

December 3, 2008 (12:10pm)

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

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Before Administrative Judges:

Ann Marshall Young, Chair

Dr. Richard F. Cole

Dr. Fred W. Oliver

In the Matter of  
  
CROW BUTTE RESOURCES, INC.  
(In Situ Leach Facility, Crawford, NE)

Docket No. 40-8943  
ASLBP No. 07-859-03-MLA-BD01

*Dec 3,*  
*June 9, 2008*

**UNOPPOSED MOTION TO MAKE FILINGS BY EMAIL**

Pursuant to 10 CFR §2.323(a), Petitioners file this unopposed<sup>1</sup> motion to make filings by email without printing and mailing paper copies as required by Paragraph 7 of the Board's Order dated December 12, 2007 and by Paragraph 3 of the Board's Order dated December 20, 2007. Pursuant to those Orders, all parties are permitted to make filings in this matter by email provided that paper conforming copies are sent and all filings are due at 8:00 P.M., Eastern Time, on the date due.

Petitioners hereby move that this Board issue an Order: (1) allowing Petitioners to file documents in this proceeding as PDF documents sent by email together with an appropriate Certificate of Service; (2) removing the requirement to mail paper conforming copies currently required by the Board's Order dated December 12, 2007; and (3) providing that the filing time in this Proceeding shall be Midnight, Eastern Time, on the date due.

<sup>1</sup> Applicant Counsel and NRC Staff Counsel do not oppose this Motion provided that Petitioners file by email PDF documents, serve the entire updated Service List by email with an updated Certificate of Service and promptly resend in the case of bounced emails or typographical errors that result in non-delivery of emails. Counsels for Owe Aku & Debra White Plume, for the OST and for the BHSNTC, do not oppose this Motion.

## DISCUSSION

Petitioners are also part of the Crow Butte Renewal Proceeding (see LBP -08-24) and, in that proceeding, documents are filed using the NRC's Electronic Information Exchange (EIE) document system, except that pursuant to the Renewal Board's Order dated October 7, 2008, Petitioners are allowed to make filings by email (outside of the EIE document system) due to computer system and software incompatibilities. As a result, in the Renewal Proceeding, filings are made electronically and are due by Midnight, Eastern Time, on the date due. This has created inconsistencies for parties and counsels that are involved in both the Amendment Proceeding and the Renewal Proceeding and has created a large cost in printing and postage for Petitioners as well as a substantial inconvenience. It seems that since electronic filings by email are acceptable in the Renewal Proceeding, they should likewise be acceptable in this Proceeding for the efficient progress of this matter and the convenience of all parties.

During this Proceeding, filings have been made by email without any problems. Although there have been a few instances where an email has bounced or been directed to the wrong address due to a typographical error, such mis-deliveries have been immediately rectified by prompt resending of the email. Petitioners believe that this track record of reliable email filings justifies removing the requirement for sending paper copies.

Based on the foregoing, and in order to ensure efficient filing of documents and to harmonize the applicable procedures of the Renewal Proceeding and the Amendment Proceeding, Petitioners respectfully request that the Board issue an Order : (1) allowing

Petitioners and all parties to file documents in this proceeding as PDF documents sent by email together with an appropriate Certificate of Service (without sending any paper hard copies) provided the documents are also sent to [Hearing.Docket@nrc.gov](mailto:Hearing.Docket@nrc.gov) and all judges and parties' counsels of record and parties listed in the then current service list (as it may be amended from time to time). Petitioners and other parties will continue to receive filings by email as PDF documents without receiving any paper hard copies; (2) removing the requirement to mail paper conforming copies currently required by the Board's Order dated December 12, 2007; and (3) providing that the filing time in this Proceeding shall be Midnight, Eastern Time, on the date due.

### **CONCLUSION**

For all the foregoing reasons, the Board should issue the order requested by Petitioners herein.

Dated this 3rd day of December, 2008.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that copies "PETITIONER MOTION TO MAKE FILINGS BY EMAIL" in the above captioned proceeding has been served on the following persons by electronic mail as indicated by a double asterisk (\*\*), and by deposit in the United States Mail as indicated by an asterisk (\*); on this 3rd day of December, 2008:

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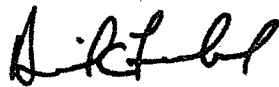
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