

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

Ho K. Nieh, Chairman
David A. Wright
Bradley R. Crowell
Matthew J. Marzano
Douglas W. Weaver

In the Matter of

GLOBAL LASER ENRICHMENT, LLC

(Paducah Laser Enrichment Facility)

Docket No. 70-7033-ML

CLI-26-14

MEMORANDUM AND ORDER

This order addresses Kentucky Resources Council, Inc.'s (KRC's) appeal of the Atomic Safety and Licensing Board's decision in LBP-26-7, in which the Board denied KRC's petition to intervene and request for hearing in this proceeding.¹ For the reasons described below, we affirm the Board's decision.

I. BACKGROUND

This proceeding involves Global Laser Enrichment, LLC's (GLE's) application for a license to possess and use special nuclear material for the purpose of constructing and operating a uranium enrichment facility, the Paducah Laser Enrichment Facility (PLEF), in

¹ *Kentucky Resources Council, Inc.'s Notice of Appeal of Memorandum and Order (Ruling on Hearing Requests)* (Aug. 3, 2026); *Kentucky Resources Council, Inc.'s Brief in Support of Appeal of Memorandum and Order (Ruling on Hearing Requests)* (Aug. 3, 2026) (Appeal); see LBP-26-7, 104 NRC ____ (July 9, 2026) (slip op.); *Kentucky Resources Council, Inc.'s Request for Hearing* (May 5, 2026) (Petition).

McCracken County, Kentucky.² The requested license would allow GLE to re-enrich depleted uranium hexafluoride tails and to enrich natural-grade uranium hexafluoride to a maximum of 8-weight percent uranium-235.³

On March 6, 2026, the Commission published a notice in the *Federal Register* providing an opportunity to request a hearing on GLE's application.⁴ KRC filed a hearing request and petition to intervene, raising a legal concern regarding the authority of the U.S. Department of Energy (DOE) to transfer title to depleted uranium hexafluoride tails to GLE and an environmental concern regarding the adequacy of the Staff's compliance with the National Environmental Policy Act of 1969, as amended (NEPA).⁵ The Board found that KRC had not

² 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. 11092 (Mar. 6, 2026) (Hearing Notice). The PLEF would be located adjacent to the site of the former Paducah Gaseous Diffusion Plant. *Id.*

³ Hearing Notice, 91 Fed. Reg. at 11092. Further detailed information concerning GLE's application and the Staff's review can be found on the website maintained by the NRC Staff for this licensing action. See *Global Laser Enrichment (GLE)*, NUCLEAR REGUL. COMM'N, <https://www.nrc.gov/info-finder/fc/global-laser-enrichment-nc-lc> (last visited Oct. 2, 2026).

⁴ Hearing Notice, 91 Fed. Reg. at 11094-11101. The Commission issued an order accompanying the *Federal Register* notice providing the same opportunity. See CLI-26-3, 103 NRC __, __ (Mar. 4, 2026) (slip op. at 10). In both publications, the Commission also provided notice that a mandatory hearing would be held. See Hearing Notice, 91 Fed. Reg. at 11093-94; CLI-26-3, 103 NRC at __ (slip op. at 4-10). Subsequently, the Commission had occasion to revisit the necessity of conducting a mandatory hearing in uranium enrichment proceedings in which a contested proceeding was constituted. As a result, the Commission issued an order modifying this proceeding to eliminate the previously noticed uncontested hearing. See CLI-26-12, 104 NRC __ (Aug. 26, 2026) (slip op.); see also Atomic Energy Act of 1954, as amended, § 193(b), 42 U.S.C. § 2243(b) (requiring that the Commission "conduct a single adjudicatory hearing on the record with regard to the licensing of the construction and operation of a uranium enrichment facility"); cf. *Orano Enrichment USA LLC* (Project Ike Enrichment Facility), CLI-26-11, 104 NRC __, __ (Aug. 7, 2026) (slip op. at 4) ("In the event there is a contested hearing on the application, the Commission does not intend to conduct an additional uncontested hearing.").

