations, Units 2 & 3), LBP-01-10, 53 NRC 273, 339 (2001).

⁷⁰ See *Pacific Gas and Elec. Co.* (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI-11-11, 74 NRC 427, 435-36 (2011).

⁷¹ See, e.g., *PPL Susquehanna LLC* (Susquehanna Steam Electric Station, Units 1 and 2), CLI-07-25, 66 NRC 101, 107 (2007) (rejecting a contention disputing another agency's permitting authority); *U.S. Dep't of Energy* (High-Level Waste Repository), CLI-10-10, 71 NRC 281, 284-85 (2010) (finding a contention disputing the NWSA's mandate of geologic disposal was outside scope); *U.S. Dep't of Energy* (High-Level Waste Repository), CLI-09-14, 69 NRC 580, 607 (2009); *Am. Centrifuge Plant*, CLI-06-10, 63 NRC at 463 (rejecting a contention that "raises issues of international policy unrelated to the NRC's licensing criteria and [is] therefore beyond the scope of this proceeding").

against the NRC’s standards for reviewing that license application, to be within the scope of the proceeding.⁷²

Fourth, each contention must demonstrate that the issue raised is material to the findings the NRC must make to support the licensing action involved in the proceeding.⁷³ An issue is material only if it would “make a difference in the outcome of the licensing proceeding.”⁷⁴ The NRC’s licensing review focuses on whether the application demonstrates that the requested licensing action can be safely approved in accordance with the applicable requirements set forth in NRC regulations.⁷⁵

Fifth, each contention must state concisely the alleged facts or expert opinions supporting the petitioner’s position and upon which the petitioner intends to rely at hearing, including references to the specific sources and documents on which the petitioner intends to rely.⁷⁶ “A petitioner’s imprecise reading of a reference document cannot serve to generate an issue suitable for litigation.”⁷⁷

Finally, the sixth requirement of an admissible contention is that it must provide sufficient information to show that a genuine dispute exists on a material issue of law or fact by referencing the specific portions of the application the petitioner disputes or, if the application is alleged to be deficient, by identifying the alleged deficiencies and the supporting reasons for that position.⁷⁸ A petitioner must “read the pertinent portions” of the document being challenged,

⁷² See, e.g., *Am. Centrifuge Plant*, CLI-06-10, 63 NRC at 463; *Nuclear Fuel Servs., Inc.* (License Amendment Application), CLI-23-3, 98 NRC 33, 36-40 (2023).

⁷³ 10 C.F.R. § 2.309(f)(1)(iv).

⁷⁴ *Oconee*, CLI-99-11, 49 NRC at 333-34.

⁷⁵ *Palisades*, CLI-25-03, 101 NRC at 206-07.

⁷⁶ 10 C.F.R. § 2.309(f)(1)(v).

⁷⁷ *Ga. Inst. of Tech.* (Ga. Tech Research Reactor, Atlanta, Ga.), LBP-95-6, 41 NRC 281, 300 (1995).

⁷⁸ 10 C.F.R. § 2.309(f)(1)(vi).

“state the applicant’s position and the petitioner’s opposing view,” and explain why the petitioner disagrees with the applicant.⁷⁹ If a petitioner believes an application to be deficient, in other words that there is an omission, a petitioner must identify the deficiencies and support why the missing information is needed.⁸⁰ A conclusory assertion is not enough.⁸¹ A contention that fails to controvert any specific text within a document will be dismissed as inadmissible.⁸² Further, “bare assertions and speculation” cannot provide adequate support to demonstrate a genuine dispute.⁸³

B. Contention 1 Challenging the U.S. Department of Energy’s Authority to Sell Depleted Uranium is Inadmissible

The Council’s first contention focuses on an issue entirely unrelated to this licensing proceeding and irrelevant to the NRC’s review of a uranium enrichment facility license application. In Contention 1, the Council challenges DOE’s statutory authority to sell or transfer depleted uranium to a private company.⁸⁴ This contention is inadmissible because it is outside the scope of this licensing proceeding for a uranium enrichment facility; it is not material to any finding the NRC must make to issue the requested license; and it does not dispute any part of GLE’s application and thus fails to identify any genuine dispute. The Council’s disagreement is fundamentally with DOE’s statutory and commercial decisions concerning disposition of

⁷⁹ Rules of Practice for Domestic Licensing Proceedings; Procedural Changes in the Hearing Process; Final Rule, 54 Fed. Reg. 33,168, 33,170 (Aug. 11, 1989); *see also Millstone*, CLI-01-24, 54 NRC at 358.

