

In the Matter of: )  
 )  
Strata Energy, Inc. )  
Ross In-Situ Uranium Facility )  
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 )

Date: August 24, 2011

Strata’s motion is based on what it views as a “clear and material [procedural] error,” which has “deprived Strata of its procedural rights.” Strata Motion at 3. However, this is not the case and the Office of the Secretary’s decision should be affirmed.

First, as discussed in the attached declaration by Shannon Anderson, NRDC and Powder did not err in requesting an extension of time through a letter as opposed to a formal motion. A Commission or Atomic Safety Licensing Board proceeding has not yet been commenced, and indeed, may never be commenced if NRDC and Powder River decide not to proceed with intervention, and therefore motions practice is unnecessary and misplaced.

Second, the Office of the Secretary, as the representative for the Commission, may extend a deadline for good cause. 10 C.F.R. § 2.307. This regulation does not require a formal motion by a party, nor does it require a response period by any adverse party. It is a purely discretionary act on the part of the Commission.

Therefore, no procedural errors occurred either through NRDC and Powder River's letter requesting an extension or the Office of the Secretary granting the request.

## **II. Neither Strata nor the NRC will be harmed or prejudiced by the extension**

Importantly, in its nine page motion, at no time does Strata allege that it will be harmed or in any way prejudiced by granting an extension of the intervention deadline. Aside from stating misplaced procedural arguments, Strata does not demonstrate good cause that the request for the extension should be denied or even shortened.

Similarly, the NRC staff does not allege any harm that it will incur based on an extension. In fact, it would be difficult, if not impossible, for the agency do to so. The extension will not prejudice the agency in an way as agency staff can continue its technical review of the application during the extension period, which it would do with or without an intervention proceeding. If anything, an extension will benefit the NRC because it will allow NRDC and Powder River to complete their thorough reviews of the application, allowing them the option of

meaningfully participating in the proceeding and contributing to the technical and environmental review of the application, if they choose to file a petition for hearing.

### **III. Granting Strata's motion will deny NRDC and Powder River public participation opportunities**

Conversely, NRDC and Powder River will be harmed if the extension is denied. As discussed in the initial request and the attached declaration from Shannon Anderson, an extension is necessary to allow the organizations and their experts the time necessary to thoroughly and carefully review the application and related materials. This time is necessary for NRDC and Powder River to research and draft concise contentions and meaningfully participate in the process. If additional information is needed to demonstrate the good cause grounds for the extension, NRDC and Powder River would be happy to provide it to the Commission. Moreover, since the Commission's August 17 decision and in reliance on the October 27 deadline for the filing of any contentions and petition for hearing, NRDC Staff have incurred commitments that would make meeting a mid-September deadline unworkable.

### **Conclusion**

For the foregoing reasons, NRDC and Powder River respectfully ask that Strata's motion to reconsider be denied and the Office of the Secretary's decision to extend the deadline be affirmed.

Respectfully submitted,

/s/

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Geoff Fettus  
Senior Project Attorney  
Natural Resources Defense Council  
1152 15<sup>th</sup> St., NW, Suite 300  
Washington, DC 20005

(202) 289-2371  
gfettus@nrdc.org

Attached: Declaration of Shannon Anderson

**CERTIFICATE OF SERVICE**

I hereby certify that I served copies of the foregoing “RESPONSE TO STRATA ENERGY’S MOTION FOR RECONSIDERATION OF THE OFFICE OF THE SECRETARY’S DECISION GRANTING NATURAL RESOURCES DEFENSE COUNCIL/POWDER RIVER BASIN RESOURCE COUNCIL’S REQUEST FOR EXTENSION OF TIME TO FILE AN INTERVENTION PETITION” through the Electronic Information Exchange (EIE) this 24th day of August, 2011 which to the best of my knowledge resulted in transmittal of the foregoing to those on the EIE Service List for this docket.

/s/

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Shannon R. Anderson  
Dated: August 24, 2011