⁵ See Petition at 11-24; *Kentucky Resources Council, Inc.'s Reply in Support of Request for Hearing* (June 8, 2026), at 26-46 (Reply). Both GLE and the Staff opposed the intervention petition on the basis that KRC had not demonstrated standing and that none of KRC's proposed contentions were admissible. See *Global Laser Enrichment LLC's Answer Opposing Kentucky*

demonstrated standing or proffered an admissible contention, as required by our rules for intervention.⁶ KRC timely appealed the Board's denial of its hearing request.⁷ GLE opposed the appeal.⁸ The Staff did not file a brief providing its position on the appeal.

II. DISCUSSION

Our regulations allow a petitioner whose hearing request has been wholly denied to appeal as of right.⁹ As we have recently emphasized, to prevail on appeal an appellant must do more than simply restate claims raised before the Board.¹⁰ Specifically, "[r]ecitation of an appellant's prior positions in a proceeding or statement of general disagreement with a decision's result is not sufficient; the appellant must point out the errors in the Board's decision."¹¹ The Commission generally gives substantial deference to the Board on threshold

Re[s]ources Council, Inc.'s Request for Hearing and Petition to Intervene (June 1, 2026), at 8-36 (GLE Answer); *NRC Staff's Consolidated Answers to Hearing Requests Submitted by Kentucky Resources Council, Inc. and Michael McVicker* (June 1, 2026), at 5-10, 15-22 (Staff Answer).

KRC subsequently withdrew as moot one subset of its environmental contention—a concern that the Staff had improperly relied on a draft version of the generic environmental impact statement (GEIS) for the licensing of new nuclear reactors—because the GEIS in question was finalized and its generic findings codified in April 2026. See Reply at 44-45; LBP-26-7, 104 NRC at ___ (slip op. at 26).

⁶ LBP-26-7, 104 NRC at ___ (slip op. at 11, 24, 26); see 10 C.F.R. § 2.309(d), (f)(1)(i)-(vi).

⁷ See Appeal at 1.

⁸ See *Global Laser Enrichment LLC Brief in Opposition to Kentucky Resources Council, Inc. Appeal of LBP-26-07 and Request to Expedite Consideration of Appeal* (Aug. 26, 2026).

⁹ See 10 C.F.R. § 2.311(c) ("An order denying a petition to intervene, and/or request for hearing . . . is appealable by the requestor/petitioner on the question as to whether the request and/or petition should have been granted.").

¹⁰ See *Duke Energy Carolinas, LLC* (Oconee Nuclear Station, Units 1, 2, and 3), CLI-26-8, 103 NRC ___, ___ (June 15, 2026) (slip op. at 7).

¹¹ *Florida Power & Light Co.* (Turkey Point Nuclear Generating Units 6 and 7), CLI-17-12, 86 NRC 215, 219 (2017).

issues, such as standing and contention admissibility, unless an appeal demonstrates an error of law or abuse of discretion.¹²

We have carefully considered KRC's appeal of the Board's rulings on standing and contention admissibility, and we find that the appeal has not identified an error of law or abuse of discretion warranting reversal of the Board's decision.

A. KRC's Standing

Where an application concerns a facility that is not a nuclear power reactor, we have historically applied a "proximity plus" standard to adjudicate a petitioner's standing.¹³ Under this standard, a petitioner must demonstrate "that the proposed action involves a significant source of radioactivity producing an obvious potential for offsite consequences."¹⁴ The distance a petitioner can be presumed to be affected is judged on a case-by-case basis, taking into account the distance of the petitioner's activities from the source, the nature of the licensed activity, and the significance of the radioactive source.¹⁵ Where there is no "obvious" potential for radiological harm at a particular distance connected to the petitioner's activities, it becomes the petitioner's burden to show a "specific and plausible means" of how the challenged action may harm them.¹⁶ If a petitioner cannot establish the elements of proximity-based standing,

¹² *Holtec Decommissioning International, LLC and Holtec Palisades, LLC* (Palisades Nuclear Plant), CLI-26-7, 103 NRC __, __ (June 15, 2026) (slip op. at 5-6); *AmerGen Energy Co., LLC* (Oyster Creek Nuclear Generating Station), CLI-06-24, 64 NRC 111, 121 (2006).

