

August 31, 2009

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

Dr. Richard Cole  
Administrative Judge  
Atomic Safety and Licensing Board Panel  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Brian K. Hajek  
Administrative Judge  
Atomic Safety and Licensing Board Panel  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Alan S. Rosenthal  
Administrative Judge  
Atomic Safety and Licensing Board Panel  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

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

Dear Administrative Judges,

Pursuant to 10 C.F.R. §§ 2.336(b) and (c), 2.1203, and in accordance with the Atomic Safety and Licensing Board's March 6, 2009 Order, the NRC Staff produces herein its Mandatory Disclosures: 1) an index of each item in the hearing file and 2) a deliberative due process privilege log as required by 10 C.F.R. § 2.336(b)(5). The Staff is continuing to preserve and maintain required privileged documents during the pendency of this proceeding. Also, attached are the Affidavit of Stephen J. Cohen as required by 10 C.F.R. § 2.336(c), and the Declaration of Larry W. Camper, Director of the Division of Waste Management and Environmental Protection, formally invoking the deliberative process privilege as to the documents so referenced herein.

Respectfully submitted,

**Executed in Accord with 10 CFR 2.304(d)**  
Brett Michael Patrick Klukan  
Counsel for the NRC Staff  
U.S. Nuclear Regulatory Commission  
Mail Stop O-15 D21  
Washington, DC 20555-0001  
(301) 415-3629  
[Brett.Klukan@nrc.gov](mailto:Brett.Klukan@nrc.gov)

Dated at Rockville, Maryland  
This 31<sup>st</sup> day of August, 2009

Gibson  
Cole  
Hajek  
Rosenthal

Enclosures: Attachment 1: Hearing File Index  
Attachment 2: Deliberative Process Log  
Affidavit of Stephen J. Cohen  
Declaration of Larry W. Camper

cc: Attached Service List

**ATTACHMENT 1**  
**CROW BUTTE RESOURCES HEARING FILE AND MANDATORY DISCLOSURES**  
**HEARING FILE INDEX**  
**Update 6 – August 31, 2009**

<b>ID No.</b>	<b>Accession Number</b>	<b>Document Date</b>	<b>Title</b>
06-01	ML092220668	24-Jul-2009	Request for Alternate Decommissioning (Groundwater Restoration) Schedule.

**ATTACHMENT 2**  
**CROW BUTTE RESOURCES HEARING FILE AND MANDATORY DISCLOSURES**  
**DELIBERATIVE PROCESS LOG**  
**Update 6 – August 31, 2009**

<b>PDP No.</b>	<b>Accession Number</b>	<b>Author Name / Affiliation</b>	<b>Title/Description</b>	<b>Document Date</b>	<b>Document Type</b>	<b>Addressee / Addressee Affiliation</b>	<b>Comment</b>	<b>Page Count</b>
DP-06-01	ML092380072	H. Basagaoglu CNWRA Staff (NRC Contractor)	2009/08/26 CBR License Renewal - Second e-mail message with technical information pertaining to the Crow Butte site	08/26/2009	E-Mail	S. Cohen, NRC/FSME  B. Lenard, R. Benke, CNWRA	Staff discussion of technical information, including discussion of porosity of confining layer.	2
DP-06-02	ML092380075	A. Gross, NRC/FSME	2009/08/12 CBR License Renewal - are these the maps you were talking about?	08/12/2009	E-Mail	S. Cohen, NRC/FSME	Staff discussion of Crow Butte well field maps.	4

August 28, 2009

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
CROW BUTTE RESOURCES, INC.	)	Docket Nos. 40-8943
	)	
(License Renewal for the In Situ Leach	)	ASLBP No. 08-867-08-OLA-
Facility, Crawford, Nebraska)	)	BD01

AFFIDAVIT OF STEPHEN J. COHEN CONCERNING  
MANDATORY DISCLOSURE  
REQUIREMENT OF 10 C.F.R. § 2.336(c)

I, Stephen J. Cohen, do hereby state as follows:

1. I am employed as a Team Leader in the Uranium Recovery Licensing Branch in the Nuclear Regulatory Commission's ("NRC") Office of Federal and State Materials and Environmental Management Programs. I previously served as the Project Manager for the Crow Butte Resources, Inc. license application to operate an in-situ leach (ISL) uranium recovery facility. Among other things, I managed the preparation of the hearing file and mandatory disclosures in connection with the license application issue in this proceeding.