⁸⁰ *Tenn. Valley Auth.* (Clinch River Early Site Permit Application), CLI 18-5, 87 NRC 119, 122 (2018).

⁸¹ *See Am. Centrifuge Plant*, CLI-06-10, 63 NRC at 472.

⁸² *See S.C. Elec. & Gas Co.* (Virgil C. Summer Nuclear Station, Units 2 & 3), CLI-10-1, 71 NRC 1, 21-22 (2010).

⁸³ *Fansteel, Inc.* (Muskogee, Okla. Site), CLI-03-13, 58 NRC 195, 203 (2003) (quoting *GPU Nuclear, Inc.* (Oyster Creek Nuclear Generating Station), CLI-00-6, 51 NRC 193, 208 (2000)).

⁸⁴ Petition at 11-20.

depleted uranium inventories, not with any NRC-regulated aspect of the proposed facility. As such this contention is inadmissible.⁸⁵

1. Contention 1 is Outside the Scope of this Proceeding

The scope of this proceeding, as prescribed in the notice of hearing and order referring the matter to the Board, is review of GLE’s application 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.”⁸⁶ Any challenges must be to the content of the license application itself, as judged against the NRC’s standards for reviewing that license application, to be within the scope of the proceeding.⁸⁷

This contention is plainly outside the scope of this proceeding because it challenges DOE’s statutory authority under the AEA and USEC Privatization Act to sell depleted uranium feedstock to GLE.⁸⁸ That question concerns DOE’s separate statutory authorities and commercial implementation decisions, not whether GLE satisfies the NRC’s safety, safeguards, security, or environmental requirements for issuance of the requested uranium enrichment facility license. The application does not request NRC approval of the DOE-GLE transaction itself, and the NRC is not being asked to authorize DOE’s transfer decision or interpret DOE’s statutory authority. The NRC regulates whether nuclear material can be safely and securely possessed and used—not the commercial sourcing arrangements through which an applicant acquires feedstock.

⁸⁵ See *id.* at 12 (“Requestors assert that the Department of Energy lacks such statutory authority to sell or transfer depleted uranium to GLE.”).

⁸⁶ See Hearing Opportunity Notice at 11,092.

⁸⁷ See *Am. Centrifuge Plant*, CLI-06-10, 63 NRC at 463 (excluding a contention because it “raises issues of international policy unrelated to the NRC’s licensing criteria and therefore beyond the scope of this proceeding”); *License Amendment Application*, CLI-23-3, 98 NRC at 36-37 (2023).

⁸⁸ Petition at 15-16.

The Council fails to demonstrate otherwise. The Council does not cite any portion of GLE's application in connection with this contention, let alone any portion demonstrating that the issue falls within the scope of this proceeding. Similarly, the Council identifies no NRC regulation requiring GLE to justify DOE's authority to sell depleted uranium.⁸⁹ The issue is therefore outside the scope of this proceeding because it does not concern whether GLE's application satisfies NRC requirements governing the possession and use of special nuclear material in connection with construction and operation of the PLEF. The Petition identifies no NRC licensing criterion that purportedly cannot be satisfied unless DOE possesses the transfer authority the Council disputes.

The Council claims this contention is within the scope of the proceeding because it "addresses the very material proposed to be accepted, handled, transferred, processed, and disposed."⁹⁰ But that is not the relevant inquiry. To fall within the scope of this proceeding, a contention must identify some failure of the application to satisfy an NRC requirement material to issuance of the requested license. The Council identifies no NRC regulation requiring GLE to justify DOE's authority to sell depleted uranium in order to obtain a uranium enrichment facility license.⁹¹ Adjudicating the Council's challenge would effectively require the Board to issue an advisory determination concerning DOE statutory authority unrelated to any NRC licensing finding.

⁸⁹ The Council does cite at length two reports from the U.S. Government Accountability Office ("GAO") (referred to as the "General Accounting Office"). See Petition at 12-18. However, a GAO report is not a legal authority, and it does not offer a binding legal interpretation on DOE's statutory authority.

⁹⁰ Petition at 19-20.

⁹¹ In any event, the PLEF will have the ability to process both depleted UF₆ and natural uranium hexafluoride. See Environmental Report at ii.

