

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before the Licensing Board:

G. Paul Bollwerk, III, Chair  
Dr. Richard F. Cole  
Dr. Kenneth L. Mossman

In the Matter of

STRATA ENERGY, INC.

(Ross In Situ Recovery Uranium Project)

Docket No. 40-9091-MLA

ASLBP No. 12-915-01-MLA-BD01

August 21, 2012

MEMORANDUM AND ORDER

(Recent Part 2 Changes and General Schedule Revisions)

By memorandum and order dated August 7, 2012, the Licensing Board requested the views of the parties regarding potential revisions to the general schedule for this proceeding as a consequence of certain recent changes to the agency's rules of procedure in 10 C.F.R. Part 2. See Licensing Board Memorandum and Order (Requesting Scheduling Input) (Aug. 7, 2012) at 3-4 (unpublished) [hereinafter Scheduling Input Order]; see also Amendments to Adjudicatory Process Rules and Related Requirements, 77 Fed. Reg. 46,562 (Aug. 3, 2012). Of particular note in this regard are revisions to 10 C.F.R. § 2.309 that would, if applied, extend from (1) fourteen to twenty-five days the time within which applicant Strata Energy, Inc., (SEI) and the NRC staff could respond to any new or amended contention submitted by Joint Intervenors, see 77 Fed. Reg. at 46,592 (to be codified at 10 C.F.R. § 2.309(i)(1));<sup>1</sup> and (2) thirty to forty-five days the time within which the Board is to rule on the admissibility of such a new/amended

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<sup>1</sup> Joint Intervenors are the Natural Resources Defense Council (NRDC) and the Powder River Basin Resource Council (PRBRC).

contention, see id. (to be codified at 10 C.F.R. § 2.309(j)). Per the Board's request, on August 17 the parties filed a joint response providing their positions on whether these Part 2 revisions should be adopted by the Board and applied to the existing general schedule. See Letter from Molly Marsh, NRC Staff Counsel, to Licensing Board (Aug. 17, 2012) [hereinafter Joint Letter].

According to that response, applicant SEI prefers that the Board continue to utilize the fourteen- and thirty-day time frames so as to maintain the existing schedule. In contrast, both Joint Intervenors and the staff suggest that the Board employ the changes set forth in the new rules.<sup>2</sup> See id. at 1-2.

Because the fourteen-day time frame for applicant and staff responses already established by the Board under the existing general schedule for this proceeding seems eminently reasonable given the current circumstances, the Board will not revise the general schedule to extend the time for such responses. By the same token, the Board will continue to follow the general schedule in terms of the time afforded the Board to make an admissibility determination on any new/amended contention. Moreover, going forward, these fourteen- and thirty-day time frames, as well as the thirty-day deadline for filing any new/amended contentions and the seven-day deadline for a reply to responses to a new/amended contention, see Licensing Board Memorandum and Order (Initial Prehearing Order) (Nov. 3, 2011) at 4 n.3 (unpublished) [hereinafter Initial Prehearing Order], will continue to apply to any new/amended

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<sup>2</sup> Although the Board also requested party comments on any other provision of the revised rules that they believed requires an additional scheduling change in this proceeding, see Scheduling Input Order at 2 n.1, with the exception of a Joint Intervenor comment regarding the time for filing their reply to any SEI and staff responses concerning a new/amended contention, see infra note 3, nothing further was brought to the Board's attention.

contention filed at any time in this proceeding, regardless of whether that filing is specifically accounted for under the general schedule, see Scheduling Input Order at 3.<sup>3</sup>

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

**/RA/**

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G. Paul Bollwerk, III  
CHAIR

Rockville, Maryland

August 21, 2012

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<sup>3</sup> Unless numerous and/or exceedingly complex new/amended contentions were submitted relative to the staff's draft or final environmental impact statement or the staff's safety evaluation report, this fourteen-day response time, as well as the thirty days afforded the Board under the existing schedule to decide on the admissibility of such contentions, are likely to be sufficient. Of course, these parties could, if they considered it necessary, seek additional time to file a response, as would be the case for Joint Intervenors relative to their reply. See Initial Prehearing Order at 4-5.

And in that regard, we note that, given the recent rule change makes no revision to the time already established by the Board for a reply pleading relative to applicant and staff new/amended contention responses, compare id. at 4 n.3, with 77 Fed. Reg. at 46.592 (to be codified at 10 C.F.R. § 2.309(i)(2)), we see no basis for acceding to Joint Intervenors' request that the time for filing their reply be increased from seven to fourteen days, see Joint Letter at 1.

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(Ross In Situ Recovery Uranium Project)	)	
	)	
(Materials License Application)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MEMORANDUM AND ORDER (Recent Part 2 Changes and General Schedule Revisions)** have been served upon the following persons by Electronic Information Exchange.

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**MEMORANDUM AND ORDER (Recent Part 2 Changes and General Schedule Revisions)**

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[Original signed by Herald Speiser]

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Office of the Secretary of the Commission

Dated at Rockville, Maryland  
this 21<sup>th</sup> day of August, 2012