

Official Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

Title: Crow Butte Resources, Inc.
In-situ Leach Uranium Recovery Facility
Pre-Hearing Conference

Docket Number: 40-8943-MLA

DOCKETED
USNRC

December 7, 2009 (8:00am)

Location: (telephone conference)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Date: Tuesday, December 1, 2009

Work Order No.: NRC-3239

Pages 686-709

NEAL R. GROSS AND CO., INC.
Court Reporters and Transcribers
1323 Rhode Island Avenue, N.W.
Washington, D.C. 20005
(202) 234-4433

Implate Log-032

DS-03

1 UNITED STATES OF AMERICA

2 + + + + +

3 NUCLEAR REGULATORY COMMISSION

4 + + + + +

5 ATOMIC SAFETY AND LICENSING BOARD PANEL

6 + + + + +

7 PRE-HEARING CONFERENCE

8 -----7
9 In the Matter of: :

10 CROW BUTTE RESOURCES, INC. : Docket No. 40-8943-MLA

11 (In-situ Leach Uranium : ASLBP No.

12 Recovery Facility, : 07-859-03-MLA-BD01

13 Crawford, Nebraska) :

14 -----J

15
16 Tuesday, December 1, 200917
18 The above-entitled conference convened

19 telephonically, pursuant to notice, at 2:30 p.m.

20 Eastern Daylight Time.

21
22 BEFORE:

23 THE HONORABLE ANN YOUNG, Administrative Judge

24 (Chair)

25 THE HONORABLE FRED OLIVER, Administrative Judge

26 THE HONORABLE RICHARD COLE, Administrative Judge

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 APPEARANCES:

2 On Behalf of Petitioner Western Nebraska3 Resources Council:

4 SHANE ROBINSON, Esquire

5 2814 East Olive Street

6 Seattle, Washington 98122

7 (206) 465-4740

8 On Behalf of Petitioner the Oglala Sioux Tribe:

9 GRACE DUGAN, Esquire

10 Gonzalez Law Firm

11 P.O. Box 772

12 Ralston, WY 82440

13 dugan@wavecom.net

14 On Behalf of Petitioner Debra White Plume and15 Owe Aku:

16 BRUCE ELLISON, Esquire

17 P.O. Box 2508

18 Rapid City, South Dakota 57709

19

20

21

22

23

24

25

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 APPEARANCES (con't)

2 On Behalf of the Applicant, Crow Butte3 Resources:

4 TYSON R. SMITH, Esquire

5 EMILY J. DUNCAN, Esquire

6 Winston & Strawn

7 101 California Street

8 San Francisco, California 94111

9 (415) 591-6874

10 MARK D. McGUIRE, Esquire

11 McGuire & Norby

12 605 South 14th Street, Suite 100

13 Lincoln, Nebraska 68508

14 (402) 434-2390

15 On Behalf of the Nuclear Regulatory Commission:

16 BRETT KLUKAN, Esquire;

17 STEPHEN COHEN, Esquire;

18 CATHERINE SCOTT, Esquire;

19 MARSHA SIMON, Esquire;

20 Office of the General Counsel

21 Nuclear Regulatory Commission

22 Mail Stop O-15D21

23 One White Flint North

24 11555 Rockville Pike

25 Rockville, Maryland 20852

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

P-R-O-C-E-E-D-I-N-G-S

2:30 p.m.,

JUDGE YOUNG: I think we probably need to go ahead and get started.

So again, this is Judge Ann Marshal Young, the Chair of this licensing board.

And Dr. Richard Cole and Dr. Fred Oliver, who are the two technical judges.

We just found a phone number for Thomas Ballanco, Ms. Dugan, or Mr. Ellison or Mr. Robinson. It's 650-296-9782.

MR. ELLISON: Ms. Dugan, if you would be in a position to call because I only have one land line here and my cell phone does not work where I am.

MS. DUGAN: Yes, I will do that.

JUDGE YOUNG: Okay. Well then let's go ahead and start with the staff. And if you could identify for the record who staff counsel consists of at this point and who you have with you?

MR. KLUKAN: Counsel for the staff, Your Honor, is Brett Klukan. I also have with me Catherine Scott, formerly Catherine Marco. And our team leader Stephen Cohen.

JUDGE YOUNG: Did Marsha --

MR. KLUKAN: Marsha did, Your Honor, file

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 a notice of appearance. But however due to OGC NEDA
2 training she's unavailable to be with us at this time.