Even where NRC licensing decisions have had some connection to DOE authority, the Commission has held that challenges to DOE statutory authority are outside the scope of NRC licensing proceedings.⁹² Here, the NRC's licensing determination does not depend on resolving DOE's statutory authority to transfer depleted uranium. The contention is therefore plainly outside the scope of this proceeding under 10 C.F.R. § 2.309(f)(1)(iii).

The Council thus attempts to convert a dispute concerning DOE's statutory and commercial authority into an NRC licensing issue, even though the NRC's role in this proceeding is limited to evaluating whether the proposed facility satisfies applicable NRC requirements. The Council's disagreement is fundamentally with DOE's statutory and commercial decisions concerning disposition of depleted uranium inventories, not with any NRC-regulated aspect of the proposed facility.

2. Contention 1 is Immaterial to Any Finding the NRC Must Make

This contention is not material to any safety, safeguards, security, environmental, or other finding the NRC must make to issue the requested uranium enrichment facility license. The source or commercial provenance of GLE's feedstock does not alter the technical, safety, safeguards, security, or environmental evaluations applicable to the application or the NRC's review of it. The application can be evaluated against NRC licensing standards regardless of any separate hypothetical dispute concerning DOE's transactional authority. Further, the NRC has no authority over DOE's statutory powers or the manner in which DOE exercises them. Nor does the Council identify any NRC regulation requiring the NRC to evaluate DOE's statutory

⁹² See *High-Level Waste Repository*, CLI-10-10, 71 NRC at 284-85 (finding a contention disputing the NWPA's mandate of geologic disposal was outside scope); *High-Level Waste Repository*, CLI-09-14, 69 NRC at 607.

authority before issuing a uranium enrichment facility license, because no such requirement exists.

To the extent the Petition can even be read to challenge GLE's business strategy for procuring feedstock, this contention is immaterial to any finding the NRC must make. The Commission has long held that an applicant's business strategy is not material to the NRC's findings, as the NRC is "not in the business of regulating the market strategies of licensees" or "determin[ing] whether market conditions warrant commencing" operations, and instead leaves to licensees the "ongoing business decisions related to cost and profit."⁹³

3. Contention 1 Fails to Raise a Genuine Dispute

Finally, the Council fails to demonstrate any genuine dispute with GLE's license application, let alone a dispute on a material issue of law or fact. Notably, the Council identifies no deficiency in GLE's safety, safeguards, security, environmental, or technical analyses arising from its proposed commercial arrangement with DOE. Nor does the Council reference any specific portion of GLE's application in support of this contention, instead asserting generally that the issue presents a "threshold question for licensing of the GLE facility."⁹⁴ But that characterization does not excuse the Council from the NRC's contention admissibility requirements, which require a petitioner either to cite the portions of the application being challenged or to identify allegedly required information omitted from the application.⁹⁵ Because the Council identifies no actual disagreement with GLE's application and points to no NRC requirement obligating GLE to provide the information the Council seeks, this contention is inadmissible.

⁹³ *La. Energy Serv., L.P.* (National Enrichment Facility), CLI-05-28, 62 NRC 721, 726 (2005).

⁹⁴ Petition at 11.

⁹⁵ 10 C.F.R. § 2.309(f)(1)(vi).

The Council's Contention 1 fails to satisfy the requirements for an admissible contention and should be dismissed. The Council provides no explanation why DOE's authority to sell depleted uranium falls within the scope of this uranium enrichment facility licensing proceeding or is material to any finding the NRC must make to issue the requested license. Nor has the Council identified any genuine dispute with GLE's application, Environmental Report, or the NRC's DEIS.

C. Contention 2 Challenging the NRC's Use of NUREG-2249 is Inadmissible

The Council's second contention is inadmissible because it is out of scope, immaterial, lacks enough specificity, and fails to raise a genuine dispute with the DEIS due to its mischaracterizations and incorrect readings of the DEIS and an NRC rule. The Council asserts that the NRC staff's DEIS fails "to develop and provide sufficient site-specific analysis of the proposed facility" because the DEIS allegedly relies on a "proposed rule" codifying the NR GEIS.⁹⁶ But the contention mischaracterizes both the NRC staff's analysis and the status and relevance of the NR GEIS codification rule. As a result, the contention fails to raise any genuine dispute with the DEIS, fails to identify any material issue relevant to the NRC's licensing determination, and ultimately rests on speculation rather than any deficiency in the NRC staff's environmental analysis.