¹³ See *Interim Storage Partners LLC* (WCS Consolidated Interim Storage Facility), CLI-20-15, 92 NRC 491, 494 (2020); *Holtec International* (HI-STORE Consolidated Interim Storage Facility), CLI-20-4, 91 NRC 167, 177 (2020).

¹⁴ *Georgia Institute of Technology* (Georgia Tech Research Reactor, Atlanta, Georgia), CLI-95-12, 42 NRC 111, 116 (1995).

¹⁵ *U.S. Army Installation Command* (Schofield Barracks, Oahu, Hawaii, and Pohakuloa Training Area, Island of Hawaii, Hawaii), CLI-10-20, 72 NRC 185, 188 (2010); *USEC, Inc.* (American Centrifuge Plant), CLI-05-11, 61 NRC 309, 311 (2005).

¹⁶ *USEC*, CLI-05-11, 61 NRC at 311-12 (quoting *Nuclear Fuel Services, Inc.* (Erwin, Tennessee), CLI-04-13, 59 NRC 244, 248 (2004)).

then they must establish standing according to traditional standing principles.¹⁷ We are deferential to a licensing board's determination on standing, and we will uphold the Board's decision "absent a 'clear misapplication of facts or law.'"¹⁸

KRC based its standing on the representation of one of its members, Mark Donham.¹⁹ To qualify for representational standing, KRC must show that Mr. Donham has standing in his own right.²⁰ The Board found that whether Mr. Donham could demonstrate standing presented a close call, but ultimately, the requisite showing had not been made.²¹ On appeal, KRC asserts that the Board erred in requiring that KRC "prove" constitutional standing at the intervention stage of the proceeding, and that the Board "applied the [10 C.F.R. § 2.309(d)(1)] regulations in a manner inconsistent with the Commission's expressed intention" by "engag[ing] in a merits determination on the sufficiency of the [standing] allegations" at that stage.²²

At the heart of KRC's argument on appeal is its belief that the Board did not construe the claims made in Mr. Donham's standing declaration in favor of the petitioners.²³ But KRC does

¹⁷ *U.S. Army Installation Command*, CLI-10-20, 72 NRC at 189 (citing *Exelon Generation Co., LLC* (Peach Bottom Atomic Power Station, Units 2 and 3), CLI-05-26, 62 NRC 577, 581 (2005)).

¹⁸ *Florida Power & Light Co.* (Turkey Point Nuclear Generating Plant, Units 3 and 4), CLI-15-25, 82 NRC 389, 394 (2015) (quoting *Crow Butte Resources, Inc.* (North Trend Expansion Project), CLI-09-12, 69 NRC 535, 543 (2009)).

¹⁹ Petition at 5-9; see *id.*, Ex. A, "Declaration of Mark Donham" (Donham Decl.).

²⁰ *Private Fuel Storage, L.L.C.* (Independent Spent Fuel Storage Installation), CLI-99-10, 49 NRC 318, 323 (1999). KRC must also show that the interests it seeks to protect are germane to its purpose, that neither the asserted claim nor the requested relief requires Mr. Donham's participation, and that Mr. Donham has authorized KRC to request a hearing on his behalf. *Id.* The Board found that KRC satisfied these latter elements of the representational standing test. LBP-26-7, 104 NRC at ___ (slip op. at 8 & n.36).

²¹ LBP-26-7, 104 NRC at ___ (slip op. at 8-11).

²² Appeal at 6-7.