3 JUDGE YOUNG: But she is listed. Tell me
4 her last name again.

5 MR. KLUKAN: Simon.

6 JUDGE YOUNG: Simon. Marsha Simon is
7 still to be listed as staff counsel, correct?

8 MR. KLUKAN: Correct, Your Honor.

9 JUDGE YOUNG: Okay. And who else do you
10 have with you?

11 MR. KLUKAN: I have with me Catherine
12 Marco or now known as Catherine Scott. And our team
13 leader for the staff Stephen Cohen.

14 JUDGE YOUNG: Okay. Thank you.

15 For the applicant?

16 MR. SMITH: Tyson Smith for Crow Butte
17 Resources. And Emily Duncan is also on the phone.
18 And Mark McGuire is on the line as well.

19 MR. MCGUIRE: Correct.

20 JUDGE YOUNG: Okay. Mr. Ellison, why
21 don't we start with you for the intervenors and then
22 we'll go to Ms. Dugan and Mr. Robinson and you can let
23 us what's happening with Mr. Frankel and Mr. Ballanco.

24 MR. ELLISON: Yes, Your Honor. Bruce
25 Ellison on behalf of Debra White Plume and Owe Aku.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 JUDGE YOUNG: While we're waiting for Ms.
2 Dugan, Mr. Robinson.

3 MR. ROBINSON: This is Shane Robinson for
4 Western Nebraska Resources Council.

5 JUDGE YOUNG: And Mr. Frankel is still co-
6 counsel with you?

7 MR. ROBINSON: That's correct.

8 JUDGE YOUNG: And do you know what the
9 situation is with him at this point? Is he going to
10 be joining us or not?

11 MR. ROBINSON: I am not sure. I was out
12 of the country until yesterday and haven't spoken with
13 him since I returned.

14 MS. DUGAN: Who is speaking, please?

15 JUDGE YOUNG: That was Mr. Shane Robinson,
16 I think.

17 MS. DUGAN: All right.

18 JUDGE YOUNG: Ms. Dugan, are you finished
19 with your call to Mr. Ballanco?

20 MS. DUGAN: Yes. I left a voice mail.
21 I'm assuming the number was correct. There was no
22 identifying information in the voice message that
23 answered the phone.

24 JUDGE YOUNG: Okay. Is there anyone else
25 on the phone besides that we've gone through?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Okay. For the court reporter, you did get
2 all that, right?

3 MS. DUGAN: And my presence is noticed.

4 JUDGE YOUNG: Ms. Dugan, right?

5 MS. DUGAN: Yes.

6 COURT REPORTER: Yes, Your Honor.

7 JUDGE YOUNG: If you need to stop us to
8 clarify what any words are or stop us from talking to
9 each other, please feel free. And then if you need to
10 keep any of us at the end to get spellings of names or
11 words, feel free.

12 COURT REPORTER: Thank you, Your Honor. I
13 appreciate it.

14 JUDGE YOUNG: Okay. All right. Before we
15 went on the record we were talking about a couple of
16 things. One was to make sure who counsel was for all
17 the parties, and I think we've pretty much clarified
18 that at this point. Mr. Frankel may or may not be
19 calling in, and Mr. Ballanco, we're not sure what his
20 situation is.

21 We were also talking about the Board would
22 like under the 10 CFR 2.316 to ask the intervenors to
23 get together and discuss which of the issues remaining
24 for hearing will be handled by which attorney. In
25 other words, we'd like for you to consolidate your

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 presentations so we won't be getting duplicative
2 filings saying essentially the same thing on the
3 various issues.

4 The issues, of course, for hearing at this
5 point absent the admission of any future contentions
6 are those stated at pages 36 and 37 of the
7 Commission's order in CLI-09-12.

8 One thing does occur to us, and that is
9 that subpart A(1) and subpart A(2) as to the mixing,
10 obviously the proof on those will probably overlap and
11 it would seem that there would be no need to present
12 two sets of proof on that. But the sub, sub, sub
13 parts, so to speak, that are listed as basis those
14 might separate out some of the issues to an extent
15 such that you could decide among yourselves, and I'm
16 talking to the intervenors at this point, how you want
17 to divide up your presentation of the evidence. And
18 that would include: The filing of written pre-filed
19 testimony; pre-filed rebuttal testimony; the filing of
20 questions that you'd like to have the Board ask. And
21 it will require some significant amount of
22 coordination among all of you.

23 Now we're assuming in saying this that all
24 of the intervenors wish to participate as to all of
25 the issues that the Commission has set out in the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 subpart A(1) and subpart A(2) of the contention. And
2 we may end up having to call those A(1) would be one
3 and A(2) would be another one and then the subparts of
4 those just for ease for reference.