The Council's Contention 2 rests on two statements in the DEIS. First, the Council cites the NRC staff's statement that "[t]he NRC is proposing to revise its regulations to codify the findings of the draft [NR GEIS], NUREG-2249...."⁹⁷ Second, the Council cites the DEIS statement that it "incorporates NR GEIS Category I technical analysis and findings ... for 34

⁹⁶ Petition at 23.

⁹⁷ *Id.* at 23 (quoting DEIS at 1-7).

environmental issues that are relevant to the proposed action.”⁹⁸ Based on those two statements, the Council asserts that the DEIS fails “to develop and provide sufficient site-specific analysis of the proposed facility.”⁹⁹

1. Contention 2 Fails to Raise a Genuine Dispute

The Council fails to raise a genuine dispute with the DEIS because it mischaracterizes the NRC staff’s basis for incorporating certain NR GEIS findings into its environmental review. The DEIS does not state that NRC staff relied on the proposed rule codifying the NR GEIS as justification for using Category 1 findings in the PLEF review. Rather, that exact section of the DEIS explains that NRC staff independently evaluated whether portions of the NR GEIS could appropriately be applied to fuel facility environmental reviews. Specifically, the DEIS states that “[t]he NRC staff evaluated whether the NR GEIS could likewise be used to improve the efficiency of the NRC staff’s environmental reviews of fuel facilities, such as the proposed PLEF. Staff completed a crosswalk ... and determined that select generic issues (Category 1) could also be relevant to fuel facilities, although not all of those issues are relevant to the proposed PLEF.”¹⁰⁰ The DEIS further explains that this evaluation is discussed in Section 3.1 and Appendix C.¹⁰¹

The Council does not challenge that evaluation, the crosswalk analysis, or the NRC staff’s stated basis for determining that certain Category 1 issues were applicable to the PLEF review. Nor does the Petition challenge any specific environmental finding reached by the NRC staff regarding the proposed PLEF. Instead, the Council attacks a position the DEIS does not

⁹⁸ *Id.*

⁹⁹ *Id.* at 23.

¹⁰⁰ DEIS at 1-7 (Sec. 1.4.3).

¹⁰¹ *Id.*

take—namely, that NRC staff relied on the proposed codification rule itself as authority to avoid site-specific analysis.¹⁰² Because the Council fails to engage with the actual basis for the NRC staff’s analysis, it fails to raise a genuine dispute with the DEIS.¹⁰³

2. Contention 2 Lacks the Necessary Specificity

The Petition also fails to satisfy the NRC’s specificity requirements because it never identifies which of the 34 Category 1 issues allegedly required additional site-specific analysis, what site-specific analysis was purportedly omitted, or why the NRC staff’s crosswalk evaluation was deficient.¹⁰⁴ Nor does the Petition explain how any allegedly missing analysis could materially alter the NRC staff’s environmental conclusions regarding the proposed PLEF. The Petition likewise fails to explain what additional site-specific analysis the NRC staff was supposedly required to perform.¹⁰⁵ Instead, the Council advances only generalized assertions that the DEIS relied on “generic” findings without identifying any concrete deficiency in the NRC staff’s environmental review. The Petition also provides no factual or expert support demonstrating that the NRC staff’s crosswalk analysis or environmental conclusions are technically deficient.¹⁰⁶ At most, the contention amounts to a generalized challenge to the NRC staff’s use of generic environmental analyses rather than a site-specific challenge to the adequacy

¹⁰² See Petition at 23-24.

¹⁰³ See 10 C.F.R. 2.309(f)(1)(vi); “Rules of Practice for Domestic Licensing Proceedings; Procedural Changes in the Hearing Process; Final Rule,” 54 Fed. Reg. at 33,170; see also *Millstone*, CLI-01-24, 54 NRC at 358.

¹⁰⁴ See *Pacific Gas & Electric Co.* (Diablo Canyon Power Plant Indep. Spent Fuel Storage Installation), CLI-08-1, 67 NRC 1, 8 (2008) (quoting *Oconee*, CLI-99-11, 49 NRC at 334) (explaining the purpose of contention admissibility standards as affording a hearing only to petitioners who “proffer at least some minimal factual and legal foundation in support of their contentions”).

