

CROW BUTTE RESOURCES, INC.

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September 12, 2001

Mr. Melvyn Leach, Chief
Fuel Cycle Licensing Branch, FCSS
c/o Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Subject: Crow Butte Resources, Inc. Source Materials License SUA-1534
Docket 40-8943
Request for License Amendment

Dear Mr. Leach:

In accordance with the provisions of 10 CFR § 40.44, Crow Butte Resources, Inc. (CBR) hereby requests an amendment to the referenced source materials license. The basis for this request is to update the CBR materials license to include the standard License Conditions recently developed by the NRC staff. CBR requests that NRC amend the following License Conditions.

SECTION 9: ADMINISTRATIVE CONDITIONS

License Condition 9.4

License Condition 9.4 of SUA-1534 contains the performance based licensing requirements.

Requested Action: CBR requests that the current License Condition 9.4 in SUA-1534 be amended to read as follows:

9.4 Performance Based License Condition

A. *The licensee may, without obtaining a license amendment pursuant to §40.44, and subject to conditions specified in Part b of this condition:*

(1) *Make changes in the facility as described in the license application (as updated),*

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- (2) *Make changes in the procedures as described in the license application (as updated), and*
 - (3) *Conduct test or experiments not described in the license application (as updated).*
- B. *The licensee shall obtain a license amendment pursuant to §40.44 prior to implementing a proposed change, test or experiment if the change, test, or experiment would:*
- (1) *Result in more than a minimal increase in the frequency of occurrence of an accident previously evaluated in the license application (as updated);*
 - (2) *Result in more than a minimal increase in the likelihood of occurrence of a malfunction of a structure, system, or component (SSC) important to safety previously evaluated in the license application (as updated);*
 - (3) *Result in more than a minimal increase in the consequences of an accident previously evaluated in the license application (as updated);*
 - (4) *Result in more than a minimal increase in the consequences of a malfunction of an SSC important to safety previously evaluated in the license application (as updated);*
 - (5) *Create a possibility for an accident of a different type than any previously evaluated in the license application (as updated);*
 - (6) *Create a possibility for a malfunction of an SSC important to safety with a different result than previously evaluated in the license application (as updated);*
 - (7) *Result in a departure from the method of evaluation described in the license application (as updated) used in establishing the final safety evaluation report (FSER) or the environmental assessment (EA).*
- C. *The licensee's determinations concerning Part B of this condition shall be made by a Safety and Environmental Review Panel (SERP). The SERP shall consist of a minimum of three individuals. One member of the SERP shall have expertise in management (e.g., Plant Manager) and shall be responsible*



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for financial approval for changes; one member shall have expertise in operations and/or construction and shall have responsibility for implementing any operational changes; and, one member shall be the radiation safety officer (RSO) or equivalent, with the responsibility of assuring changes conform to radiation safety and environmental requirements. Additional members may be included in the SERP as appropriate, to address technical aspects such as groundwater, hydrology, surface-water hydrology, specific earth sciences, and other technical disciplines. Temporary members or permanent members, other than the three above-specified individuals, may be consultants.

- D. *The licensee shall maintain records of any changes made pursuant to this condition until license termination. These records shall include written safety and environmental evaluations made by the SERP, that provide the basis for determining changes are in compliance with Part b of this condition. The licensee shall furnish, in an annual report to the NRC, a description of such changes, test, or experiments, including a summary of the safety and environmental evaluation of each. In addition, the licensee shall annually submit to the NRC changed pages, which shall include both a change indicator for the area changed, e.g. a bold line vertically drawn in the margin adjacent to the portion actually changed, and a page change identification (date of change or change number or both), to the operations plan and reclamation plan of the approved license application (as updated) to reflect changes made under this condition.*

Reason for Request: The requested revision of License Condition 9.4 provides a more detailed description in License Condition 9.4 B of the changes, tests, or experiments that may be approved by the CBR Safety and Environmental Review Panel (SERP). This clarification will assist the CBR SERP in evaluating proposed changes, tests or experiment and determining whether SERP approval is authorized by the performance based License Condition or whether a License Amendment should be requested.

In addition to the improved description of actions that may be approved by the CBR SERP, the revised License Condition consolidates the recordkeeping and reporting requirements for performance based licensing actions. The recordkeeping requirements in the proposed License Condition 9.4 D would replace similar requirements currently contained in License Condition 11.7. The annual reporting requirements in the proposed License Condition 9.4 D would replace the reporting requirements currently contained in License Condition 12.7. The reporting requirements have been updated to include a requirement that changed pages



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contain a change indicator and page change identification to simplify NRC review. CBR has used these methods on all SERP annual reports submitted since renewal of SUA-1534. Therefore, CBR also requests that License Condition 11.7 and License Condition 12.7 be deleted.

License Condition 9.7

License Condition 9.7 of SUA-1534 contains the current 11e.(2) byproduct disposal requirements.

