

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

In the Matter of

CROW BUTTE RESOURCES, INC.

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

Docket No. 40-8943

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

March 5, 2009

NOTICE and ORDER
(Regarding Oral Argument)

The above captioned proceeding involves the application of Crow Butte Resources, Inc. ("Crow Butte" or "Applicant") to renew its Source Materials License for the continued operation of its current in-situ leach (ISL) uranium recovery facility in Crawford, Nebraska. Oral argument will be heard on the pleading filed with regard to Consolidated Intervenor's Miscellaneous Contention K regarding issues raised related to the alleged foreign ownership of the Applicant. The Board will also address at oral argument the Applicant's Motion for Summary Disposition on Consolidated Intervenor's Contention G regarding the disclosure of the Applicant's alleged foreign ownership. This oral argument will be held on Tuesday, March 24, 2009, in the courtroom of the Honorable Karen E. Schreier, Chief Judge for the U.S. District Court for the District of South Dakota. The United States Courthouse for the District of South Dakota is located at 515 Ninth Street, Rapid City, South Dakota 57701. Judge Schreier has graciously reserved Courtroom One for our use during the oral argument.¹ The parties shall notify the Board through its law clerk, Johanna Thibault (Johanna.Thibault@nrc.gov), no later than Thursday, March 19, 2009, as to the name of the counsel who will be presenting argument on its behalf.

¹ For specific locational information, the U.S. District Court of South Dakota provides details on its website at <http://www.sdd.uscourts.gov>.

The oral argument will commence at 9:00 a.m. with the format, including the allocation of time to the various participants, to be determined at the outset of the March 24 session. For the present, it is enough to provide the following guidance to participating counsel in aid of their preparation for the oral argument.

The Board will be fully familiar on March 24 with the content of the extensive written submissions regarding Miscellaneous Contentions G and K that have been presented to it. It therefore neither needs nor desires a repetition of the pleadings at the oral argument. The decision of the Board to hear oral argument is based entirely on its conclusion that, after a full study of the written submissions, its informed resolution of some of the presented issues might be materially advanced by a further exploration with the parties of the positions taken on those issues in the written submissions.

In sum, the oral argument is being conducted principally to assist the Board in the discharge of its decisional responsibilities in this matter. At the same time, however, it should prove of considerable value to the parties in that it will provide their counsel with an opportunity, not otherwise possessed, to endeavor to resolve any doubts that the Board members might have regarding the merits of their positions on the issues under consideration. For that reason, counsel should be fully prepared on each identified issue that is a matter of concern to his or her client(s).

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD²

/RA/

Michael M. Gibson, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
March 5, 2009

² Copies of this memorandum and order were sent this date by the agency's E-Filing system to the counsel/representatives for (1) applicant Crow Butte Resources, Inc.; (2) Consolidated Petitioners; (3) NRC Staff; 4) Oglala Delegation of the Great Sioux Nation Treaty Council; and 5) Oglala Sioux Tribe.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB NOTICE AND ORDER (REGARDING ORAL ARGUMENT) have been served upon the following persons by Electronic Information Exchange.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: ocaamail@nrc.gov

Administrative Judge
Michael M. Gibson, Chairman
Atomic Safety and Licensing Board Panel
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: mmg3@nrc.gov

Megan Wright, Law Clerk
E-mail: megan.wright@nrc.gov

Administrative Judge
Dr. Richard F. Cole
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission.
Mail Stop T-3F23
Washington, DC 20555-0001
E-mail: rfc1@nrc.gov

Administrative Judge
Brian K. Hajek
Atomic Safety and Licensing Board Panel
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission.
Washington, DC 20555-0001
E-mail: NETS@Columbus.RR.com
BHK3@nrc.gov

DOCKET NO. 40-8943-OLA
LB NOTICE AND ORDER (REGARDING ORAL ARGUMENT)

Administrative Judge
Alan S. Rosenthal
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission.
Mail Stop T-3F23
Washington, DC 20555-0001
E-mail: rsnthl@verizon.net
axr@nrc.gov

Winston & Strawn, LLP
101 California Street
San Francisco, CA 94111
Tyson R. Smith, Esq.
Emily J. Duncan
Counsel for Crow Butte Resources, Inc.
E-mail: trsmith@winston.com
ejduncan@winston.com

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop O-16C1
Washington, DC 20555-0001
Hearing Docket
E-mail: hearingdocket@nrc.gov

Western Nebraska Resources Council
Chief Joseph American Horse
Thomas K. Cook, Francis E. Anders
David Cory Frankel, Esq
P.O. 3014
Pine Ridge, South Dakota 57770
E-mail: Arm.legal@gmail.com

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop O-15D21
Washington, DC 20555-0001
Catherine Marco, Esq.
Bret Klukan, Esq.
Shahram Ghasemian, Esq.
E-mail: Shahram.Ghasemian@nrc.gov
clm@nrc.gov
bmk1@nrc.gov

Western Nebraska Resources Council,
Chief Joseph American Horse, Thomas K. Cook,
and Francis E. Anders
Shane C. Robinson, Esq.
2814 E. Olive St.
Seattle, WA 98122
E-mail: shanecrobinson@gmail.com

OGC Mail Center : OGCMailCenter@nrc.gov

McGuire and Norby
605 South 14th Street, Suite 100
Lincoln, Nebraska 68508
Mark D. McGuire
Counsel for Crow Butte Resources, Inc.
E-mail: mdmsin@alltel.net

Oglala Sioux Tribe
Elizabeth Lornia, Esq.
Mario Gonzalez, Esq.
522 7th Street, Suite 202
Rapid City, SD 57701
E-mail: elorina@gnzlawfirm.com
gnzlaw@aol.com

DOCKET NO. 40-8943-OLA
LB NOTICE AND ORDER (REGARDING ORAL ARGUMENT)

The Oglala Delegation of the Great Sioux
Nation Treaty Council
Thomas J. Ballanco, Esq.
Harmonic Engineering, Inc.
945 Taraval Ave. # 186
San Francisco, CA 94116
E-mail: HarmonicEngineering1@mac.com

Owe Oku, Debra White Plume,
and David House
P.O. Box 2508
Rapid City, South Dakota 57709
Bruce Ellison, Esq.
E-mail: belli4law@aol.com

Thomas K. Cook
1705 So. Maple Street
Chadron, NE 69337
E-mail: slmbttsag@bbc.net

Alberto Saldamando
International Indian Treaty Council
2940 16th Street, Suite 205
San Francisco, CA 94103-3688
E-mail: alberto@treatycouncil.org

[Original signed by Nancy Greathead]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 6th day of March 2009