

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

February 22, 2012

MEMORANDUM AND ORDER  
(Notice of Hearing)

This proceeding concerns the January 4, 2011 application of Strata Energy, Inc., (SEI) for a combined source and Atomic Energy Act (AEA) section 11e(2) byproduct materials license pursuant to 10 C.F.R. Part 40.\* If issued, that license would authorize SEI to construct and operate an in situ recovery (ISR) uranium project at the Ross site in Crook County, Wyoming. In response to an October 27, 2011 notice of hearing and opportunity to petition for leave to intervene, see [SEI], Ross [ISR] Uranium Project, Crook County, WY; Notice of Materials License Application, Opportunity to Request a Hearing and to Petition for Leave to Intervene, and Commission Order Imposing Procedures for Document Access to Sensitive Unclassified

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\* As outlined by the Commission in its decision in Sequoyah Fuels Corp. (Gore, Oklahoma Site), CLI-03-15, 58 NRC 349 (2003), section 11e(2) byproduct material is that material, as defined by AEA section 11e(2), 42 U.S.C. § 2014e(2), that is “the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.” This byproduct material category was created in 1978 by the Uranium Mill Tailings and Reclamation Act to afford the NRC regulatory jurisdiction over mill tailings at active and inactive uranium milling sites. See Sequoyah Fuels, CLI-03-15, 58 NRC at 353-54.

Non-Safeguards Information for Contention Preparation, 76 Fed. Reg. 41,308 (July 13, 2011), on October 27, 2011, two public interest groups, the Natural Resources Defense Council and the Powder River Basin Resource Council (collectively Joint Intervenors), filed a timely request for hearing and petition for leave to intervene contesting the SEI ISR application. On November 2, 2011, this three-member Atomic Safety and Licensing Board was established to preside over this proceeding. See [SEI]; Establishment of Atomic Safety and Licensing Board, 76 Fed. Reg. 69,295 (Nov. 8, 2011).

On December 20, 2011, the Board conducted a one-day initial prehearing conference, with counsel for SEI, the NRC staff, and the Joint Intervenors. During that prehearing conference, which was held in the Licensing Board Panel's Rockville, Maryland hearing room, the Board heard oral presentations concerning Joint Intervenors' standing to intervene and the admissibility of their five proffered environmental contentions. Thereafter, in a February 10, 2012 issuance, finding that each of the Joint Intervenors had established the requisite standing to intervene in this proceeding and that they had submitted four admissible contentions concerning the SEI application, the Board admitted Joint Intervenors as parties to this proceeding. See LBP-12-3, 75 NRC \_\_ (Feb. 10, 2012), appeals pending.

In light of the foregoing, please take notice that a hearing will be conducted in this proceeding. The hearing will be governed by the informal hearing procedures set forth in 10 C.F.R. Part 2, Subparts C and L, 10 C.F.R. §§ 2.300-2.390, 2.1200-2.1213.

During the course of this proceeding, the Board may conduct an oral argument, as provided in 10 C.F.R. § 2.331; may hold additional prehearing conferences pursuant to 10 C.F.R. § 2.329; and may conduct evidentiary hearings in accordance with 10 C.F.R. §§ 2.327-2.328, 2.1206-2.1208. The public is invited to attend any oral argument, prehearing conference, or evidentiary hearing. Notices of those sessions will be published in the Federal

Register and/or made available to the public at the NRC Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and through the NRC web site, [www.nrc.gov](http://www.nrc.gov).

Additionally, as provided in 10 C.F.R. § 2.315(a), any person not a party to the proceeding may submit a written limited appearance statement. Limited appearance statements, which are placed in the docket for this proceeding, provide members of the public with an opportunity to make the Board and/or the participants aware of their concerns about matters at issue in the proceeding. A written limited appearance statement can be submitted at any time and should be sent to the Office of the Secretary using one of the methods prescribed below:

Mail to: Office of the Secretary  
Rulemakings and Adjudications Staff  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

Fax to: (301) 415-1101 (verification (301) 415-1966)

E-mail to: [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov)

In addition, a copy of the limited appearance statement should be sent to the Licensing Board Chairman using the same method at the address below:

Mail to: Administrative Judge G. Paul Bollwerk, III  
Atomic Safety and Licensing Board Panel  
Mail Stop T-3F23  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

Fax to: (301) 415-5599 (verification (301) 415-7550)

E-mail to: [paul.bollwerk@nrc.gov](mailto:paul.bollwerk@nrc.gov)

Further, at a later date, the Board may conduct oral limited appearance sessions regarding this ISR proceeding at a location, or locations, in the vicinity of the Ross site. Notice

of any oral limited appearance sessions will be published in the Federal Register and/or made available to the public at the NRC PDR and on the NRC website, [www.nrc.gov](http://www.nrc.gov).

Documents relating to this proceeding are available for public inspection at the Commission's PDR or electronically from the publicly available records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS, including its adjudicatory proceeding-related Electronic Hearing Docket, is accessible from the NRC web site at [www.nrc.gov/reading-rm/adams.html](http://www.nrc.gov/reading-rm/adams.html) (the Public Electronic Reading Room). Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

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G. Paul Bollwerk, III  
CHAIR

Rockville, Maryland

February 22, 2012

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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)  
(Materials License Application) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MEMORANDUM AND ORDER (Notice of Hearing)** have been served upon the following persons by Electronic Information Exchange.

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STRATA ENERGY, INC., Ross In Situ Recovery Uranium Project - Docket No. 40-9091-MLA  
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[Original signed by Nancy Greathead]  
Office of the Secretary of the Commission

Dated at Rockville, Maryland  
this 22<sup>nd</sup> day of February 2012