¹⁰⁵ 10 C.F.R. 2.309(f)(1)(i)-(ii); see, e.g., *Wolf Creek*, LBP-84-1, 19 NRC at 34 (citing *Peach Bottom*, ALAB-216, 8 AEC at 20-21); *Braidwood*, LBP-85-20, 21 NRC at 1742.

¹⁰⁶ See 10 C.F.R. § 2.309(f)(1)(v); *Wolf Creek*, LBP-84-1, 19 NRC at 34 (citing *Peach Bottom*, ALAB-216, 8 AEC at 20-21); *Braidwood*, LBP-85-20, 21 NRC at 1742.

of the environmental review for the proposed PLEF. Such generalized and unsupported assertions are insufficient to establish an admissible contention under 10 C.F.R. § 2.309(f)(1).

3. Contention 2 Rests on an Inaccurate Characterization

The Council’s characterization of the NR GEIS codification rule is also outdated. The NRC issued the final rule codifying the NR GEIS on April 24, 2026, more than a week before the Council submitted its Petition.¹⁰⁷ Thus, independent of the Council’s failure to engage with the NRC staff’s analysis in the DEIS, the Petition incorrectly characterizes the status of the NR GEIS codification rule at the time the Petition was filed.¹⁰⁸ This is a further failure to raise a genuine dispute with the DEIS.

4. Contention 2 is Immaterial

Finally, Contention 2 is not material to any finding the NRC must make in this uranium enrichment facility licensing proceeding because the rule codifying the NR GEIS does not apply to uranium enrichment facilities such as the PLEF.¹⁰⁹ Indeed, neither the NRC staff’s DEIS nor GLE relies on the NR GEIS codification rule as a governing regulatory framework applicable to the proposed PLEF, rendering the Council’s challenge immaterial to the NRC’s licensing determination. Even assuming *arguendo* that the codification rule had remained proposed, the Petition still fails to challenge the NRC staff’s independent evaluation of the applicability of NR GEIS Category 1 findings to the PLEF.

¹⁰⁷ See Generic Environmental Impact Statement for Licensing of New Nuclear Reactors, 91 Fed. Reg. at 22,394. See also Global Laser Enrichment, LLC; Paducah Laser Enrichment Facility; Draft Environmental Impact Statement, 91 Fed. Reg. at 14,882-83. The NRC published the DEIS almost a month before the NR GEIS final rule, which is why the DEIS characterizes the NR GEIS codification as a proposed rule.

¹⁰⁸ See Petition at 23. The Council states as authority for its Contention 2, “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)” (emphasis added).

¹⁰⁹ See Generic Environmental Impact Statement for Licensing of New Nuclear Reactors, 91 Fed. Reg. at 22,394 (explaining the rule applies to environmental review of new nuclear reactor applications).

Because the Council misreads both the DEIS and the significance of the NR GEIS codification rule, its assertion that the NRC failed to conduct adequate site-specific environmental analysis amounts to unsupported speculation, which cannot support an admissible contention.¹¹⁰ The Council identifies no deficiency in the NRC staff's environmental review and does not dispute the NRC staff's evaluation of the applicability of certain NR GEIS findings to the proposed PLEF.¹¹¹ Nor is codification of the NR GEIS for new reactor licensing proceedings material to any finding the NRC must make regarding the proposed PLEF.¹¹² Accordingly, Contention 2 is inadmissible.

D. Any Attempt to Assert Additional or Future Contentions Should Be Rejected

The Council incorrectly attempts to incorporate, reserve, or preserve other arguments besides the contentions it proffers, namely by inserting reservation language for future environmental contention and incorporating by reference public comments and another petitioner's contentions. These are improper attempts to assert additional or future contentions and should be rejected.

1. **The Council Cannot Preserve a Right to Assert Future Contention, Especially Based on Information Already in the DEIS**

To the extent the Council seeks to reserve the right to reassert or supplement arguments based on information already contained in the Environmental Report or DEIS at some later date, any such contention would be untimely. Under 10 C.F.R. § 2.309(f)(2), “[c]ontentions must be based on documents or other information available at the time the petition is to be filed,” including the application, environmental report, and other supporting documents. For NEPA-

¹¹⁰ See *Muskogee*, CLI-03-13, 58 NRC at 203.

¹¹¹ See 10 C.F.R. § 2.309(f)(1)(i), (ii), (v), (vi).