²³ See *id.* at 10; see *Georgia Tech*, CLI-95-12, 42 NRC at 115 ("To evaluate a petitioner's standing, we construe the petition in favor of the petitioner.").

not identify an error of law or abuse of discretion warranting Board reversal. As an initial matter, we find that the Board's determination that KRC did not establish standing under the "proximity plus" presumption based on the proximity of Mr. Donham's residence or place of employment was not unreasonable given the Commission's previous findings in uranium enrichment licensing proceedings.²⁴ Accordingly, our inquiry turns on whether the Board erred in concluding that KRC did not provide the necessary causal link between Mr. Donham's asserted injuries and the PLEF under either the traceability element of the judicial standing inquiry or by showing a "specific and plausible means" of harm under the proximity plus analysis.²⁵

The Board found that KRC presented the strongest support for a causal link in Mr. Donham's claim that produce grown in West Paducah, an unincorporated town located approximately four miles east of the PLEF, could be sold at the Midtown Market—at which Mr. Donham serves as the produce manager—and thereby impact his health.²⁶ However, the Board found that KRC had not provided the necessary causal link between Mr. Donham's asserted

²⁴ As the Board noted, Mr. Donham's residence is 17 miles northeast of the proposed facility, and his place of employment at the Midtown Market is 10 miles east of the proposed facility. See LBP-26-7, 104 NRC at ___ (slip op. at 8-10 & n.47). Our prior decisions involving uranium enrichment facilities conferred a proximity-based presumption of standing on petitioners whose members resided within 4.9 miles of those facilities, and we find no error in the Board's reliance on those decisions. See *id.* at ___ (slip op. at 5 n.22, 10 n.45) (citing *Nuclear Management Co., LLC* (Palisades Nuclear Plant), CLI-06-17, 63 NRC 727, 732 (2006) (synthesizing analogous standing determinations)). However, we have not affirmatively identified a specific maximum distance for a proximity-based presumption for this type of facility and decline to do so here. KRC has not argued that the Board erred in treating gas centrifuge facilities as sufficiently analogous to the proposed PLEF for the purposes of the standing inquiry, and we likewise find no Board error in that regard. See *id.* at ___ (slip op. at 5 n.22).

²⁵ See LBP-26-7, 104 NRC at ___ (slip op. at 10-11). As the Board observed, in practice, these two showings are substantively similar. See *id.* at ___ (slip op. at 4) (citing *Turkey Point*, CLI-15-25, 82 NRC at 394 ("With respect to the second [judicial standing] element, the cause of the injury need not flow directly from the challenged action, but the chain of causation must be plausible.")).

²⁶ LBP-26-7, 104 NRC at ___ (slip op. at 9-10) (citing Donham Decl. at 2; Reply at 13-14). The Board noted that West Paducah falls within a distance that the Commission has previously deemed sufficiently close for "obvious" impacts. *Id.* at ___ (slip op. at 11).

injuries and licensing of the PLEF for two reasons: (1) Mr. Donham did not specify whether produce grown in West Paducah will be carried at the Midtown Market in the future, and (2) Mr. Donham did not describe how this produce might impact his health.²⁷

We agree that standing in this case presents a close call.²⁸ However, because the Board's determination is entitled to substantial deference, we are reluctant to disturb the Board's ruling on KRC's standing absent some evidence to show that the Board's conclusion was based on a clear misapplication of the facts or law.²⁹ That is not present here. In its appeal, KRC does not address or refute the specific bases upon which the Board based its standing determination, but instead relies on the general argument that the Board engaged in a merits determination on the sufficiency of Mr. Donham's allegations and thereby failed to construe Mr. Donham's declaration in the petitioner's favor.³⁰ However, we do not view the Board's ruling as having improperly required Mr. Donham to "prove" the facts set forth in his declaration; rather, the Board found that Mr. Donham's claims, even construed in his favor and taken as a whole, were insufficient to demonstrate the elements of standing.³¹ In conducting its analysis, the Board

²⁷ See LBP-26-7, 104 NRC at ___ (slip op. at 11); Donham Decl. at 2 (stating that "[s]ome of the produce we have carried comes from the West Paducah area").

