

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:

STRATA ENERGY, INC.

(Ross In Situ Uranium Recovery
Facility)

)
) Docket No.: 40-9091-MLA

) Date: April 9, 2014
)
)
)
)

**STRATA ENERGY, INC.’S RESPONSE TO ATOMIC SAFETY AND
LICENSING BOARD PANEL’S APRIL 8, 2014 MEMORANDUM
AND ORDER REGARDING EXTENSIONS OF TIME AND
AMENDMENT OF THE GENERAL SCHEDULE**

Strata Energy, Inc. (Strata), by its undersigned counsel of record, hereby submits this Response to the Atomic Safety and Licensing Board Panel’s April 8, 2014, Memorandum and Order Regarding Extensions of Time and Amendment of the General Schedule regarding an April 7, 2014 Joint Motion from the Natural Resources Defense Council/Powder River Basin Resource Council (hereinafter “Intervenors”) and Strata. This Joint Motion requested that Strata be accorded an additional nine (9) days to respond to Intervenors’ March 31, 2014 pleading regarding new/amended contentions, thereby moving the due date for such a response from April 14 to April 23, 2014. Further, the Joint Motion requested that

Intervenors be granted an extension for a reply to Strata's response until May 7, 2014. NRC Staff took no position on this Joint Motion.

In its April 8, 2014 Order, the Licensing Board stated that the combined timeframe for the Joint Motion, approximately sixteen (16) days, would result in pushing the scheduled hearing date back to a point where holding such hearing in Gillette or Sundance, Wyoming would not be feasible. Board Order at 2. The Licensing Board cites to a transcript from the Powertech (USA), Inc. proceeding in which that Licensing Board requested an alternate schedule for a hearing in August, so that the hearing would be "seasonably appropriate." *Id.* Using this transcript, the Licensing Board determined that grant of the Joint Motion would result in the hearing being held in the United States Nuclear Regulatory Commission's Headquarters in Rockville, Maryland, rather than in the State of Wyoming. *Id.*

Strata respectfully disagrees with the conclusions set forth in the Licensing Board's April 8, 2014 Order. First and foremost, Strata believes that grant of the Joint Motion is necessary in this case, regardless of considerations about the proposed hearing date. NRC Staff's delay in issuing the Final Supplemental Environmental Impact Statement (FSEIS) did not alter Intervenors thirty (30) days to prepare and submit their new/amended contentions within the pre-hearing schedule; but, Strata would be penalized eleven (11) days from the twenty-five

(25) days outlined in 10 CFR § 2.309(i)(1) to respond to such new/amended contentions.¹ Further, Strata's counsel are travelling the entire week of April 14th to meet with Strata personnel regarding responses to Intervenors' March 31, 2014 pleading and other clients of the firm. These arrangements were made with the assumption that both Strata and NRC Staff would be accorded the requisite 25 days to respond to the Intervenors' March 31, 2014 pleading on new/amended contentions. Strata believes forcing it to respond to these new/amended contentions in a shortened timeframe, without its prior agreement, should not be permitted.²

Secondly, assuming the general schedule remains unchanged, the proposed hearing date currently is scheduled on or about September 30 to October 2, 2014, well beyond the "seasonably appropriate" hearing dates discussed in the Board's reference to the Powertech proceeding. Thus, the current general schedule already proposes a hearing date that allegedly is "seasonably inappropriate" for the Gillette/Sundance, Wyoming area. An extension of 16 days should not prevent the parties from conducting a hearing in the State of Wyoming in mid-October, especially considering such hearing would not be taking place at the proposed Ross

¹ It is important to note that Intervenors not only seek to migrate contentions in their filing, but they also attempt to amend these contentions *and* propose two (2) new contentions, which Strata is required to address based on an evaluation of the full administrative record, all of which takes significant time.

² Indeed, the requested extension only extends the response period to twenty-three (23) days, two (2) days short of the aforementioned Part 2.309(i)(1) 25 day limit.

ISR project site; but rather in a town or city that can operate during various weather conditions. Additionally, NRC Staff has previously conducted two National Historic Preservation Act (NHPA), Section 106 Tribal Consultation site visits around that timeframe (i.e., September 13-14, 2011 & November 2-3, 2011) that included field visits to the proposed Ross ISR site and the immediate area.

Third, in the Powertech proceeding, the parties worked together to ensure that the hearing date could be moved up by shortening some time limits on pre hearing motions and filings. Strata believes that, given all parties have worked well together thus far in this proceeding, common ground can be found to make up the 16 days that the Licensing Board appears to find troublesome for the general schedule. Strata respectfully requests that the Licensing Board grant the Joint Motion and allow the parties seven (7) days from the Licensing Board's ruling on the Joint Motion to agree on shortening certain pre-hearing filing time limits to accommodate the Licensing Board's concerns regarding proposed hearing dates.

Lastly, regardless of what decision the Licensing Board reaches on this issue, Strata would like to reiterate its support for a site visit. As stated on the February 25, 2014 telephone conference with the Licensing Board, several other Licensing Boards, including those in the Powertech, Crowe Butte Resources, and Hydro Resources proceedings, have conducted site visits and found them to be very informative, whether they are conducted immediately prior to the adjudicatory

hearing (if the hearing is in Wyoming) or one or two months before a scheduled adjudicatory hearing in Rockville, Maryland. Accordingly, Strata respectfully requests that the Licensing Board establish a date for a site visit, both to the proposed Ross ISR site and an operating facility, after a decision is reached on the aforementioned Joint Motion.

For the reasons discussed above, Strata respectfully requests that the Licensing Board grant the April 7, 2014 Joint Motion and allow Strata to file its response to Intervenors' new/amended contentions on April 23, 2014, and Intervenors' reply brief on May 7, 2014. Strata further requests that the Licensing Board either schedule the proposed hearing date 16 days after the current proposed date or allow the parties to amend the general schedule to account for such 16 days.

Respectfully submitted,

**/Signed (electronically) by/
Christopher S. Pugsley, Esq.**

Dated: April 9, 2014

Anthony J. Thompson, Esq.
Christopher S. Pugsley, Esq.
Thompson & Pugsley, PLLC
1225 19th Street, NW
Suite 300
Washington, DC 20036
COUNSEL TO STRATA ENERGY,
INC.