2. I hereby certify that all relevant materials required to be disclosed pursuant to 10 C.F.R. § 2.336 (b) and (c) in the captioned proceeding have been disclosed, and that the disclosures are accurate and complete as of the date of this certification.

3. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

  
Stephen J. Cohen

Executed in Rockville, MD  
this 28<sup>th</sup> day of August, 2009

August 27, 2009

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
CROW BUTTE RESOURCES, INC.	)	Docket Nos. 40-8943
	)	
(License Renewal for the In Situ Leach	)	ASLBP No. 08-867-08-OLA-
Facility, Crawford, Nebraska)	)	BD01

DECLARATION OF LARRY W. CAMPER

I, Larry W. Camper, do hereby state as follows:

1. I am employed as the Director of the Division of Waste Management and Environmental Protection in the Nuclear Regulatory Commission's ("NRC") Office of Federal and State Materials and Environmental Management Programs. My supervisory responsibilities include oversight of the NRC Staff's review and evaluation of the Crow Butte Resources, Inc. License Renewal Application.

2. As part of their responsibilities in preparing the hearing file and mandatory disclosures for these proceedings, NRC Staff members under my supervision identified certain documents as privileged because they contained information concerning the Staff's deliberative process. Those documents are listed in Attachment 2 to the Mandatory Disclosures submission of the Staff's Hearing File.

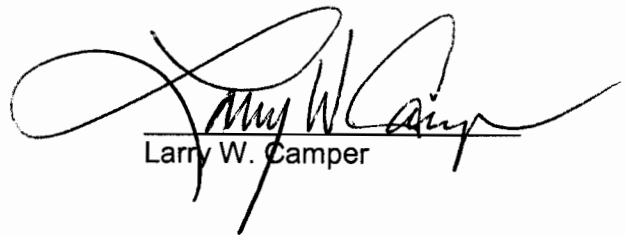
3. I have personally reviewed the documents identified as privileged in Attachment 2, and have determined, in accordance with the guidance set forth in Management Directive 3.4, that they contain predecisional information concerning the Staff's review of the license application. All documents contain the Staff's analyses, recommendations, opinions, or evaluations, and may not necessarily reflect the final agency position with respect to the matters discussed therein. Each of the documents

comprises part of the deliberative process necessary to the Staff's review of the pending license application.

4. Further, I have determined that disclosures of these documents could result in harm to the agency, in that it would (a) prematurely disclose the preliminary views of individual Staff members and/or the Staff prior to reaching a final agency decision, and could thus create confusion as to the actual policy or views of the NRC Staff; (b) hinder the efficiency of the Staff, in that forced disclosure of its internal discussions on an unresolved issue would tend to chill all future deliberations and would interfere with the Staff's ability to engage in a free exchange of opinions and analyses prior to publishing its final review documents; and (c) imply or suggest incorrectly that the opinions of the Staff members involved in these communications are actually the final decisions of the agency, while no such final decision has yet been made.

5. Accordingly, I formally invoke the deliberative process privilege with respect to each of the documents listed in Attachment 2 to the Mandatory Disclosures submission of the Staff's Hearing File.

6. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.



Larry W. Camper

Executed in Rockville, MD  
this 27th day of August, 2009.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
CROW BUTTE RESOURCES, INC.	)	Docket Nos. 40-8943
	)	
(License Renewal for the In Situ Leach	)	ASLBP No. 08-867-08-OLA-BD01
Facility, Crawford, Nebraska)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "NRC STAFF'S LETTER TO THE ATOMIC SAFETY AND LICENSING BOARD" in the above captioned proceeding have been served via the Electronic Information Exchange ("EIE") this 31<sup>st</sup> day of August 2009, which to the best of my knowledge resulted in transmittal of the foregoing to those on the EIE Service List for the above captioned proceeding.

**Executed in Accord with 10 CFR 2.304(d)**

Brett Michael Patrick Klukan  
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U.S. Nuclear Regulatory Commission  
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