²⁸ See LBP-26-7, 104 NRC at ___ (slip op. at 8).

²⁹ *Turkey Point*, CLI-15-25, 82 NRC at 394; cf. *Gulf States Utilities Co.* (River Bend Station, Unit 1), CLI-94-10, 40 NRC 43, 47-48 (1994) ("In the absence of a clear misapplication of the facts or misunderstanding of the law, the Licensing Board's judgment at the pleading stage that a party has crossed the standing threshold is entitled to substantial deference. We are not inclined to disturb a Licensing Board's conclusion that the requisite affected interest . . . has been established unless it appears that the conclusion is irrational.") (internal quotations omitted).

³⁰ See *generally* Appeal at 5-13.

³¹ See LBP-26-7, 104 NRC at ___ (slip op. at 8-11 & n.49) (citing *PPL Bell Bend, LLC* (Bell Bend Nuclear Power Plant), CLI-10-7, 71 NRC 133, 136, 139-40 (2010)) (acknowledging that the Board must construe a hearing request in favor of a petitioner, but noting that "that latitude only goes so far"). For example, had Mr. Donham asserted in his declaration that Midtown Market would continue in the future to obtain produce from West Paducah—an area the Board found to be located at a distance previously deemed sufficiently close for "obvious" impacts in a uranium

clearly identified the grounds for its determination that Mr. Donham's claims were not sufficient to confer either presumptive or judicial standing. KRC has not pointed to any specific finding supporting the Board's standing determination that is based on a misapplication of fact or law or is otherwise irrational.³² Therefore, affording the deference that is due to the Board, we affirm the Board's ruling on KRC's standing.³³

B. KRC's Contentions

To be admitted for hearing, a proposed contention must set forth with particularity the matters to be raised, be within the scope of the hearing, be material to the findings the agency must make in taking the requested action, be factually supported, and show that a genuine dispute exists with the application.³⁴ These standards, which are deliberately rigorous, are intended to assure that our adjudicatory proceedings will be meaningful.³⁵ Moreover, we have

enrichment facility proceeding—it may have been reasonable for the Board to find that Mr. Donham had standing, given his position as the produce manager. *See id.* at ___ (slip op. at 10-11). But to presume that Mr. Donham's previous exposure to produce grown in West Paducah necessarily means he will be exposed again, absent an actual statement from the declarant to that effect, may have been an effective insertion by the Board of a new fact into the declaration. *See, e.g., Lujan v. Defs. of Wildlife*, 504 U.S. 555, 564 (1992) (holding that previous visits to an area potentially affected by agency action without any description or specification of concrete plans to return to the area in the future does not support a finding of an "actual or imminent" injury).

³² *See Turkey Point*, CLI-15-25, 82 NRC at 394; *River Bend*, CLI-94-10, 40 NRC at 47-48.

³³ KRC also asks the Commission to clarify whether a petitioner must specifically plead the elements of a proximity presumption in order to benefit from application of that standard. *See Appeal* at 13-15. While a petitioner need not explicitly invoke the proximity-plus presumption in order to benefit from it, the petitioner would benefit from addressing the elements of the presumption, including the potential burden to show a "specific and plausible means" of how the challenged action may harm them, in order to support a licensing board's application of the presumption to their standing claims. Otherwise, the petitioner must provide sufficient information to demonstrate standing under traditional judicial standing principles.

³⁴ *See* 10 C.F.R. § 2.309(f)(1)(i)-(vi).

³⁵ *Florida Power & Light Co.* (Turkey Point Nuclear Generating Units 3 and 4), CLI-26-2, 103 NRC ___, ___ (Mar. 4, 2026) (slip op. at 3)

long held that a petitioner cannot satisfy these requirements by “[m]ere ‘notice pleading.’”³⁶ With these considerations in mind, we turn to KRC’s appeal of the Board’s ruling on its contentions.