¹¹² See 10 C.F.R. § 2.309(f)(1)(vi).

related issues, petitioners are required to raise contentions based on the applicant's Environmental Report.¹¹³ Although new or amended contentions may be filed after the petition deadline under limited circumstances, any such contention must independently satisfy the requirements of 10 C.F.R. § 2.309(c).¹¹⁴

10 C.F.R. § 2.309(c)(1) states that “motions for leave to file new or amended contentions filed after the deadline [to file a petition to intervene] will not be entertained” unless “a participant demonstrate[s] good cause.” To establish good cause, the participant must show that the information on which the new or amended contention is based (i) was not previously available, (ii) is materially different from information previously available, and (iii) has been raised in a timely fashion based on the availability of the new information.¹¹⁵

The Council asserts that it intends to challenge the FEIS if the concerns it identifies with the DEIS are not addressed.¹¹⁶ Specifically, the Council “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.”¹¹⁷

As discussed above, to the extent the Council seeks to reserve the right to challenge information already contained in either GLE's Environmental Report or the DEIS, any such future contention would be untimely under 10 C.F.R. § 2.309(c)(1). The NRC's regulations governing NEPA-related contentions are clear. Environmental contentions must be based on the applicant's Environmental Report, and once a DEIS is issued, challenges are limited to genuinely

¹¹³ 10 C.F.R. § 2.309(f)(2).

¹¹⁴ *Id.*

¹¹⁵ 10 C.F.R. § 2.309(c)(1)(i)-(iii).

¹¹⁶ Petition at 20-22.

¹¹⁷ Petition at 24-25.

new information not previously available. The Council cannot reserve the right to later repackage arguments based on information already available in the Environmental Report or DEIS.

Here, the deadline to challenge information contained in the Environmental Report was May 5, 2026, and the deadline to challenge any new information presented in the DEIS was May 26, 2026. Accordingly, the Council may challenge only genuinely new information first presented in the FEIS. Any attempt to preserve or later reassert challenges to information already contained in the Environmental Report or DEIS—including the NRC staff’s use of the NR GEIS—should therefore be rejected absent satisfaction of the standards in 10 C.F.R. § 2.309(c)(1).

2. The Council’s Attempt to Incorporate by Reference Two EIS Scoping Comments Does Not Introduce an Admissible Contention

The Council states that it “incorporate[] herein by reference” arguments contained in two public comments submitted during the EIS scoping process: comments submitted by the Council, attached as Exhibit E to the Petition, and comments submitted by Will Herrick, attached as Exhibit F.¹¹⁸ The Council appears to reserve the right to rely on those comments later in arguing that the FEIS inadequately responds to issues raised during scoping.

The Council cannot transform general scoping comments into admissible contentions merely by “incorporating . . . by reference” Exhibits E and F into its Petition.¹¹⁹ Although the Commission has permitted petitioners in limited circumstances to adopt specific contentions advanced by another participant in the same proceeding, the Commission does not permit wholesale incorporation by reference of external materials as the “sole support” for a contention

¹¹⁸ *Id.* at 21.

¹¹⁹ See *id.* at 21-22; *id.*, Ex. E, Ex. F. Specifically, the Council purports to “reserve[] these Contentions and will submit comments in response to the public notice published at 91 *Federal Register* 14882.”

the petitioner has not independently articulated.¹²⁰ Here, the Council does not itself set forth any specific contention based on Exhibits E or F, identify any particular issue for adjudication arising from those comments, or explain how any such issue satisfies the admissibility requirements of 10 C.F.R. § 2.309(f)(1). Instead, the Council appears to reserve the right to rely on those comments later in support of future arguments concerning the FEIS. That is insufficient to present an admissible contention under 10 C.F.R. § 2.309(f). If the Council intended to litigate any issue raised in Exhibits E or F, it was required to articulate that contention independently and satisfy the Commission's admissibility standards in this Petition or by other recognized procedures.

Even if the Council could incorporate these comments by reference for purposes of proffering a contention, doing so still fails to present an admissible contention. First, the Council fails to raise a genuine dispute because neither the comments nor the Petition explain how the issues identified in Exhibits E or F demonstrate that the DEIS fails to satisfy NEPA or the NRC's obligations under 10 C.F.R. Part 51.¹²¹ Although the comments identify subjects the commenters believe the NRC should consider during environmental review, neither the comments nor the Petition explain why those subjects are legally required to be addressed in the manner proposed or why GLE's Environmental Report is deficient under applicable NRC requirements.

