

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Michael M. Gibson, Chairman  
Dr. Richard F. Cole  
Brian K. Hajek  
Alan S. Rosenthal

In the Matter of

CROW BUTTE RESOURCES, INC.

(License Renewal for the In Situ Leach Facility,  
Crawford, Nebraska)

Docket No. 40-8943

ASLBP No. 08-867-02-OLA-BD01

September 2, 2008

ORDER

(Confirming Matters Addressed on August 28, 2008 Telephone Conference)

On August 28, 2008, the Licensing Board held a telephone conference in this proceeding related Crow Butte Resources, Inc.'s application for renewal of its Source Materials License for its in-situ leach uranium recovery facility located in Crawford, Nebraska. Several petitions to intervene and requests for hearing have been filed regarding this application. Appearing on the Applicant's behalf was its counsel, Mark McGuire and Tyson Smith; appearing on behalf of the Nuclear Regulatory Commission Staff was its counsel, Andrea Jones and Brett Klukan; appearing on behalf of Consolidated Petitioners<sup>1</sup> was their counsel David Frankel; appearing on behalf of the Oglala Sioux Tribe was its counsel, Elizabeth Lorina; and appearing on behalf of the Oglala Delegation of the Great Sioux Nation Treaty Council was its counsel, Thomas Ballanco.

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<sup>1</sup> A Consolidated Request for Hearing and Petition for Leave to Intervene was filed on behalf of Beatrice Long Visitor Holy Dance, Joe American Horse, Sr., Debra White Plume, Loretta Afraid of Bear Cook, Thomas Kanatakeniate Cook, Dayton O. Hyde, Bruce McIntosh, Afraid of Bear/Cook Tiwahe, American Horse Tiospaye, Owe Aku / Bring Back the Way, and Western Nebraska Resources Council.

The following matters were addressed in the conference:

1. Oral argument will be heard on Petitioners' standing to participate in this proceeding and on their contentions, on September 30, 2008, continuing into October 1 as necessary, at Chadron State College, in Chadron, Nebraska. At a later date, the Licensing Board will notify the participants of more specific information regarding the oral argument.

2. The Licensing Board recognized the similar, if not identical, nature of the Petitioners' contentions regarding foreign ownership, and disclosure issues related to 10 C.F.R. § 40.9, to those issues raised in another proceeding involving Crow Butte Resources, Inc. and several of the same petitioners. In the proceeding for Crow Butte's application requesting to amend its Source Materials License to expand its mining operations to the North Trend Expansion Area, Petitioners filed a contention on foreign ownership and alleged non-disclosure, and were afforded two separate oral arguments on these issues before the Licensing Board overseeing that proceeding.<sup>2</sup> In addition, there was extensive briefing on these issues in the license amendment proceeding. The Licensing Board suggested that in the interest of judicial efficiency it rely both on transcripts from the oral arguments and the briefs filed as they relate to these matters. The Licensing Board received no objection to this approach; thus, oral arguments regarding these matters will not be addressed at the oral argument for this proceeding scheduled for September 30 and October 1, 2008.

3. Petitioners suggested that all parties and the Licensing Board may benefit from a tour of the Pine Ridge Indian Reservation.<sup>3</sup> All parties appeared in agreement that such a tour would be beneficial to the understanding of in Petitioners' contentions and arguments for standing in the proceeding. A tour of the Pine Ridge Reservation will therefore be scheduled

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<sup>2</sup> Oral argument was held on January 18, 2008, regarding Petitioners' contentions and standing to participate in the license amendment proceeding, and again on July 23, 2008, regarding Contention E raising issues of foreign ownership and nondisclosure.

<sup>3</sup> Many Petitioners reside on the Pine Ridge Indian Reservation; therefore, the location of the Reservation and the natural features thereupon may assist in fact finding in this proceeding.

after oral argument concludes. Tentatively, this tour will be held on October 2, 2008, although the Licensing Board also asks the parties to recognize that in the event the oral argument is concluded early, the Board may request an earlier tour.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD  
*/RA/*

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Michael Gibson, Chairman  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
September 2, 2008

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
 )  
CROW BUTTE RESOURCES, INC. ) Docket No. 40-8943-OLA  
 )  
In-Situ Leach Uranium Recovery Facility, )  
Crawford, Nebraska )  
 )  
(License Amendment) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (CONFIRMING MATTERS ADDRESSED ON AUGUST 28, 2008 TELEPHONE CONFERENCE) have been served upon the following persons by Electronic Information Exchange.

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[Original signed by Nancy Greathead]  
Office of the Secretary of the Commission

Dated at Rockville, Maryland  
this 2<sup>nd</sup> day of September 2008