1. *Contention 1 – Legal Authority of DOE to Transfer Title to Depleted Uranium Hexafluoride to GLE*

In Contention 1, KRC raised, in its words, a “threshold question for licensing” regarding the legal authority of DOE to sell or transfer to GLE, for re-enrichment at the PLEF, certain depleted uranium hexafluoride tails currently stored at the former Paducah Gaseous Diffusion Plant site.³⁷ Asserting that this legal question “is central to the consideration of licensing GLE to engage in receipt, management, conversion, and waste disposal of” the depleted uranium hexafluoride tails, KRC stated that “no further action towards the issuance of a license to GLE should occur” until this question is resolved.³⁸ The Board found Contention 1 inadmissible on the grounds that KRC had not shown that the question of DOE’s statutory authority to sell or transfer depleted uranium hexafluoride to GLE falls within the scope of this proceeding or is material to the findings the NRC must make to support a decision on the application, as required by our regulations.³⁹ KRC’s appeal does not persuade us otherwise.

³⁶ *Entergy Nuclear Operations, Inc.* (Indian Point, Unit 2), CLI-16-5, 83 NRC 131, 136 (2016).

³⁷ Petition at 11. As support for this contention, KRC relies upon two U.S. Government Accountability Office (GAO) reports that suggest, based on statutory analysis, that DOE may be prohibited by the USEC Privatization Act from selling depleted uranium tails to GLE. See USEC Privatization Act § 3112, 42 U.S.C. § 2297h-10(a) (stating that the Secretary of Energy “shall not . . . transfer or sell any uranium (including natural uranium concentrates, natural uranium hexafluoride, or enriched uranium in any form) to any person” except as consistent with section 3112); Petition at 11-20 (citing GAO, “Nuclear Waste Cleanup: DOE’s Efforts to Manage Depleted Uranium Would Benefit from Clearer Legal Authorities,” GAO-22-105471 (July 2022); GAO, “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)); Reply at 36-37 & n.13 (citing same).

³⁸ Petition at 14, 16.

³⁹ See LBP-26-7, 104 NRC at __ (slip op. at 24); 10 C.F.R. § 2.309(f)(1)(iii), (iv).

With respect to Contention 1, KRC asserts on appeal that the Board improperly engaged in “a summary adjudication of the merits, denying KRC the opportunity to engage in discovery and to adduce and proffer evidence at hearing concerning the question of legal access to that DOE stockpile and its importance to the viability of the GLE PLEF Project.”⁴⁰ The appeal does not engage with the Board’s analysis or the specific grounds on which the Board based its admissibility determination.⁴¹ Therefore, KRC has not demonstrated that the Board committed an error of law or abuse of discretion in dismissing Contention 1.

Further, upon reviewing the record on which the Board based its ruling, we concur with the Board that Contention 1 does not constitute an admissible legal contention. Even if we were to accept the premise that DOE is statutorily barred from transferring or selling depleted uranium hexafluoride to GLE, it is not apparent how this circumstance would cause the application to violate any relevant NRC requirement. The activities proposed by GLE in the license application are not contingent upon obtaining title to the depleted uranium hexafluoride from DOE.⁴² Moreover, the license, if issued, would not authorize activities in violation of any legal restrictions imposed by statute regarding the transfer, possession or ownership of DOE’s depleted uranium hexafluoride.⁴³ Accordingly, we affirm the Board’s ruling on Contention 1.

⁴⁰ Appeal at 21.

⁴¹ See *Turkey Point*, CLI-17-12, 86 NRC at 219.

