

December 4, 2008

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:)	
)	Docket No. 40-8943
CROW BUTTE RESOURCES, INC.)	
)	ASLBP No. 08-867-02-OLA-BD01
(License Renewal))	

UNOPPOSED MOTION FOR STAY OF DISCLOSURE OBLIGATIONS

Applicant Crow Butte Resources, Inc. (“Crow Butte”) files this unopposed motion pursuant to 10 C.F.R. § 2.323 requesting that the Atomic Safety and Licensing Board (“Board”) stay discovery obligations under 10 C.F.R. § 2.336 regarding the nine contentions admitted by the Board in LBP-08-24, dated November 21, 2008, until March 2, 2009. The extension would apply equally to the obligations of all parties. Counsel for the NRC Staff and the intervenors have authorized Crow Butte to represent that they do not oppose the motion to stay the disclosure obligation.¹

Through the instant motion, Crow Butte seeks to avoid the burden and expense of producing documents on an abbreviated time frame in light of the time needed to prepare responses to two admitted contentions currently due in late-December. Further, neither the intervenors nor any other party will be adversely affected by a delay in disclosure of relevant information. The draft Environmental Assessment and Technical Report are not anticipated to be published for several months, if not longer, and a short delay such as that contemplated here is

¹ Counsel for Crow Butte certifies that he contacted counsel for the intervenors and the NRC Staff regarding this motion pursuant to 10 C.F.R. § 2.323(b). All parties have indicated that do not oppose the motion.

not reasonably anticipated to adversely affect the intervenors' preparation for a hearing, which has not yet been scheduled.

DISCUSSION

The Board has authority to adjust discovery deadlines. A presiding officer "has all the powers necessary" to "take appropriate action to control the prehearing and hearing process." 10 C.F.R. § 2.319. A Board "may exercise the powers of a presiding officer as granted by § 2.319." *Id.* § 2.321(c). Certain general discovery obligations must be met within thirty days of the order granting a request for hearing or petition to intervene, unless "otherwise ordered by the Commission, the presiding officer, or the Atomic Safety and Licensing Board assigned to the proceeding." *Id.* § 2.336(a). Thus, the Commission's rules provide the Board with ample authority to amend the discovery deadline for the admitted contentions.

Crow Butte requests that disclosures regarding the admitted contentions be suspended until March 2, 2009. The disclosures mandated by 10 C.F.R. § 2.336(a) would require intervenors, the NRC Staff, and Crow Butte to dedicate personnel and incur expenses on a schedule that is not necessary to support the objectives of the disclosures. Moreover, the Board has directed the parties to file legal pleadings with respect to Miscellaneous Contentions K and L during the same period of time that disclosures would be completed, potentially complicating efforts to fully address the legal issues associated with those contentions.

Regardless, the intervenors and the NRC Staff would not be harmed by a short delay as the hearing is not imminent. Thus, considerations of both resource conservation and fairness favor extending the disclosure requirements for admitted contentions until March 2, 2009.

CONCLUSION

For all the above reasons, the Board should grant the unopposed motion to suspend disclosure obligations.

/s/ signed electronically by
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COUNSEL FOR CROW BUTTE
RESOURCES, INC.

Dated at San Francisco, California
this 4th day of December 2008

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CERTIFICATE OF SERVICE

I hereby certify that copies of “UNOPPOSED MOTION FOR STAY OF DISCLOSURE OBLIGATIONS” in the captioned proceeding have been served on the following persons via the Electronic Information Exchange this 4th day of December 2008.

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