Requested Action: CBR requests that the current License Condition 9.7 in SUA-1534 be amended to read as follows:

9.7 The licensee shall dispose of 11e.(2) byproduct material from the Crow Butte facility at a site licensed by NRC or an NRC Agreement State to receive 11e.(2) byproduct material. The licensee's approved waste disposal agreement must be maintained on-site. In the event the agreement expires or is terminated, the licensee shall notify NRC in writing, in accordance with License Condition 9.2, within 7 days after the date of expiration or termination. A new agreement shall be submitted for NRC approval within 90 days after expiration or termination unless further delay is justified, or the licensee will be prohibited from further lixiviant injection.

Reason for Request: The requested version of License Condition 9.7 is identical to the current version in SUA-1534 with the exception of the addition of the phrase "unless further delay is justified" to the final sentence. This provision allows for an unforeseen circumstance that may justify allowing the continued injection of lixiviant after the termination or expiration of the 11.e(2) byproduct disposal agreement. Amendment to this License Condition would provide NRC and CBR with additional flexibility in case a disposal agreement was not in place after 90 days.

SECTION 11: MONITORING, RECORDING, AND BOOKKEEPING REQUIREMENTS

License Condition 11.7

Requested Action: CBR requests that the current License Condition 11.7 in SUA-1534 be deleted.



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Reason for Request: As noted under License Condition 9.4 above, the performance based licensing recordkeeping requirements contained in License Condition 11.7 of SUA-1534 would be contained in the new License Condition 9.4. Therefore, CBR requests that License Condition 11.7 be deleted from SUA-1534.

SECTION 12: REPORTING REQUIREMENTS

License Condition 12.4

License Condition 12.4 contains the spill documentation and reporting requirements.

Requested Action: CBR requests that the current License Condition 12.4 in SUA-1534 be amended to read as follows:

12.4 Spills, Pond Leaks, Leaks, Excursions, and Incident/Event Reporting

Until license termination, the licensee shall maintain documentation on unplanned release of source or 11e.(2) by product materials (including extraction solutions) and process chemicals. Documented information shall include, but not be limited to: date, volume, total activity of each radionuclide released, radiological survey results, soil sample results (if taken), corrective actions, results of post remediation surveys (if taken), and a map showing the spill location and the impacted area.

The licensee shall have procedures which will evaluate the consequences of the spill or incident/event against 10 CFR 20, Subpart "M," and 10 CFR 40.60 reporting criteria. If the criteria are met, then report to the NRC Operations Center as required.

If the licensee is required to report any spills, pond leaks, excursions of source, 11e.(2) by product material, and process chemicals that may have an impact on the environment, or any other incidents/events to State or Federal Agencies, a report shall be made to the NRC Region IV Uranium Recovery Branch Chief and NRC Headquarters Project Manager (PM) by telephone or electronic mail (e-mail) within 48 hours of the event. This notification shall be followed, within thirty (30) days of the notification, by submittal of a written report to NRC Region IV and NRC Headquarters as per License Condition 9.2, detailing the conditions leading to the spill or incident/event, corrective actions taken, and results achieved.



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Reason for Request: The spill documentation requirements contained in the first paragraph of the requested amendment are essentially identical to those currently contained in License Condition 12.4.

The second paragraph adds a requirement that spills be evaluated for reporting under the requirements of 10 CFR Parts 20 and 40. This process is currently part of CBR's SOPs related to spills and agency reporting.

The third paragraph would revise the current reporting requirements in the CBR license. There have historically been differing interpretations of spills that would have a "radiological impact on the environment" as required in the current License Condition. Although NRC has provided additional guidance to CBR by letter, the current reporting criteria still allows a certain amount of subjectivity that has presented challenges for CBR and NRC inspectors. The new reporting criteria clearly define when a spill is reportable.

In addition, CBR has long believed that, for those events where NRC desires notification but which do not meet the reporting criteria in 10 CFR Parts 20 and 40, notification to the Operations Center is not necessarily appropriate. For those events that fall below the regulatory reporting threshold, notification to the Branch Chief and the NRC Project Manager is more appropriate. The proposed amendment will provide for this lesser level of notifications.

Finally, the notification requirements in the proposed amendment will ensure that NRC is notified whenever a spill, leak or excursion event occurs at Crow Butte that is reportable to another State or federal governmental agency. CBR believes that this requirement will ensure that the NRC is aware of any events that may require NRC response to inquiries from other agencies.

License Condition 12.7

Requested Action: CBR requests that the current License Condition 12.7 in SUA-1534 be deleted.

Reason for Request: As noted under License Condition 9.4 above, the performance based licensing reporting requirements contained in License Condition 12.7 of SUA-1534 would be contained in the new License Condition 9.4. Therefore, CBR requests that License Condition 12.7 be deleted from SUA-1534.

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If you have any questions concerning this amendment request, please feel free to contact me at (308) 665-2215.

Sincerely,
CROW BUTTE RESOURCES, INC.

A handwritten signature in black ink, appearing to read 'M. Griffin', is written over the printed name.

Michael L. Griffin
Manager of Health, Safety, and Environmental Affairs

cc: U.S. Nuclear Regulatory Commission
Mr. Mike Layton - ADDRESSEE ONLY
Fuel Cycle Licensing Branch
Mail Stop T-8A33
Washington, DC 20555