⁴² As GLE explained, the PLEF “will have the ability to process both depleted [uranium hexafluoride] and natural uranium hexafluoride.” GLE Answer at 24 n.91; see LBP-26-7, 104 NRC at ___ (slip op. at 24). GLE characterized its acquisition of depleted uranium hexafluoride tails as a “commercial sourcing arrangement.” GLE Answer at 23; see LBP-26-7, 104 NRC at ___ (slip op. at 24). Because 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,” an applicant’s business strategy is not material to the findings the NRC must make on the application. *Louisiana Energy Services, L.P.* (National Enrichment Facility), CLI-05-28, 62 NRC 721, 726 (2006).

⁴³ See Staff Answer at 17-18; cf. *WCS*, CLI-20-15, 92 NRC at 499 (basing dismissal of contention in part on reasoning that license would not authorize applicant or DOE to enter into contracts

2. Contention 2 – Lack of Compliance with NEPA

In Contention 2, KRC raised various concerns regarding the Staff's compliance with NEPA. Incorporating by reference comments submitted by KRC during the Staff's environmental scoping process, as well as six contentions raised in this proceeding by another petitioner, KRC stated that it "d[id] not seek a hearing on the adequacy of the [Draft Environmental Impact Statement (DEIS)] at that time" but "reserves the right" to a hearing and to supplement its contentions if the Final Environmental Impact Statement (FEIS) does not resolve the concerns raised by KRC during the scoping process and on the published DEIS.⁴⁴ The Board found that Contention 2 was inadmissible because it appeared to "merely provid[e] notice of the possibility of a future contention" and, to the extent that it contained a challenge to the DEIS, "lacked the specificity that the NRC's contention admissibility rules require."⁴⁵

On appeal, KRC asserts that the Board "erred in rejecting the contention that raised and sought to defer the merits hearing on the adequacy of the NEPA documentation until the completion of the [FEIS]."⁴⁶ KRC states that it did in fact request a hearing, but that it sought to "defer" the hearing in order to allow the Staff to finalize its environmental review.⁴⁷ KRC argues

that would be illegal under the Nuclear Waste Policy Act); *Holtec*, CLI-20-4, 91 NRC at 173-76 (same).

⁴⁴ Petition at 21-23 (emphasis omitted). The scoping comments referenced by KRC include comments submitted by an individual, Will Herrick, on KRC's behalf. *See id.* at 21, Ex. E, "Comments of Kentucky Resources Council [o]n GLE-PLEF-EIS," Ex. F, "Comments of Will Herrick [o]n Behalf of Kentucky Resources Council [o]n GLE-PLEF-EIS."

⁴⁵ LBP-26-7, 104 NRC at ___ (slip op. at 25-26). This judgment included the Board's determination that Mr. McVickers' contentions, which were incorporated by reference by KRC, were inadmissible, and therefore could not support the admission of Contention 2. *See id.* at ___ (slip op. at 26).

⁴⁶ Appeal at 21.

⁴⁷ *Id.* at 22.

that this approach is not prohibited by NRC regulations and is supported by Commission precedent.⁴⁸

We find that KRC has not provided a basis for overturning the Board's ruling on Contention 2. The Board correctly applied the NRC's rules of practice and Commission precedent in finding that KRC proposed, essentially, a placeholder contention.⁴⁹ As we have recently stated, "our regulations do not provide for the filing of contentions that merely anticipate a future deficiency, rather than pointing to a present defect, in a license application."⁵⁰ Moreover, KRC's appeal does not come to grips with the Board's ruling that the contention itself lacked the required specificity, and that the contentions KRC sought to incorporate by reference into