¹²⁰ Compare *Virginia Elec. & Power Co.* (N. Anna Power Station, Units 1 & 2), CLI-26-1, 103 NRC __, __ (2026) (slip op. at 16-17) (allowing incorporation by reference of a supporting declaration "drafted specifically to support their petition") with *Entergy Nuclear Operations, Inc., Entergy Nuclear Palisades, LLC, Holtec Int'l, & Holtec Decommissioning Int'l, LLC* (Palisades Nuclear Plant & Big Rock Point Site), CLI-22-08, 96 NRC 1, 100 (2022) (prohibiting wholesale incorporation by reference of large documents or the arguments of a party who has not submitted an admissible contention).

¹²¹ See 10 C.F.R. § 2.309(f)(1)(vi); *Clinch River*, CLI 18-5, 87 NRC at 122.

Second, the comments fail to concisely state the alleged facts or expert opinions supporting the asserted claims, and the Council offers nothing to cure that deficiency.¹²² Neither the comments nor the Petition identify specific evidentiary support demonstrating that GLE’s Environmental Report or the DEIS is deficient. While generalized issue-spotting may suffice in the context of public scoping comments—which are not subject to NRC adjudicatory pleading standards—it is insufficient to satisfy the Commission’s strict contention admissibility requirements.

3. The Council’s Attempt to Incorporate by Reference Michael McVicker’s Proposed Contentions Does Not Satisfy NRC Admissibility Requirements

The Council asserts that it “incorporates by reference as if fully set forth below” Contentions 1 through 6 from the Petition for Leave to Intervene and Request for Hearing filed by Michael McVicker on May 2, 2026.¹²³ But incorporation by reference does not excuse a petitioner from independently satisfying the Commission’s admissibility requirements. Although the Commission has permitted petitioners in limited circumstances to adopt specific contentions advanced by another participant in the same proceeding, incorporation by reference cannot be used to “circumvent NRC-prescribed . . . specificity requirements” or substitute for independently demonstrating that the proposed contentions satisfy 10 C.F.R. § 2.309(f).¹²⁴

The Council’s attempted incorporation by reference also contravenes NRC precedent. Although the Commission has permitted incorporation of another petitioner’s contentions in limited circumstances, a petitioner adopting those contentions must still independently

¹²² See 10 C.F.R. § 2.309(f)(1)(v).

¹²³ Petition at 22-23 (referencing Petition for Leave to Intervene and Request for Hearing by Michael McVicker (May 2, 2026) (ML26122A001)).

¹²⁴ *Consolidated Edison Co., Entergy Nuclear Indian Point 2, LLC, & Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 1 & 2), CLI-01-19, 54 NRC 109, 132-33 (2001).

demonstrate compliance with the NRC's contention admissibility requirements and may not rely on incorporation by reference to cure pleading defects or evade the Commission's specificity requirements. Here, the Council provides no independent explanation, factual support, or legal analysis demonstrating that Mr. McVicker's proposed contentions satisfy 10 C.F.R. § 2.309(f)(1). Nor does the Council provide any additional support addressing deficiencies in those proposed contentions. Instead, the Council simply attempts to adopt wholesale six separate proposed contentions without independently demonstrating why they are admissible. NRC precedent does not permit such generalized incorporation by reference.¹²⁵ Accordingly, the Board should reject the Council's attempt to proffer these additional contentions.

V. CONCLUSION

Because the Council lacks standing and has failed to proffer any admissible contention under 10 C.F.R. § 2.309(f), the Board should deny the Petition.

¹²⁵ See *North Anna Power Station* 103 NRC __, __ (2026) (slip op. at 16-17); *Palisades Nuclear Plant & Big Rock Point Site*, 96 NRC at 100 (2022).

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:

Global Laser Enrichment, LLC

(Paducah Laser Enrichment Facility)

Docket No. 70-7033-ML

June 1, 2026

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 2.305, I certify that, on this date, copies of the foregoing “Global Laser Enrichment LLC’s Answer Opposing Kentucky Resources Council, Inc.’s Request for Hearing and Petition to Intervene” were served upon the Electronic Information Exchange (the NRC’s E-Filing System), in the above-captioned docket.

Signed (electronically) by Amy C. Roma

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