⁴⁸ As support for this premise, KRC relies on our decision in *Crow Butte*, in which we upheld the licensing board's dismissal of a contention filed on the Staff's final environmental review document where the information in the final document was not materially different from the draft version. See Appeal at 23 (citing *Crow Butte Resources, Inc.* (Marsland Expansion Area), CLI-20-1, 91 NRC 79, 97-98 (2020)). But it is not apparent how this decision supports KRC's position. Rather, as KRC appears to acknowledge in a subsequent statement, the decision underscores our longstanding requirement—codified in our regulations and elucidated in caselaw—to raise specific contentions at the earliest opportunity. See *Marsland*, CLI-20-1, 91 NRC at 97-98 (affirming licensing board ruling that contentions challenging a final environmental assessment were untimely because the information on which the contentions were based was not materially different from the information provided in the draft environmental assessment); Appeal at 23 ("*Crow Butte Resources* instructs that '[a] contention must be filed at its earliest opportunity [and] a petitioner who waits until the issuance of a final document to raise a contention risks the possibility that there will not be a material difference between the draft and final document.').

Further, the Commission's rules of intervention are explicit concerning the requirement that contentions must be filed at the earliest opportunity. See 10 C.F.R. § 2.309(f)(2) ("Contentions must be based on documents or other information available at the time the petition is to be filed"); *id.* § 2.309(b)(3) ("[T]he [hearing] request of petition and the list of contentions must be filed . . . not later than . . . [t]he time specified in any notice of hearing . . .").

⁴⁹ See LBP-26-7, 104 NRC at ___ (slip op. at 25) (citing 10 C.F.R. § 2.309(f)(2)).

⁵⁰ *Pacific Gas and Electric Co.* (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI-25-4, 102 NRC ___, ___ (July 15, 2025) (slip op. at 22 n.106) (citing 10 C.F.R. § 2.309(f)(1); *Union Electric Co.* (Callaway Plant, Unit 1), CLI-15-11, 81 NRC 546, 550 (2015); *Dominion Nuclear Connecticut, Inc.* (Millstone Nuclear Power Station, Unit 3), CLI-09-5, 69 NRC 115, 120 (2009)).

Contention 2 were themselves inadmissible.⁵¹ Therefore, we affirm the Board's ruling on Contention 2.

C. GLE's Motion to Strike

KRC asks us to find that the Board erred when it declined to rule on GLE's motion to strike portions of KRC's reply.⁵² KRC asserts that, by declining to rule on GLE's motion, the Board "deprived KRC of the opportunity to have all the arguments contained in the Reply considered, and to know whether and how those issues were resolved by the [Board]."⁵³ We are not persuaded that the Board erred in declining to rule on GLE's motion. The Board stated that it limited its evaluation of KRC's standing and contentions to KRC's arguments as pled in its hearing request and considered the reply only to the extent it provided clarification of KRC's original claims.⁵⁴ KRC does not identify any error in the Board's evaluation of its standing or contentions that stems from the Board's dismissal of GLE's motion as moot. Accordingly, we decline to disturb the Board's decision on this ground.

⁵¹ See LBP-26-7, 104 NRC at ___ (slip op. at 13-21, 26).

⁵² See Appeal at 4-5; *Global Laser Enrichment LLC's Motion to Strike Portions of Kentucky Resources Council, Inc.'s June 8, 2026 Reply* (June 11, 2026); LBP-26-7, 104 NRC at ___ (slip op. at 27).

⁵³ Appeal at 4-5.

⁵⁴ LBP-26-7, 104 NRC at ___ (slip op. at 27).

III. CONCLUSION

For the foregoing reasons, we *affirm* the Board's determination in LBP-26-7 that KRC's hearing request should be denied.

IT IS SO ORDERED.

For the Commission



JODY
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Jody C. Martin
Secretary of the Commission

Dated at Rockville, Maryland,
this 22nd day of October 2026.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
GLOBAL LASER ENRICHMENT, LLC.	)	Docket No. 70-7033-ML
	)	
(Paducah Laser Enrichment Facility)	)	
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **COMMISSION MEMORANDUM AND ORDER (CLI-26-14)** (have been served upon the following by Electronic Information Exchange.

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Paducah Laser Enrichment Facility, Docket No. 70-7033-ML
COMMISSION MEMORANDUM AND ORDER (CLI-26-14)

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 22nd day of October 2026.