5 But is our assumption correct that all of
6 the intervenors will be participating on all of the
7 issues and contentions?

8 MR. ELLISON: Your Honor, on behalf of
9 Debra White Plume, this is Bruce Ellison on Daniel
10 Wilson --

11 MS. DUGAN: I'm sorry. I can't hear.

12 MR. ELLISON: Yes. This is Bruce Ellison
13 on behalf of Daniel Wilson and Owe Aku. I would
14 believe from our perspective that that would be
15 correct, Your Honor.

16 JUDGE YOUNG: Mr. Robinson?

17 MR. ROBINSON: I agree.

18 JUDGE YOUNG: Ms. Dugan?

19 MS. DUGAN: I agree.

20 JUDGE YOUNG: And --

21 MR. ELLISON: I think Mr. Ballanco would
22 agree too, Your Honor.

23 JUDGE YOUNG: Okay. That's what our
24 assumption was. And so basically we'd like to ask all
25 of you to get together and just indicate to us how you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 want to divide up the presentation, who you want to
2 designate as lead counsel on the various issues. And
3 we can set a deadline for that that will accommodate
4 your needs in that regard since we're obviously not
5 around the corner from the filing of that proof.

6 When we set this conference call we were
7 thinking that the FEIS would be issued in December, in
8 other words this month, and so there's less urgency
9 then there was at that point.

10 How long would you like to confer on that?

11 MR. ELLISON: Your Honor, this is Bruce
12 Ellison.

13 I guess I would like to get a sense of the
14 Court's thinking, at least in terms of the outer
15 limits of that. We can do some consultation in the
16 next week or so, but then we get into a holiday
17 period.

18 Could I get a sense of what Your Honors
19 were thinking in that regard: Two weeks, a month, a
20 month and a half?

21 MS. DUGAN: Excuse me. Mr. Ellison, I can
22 hear everyone clearly but you. You --

23 MR. ELLISON: Oh, I'm sorry. I'm not sure
24 if I can improve that.

25 JUDGE YOUNG: Could you hold your mouth

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 closer to the phone, maybe?

2 MR. ELLISON: I'm trying, Your Honor.

3 JUDGE YOUNG: That's good. That's good.

4 MR. ELLISON: Is that better? All right.

5 MS. DUGAN: Yes, much.

6 MR. ELLISON: Thank you.

7 I don't know what Your Honors were
8 thinking of in terms of, you know, for us to get back
9 to you within a week, a few weeks in light of the
10 holidays coming up, after the first of the year and
11 then if so, when. Because that would give us a sense.
12 I mean, we can begin some consultation, certainly,
13 within the next week or so assuming we can get a hold
14 of everybody. But when were Your Honors thinking that
15 they'd like to have a response back from us?

16 JUDGE YOUNG: As I said, I don't think
17 there's any urgency. If you would like until after
18 the holidays or, I mean --

19 JUDGE COLE: We're months away from the
20 filings. Why don't you want for the filings?

21 JUDGE YOUNG: Right. So you let us know
22 when you think would be a good time. And you could let
23 us know after the conference, if you like.

24 MR. ELLISON: Okay. That might be better.
25 Then we could certainly talk about that, Your Honor.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 JUDGE YOUNG: Okay. But I think as we
2 discussed before we went the record, the basic idea is
3 we want to make this as efficient as possible. And
4 since you all seem to have congruent interests--

5 MR. ELLISON: Yes.

6 JUDGE YOUNG: -- it seems like you would
7 be able to get together and decide how you want to
8 present your proof.

9 All right. Just moving on, we also
10 indicated before we went on the record that we'd like
11 to hear from the staff as to what your current
12 expectation is as to whether these dates; the most
13 recent dates we have are February of 2010 for the SER
14 and March 2010 for the final, I said FEIS but the
15 final Environmental Review document is a more accurate
16 term, I guess. Do you have any idea at this point how
17 firm those dates are? And part of the reason we ask
18 is, as we said before, with these dates that would put
19 us into next October for a hearing. And after October
20 the weather becomes a little iffy out in Nebraska
21 based on our experience. And so we're partly thinking
22 of that in terms of this question as to the firmness
23 of your dates.

24 MR. KLUKAN: Your Honor --

25 JUDGE COLE: Is this Mr. Cohen?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MR. KLUKAN: No, this is Mr. Klukan, Your
2 Honor, I apologize.

3 These dates, I'm sorry to be vague, Your
4 Honor, but are the best dates available. We don't
5 have any open issues at this time as far as we're
6 aware with regards to the final Environmental Review
7 document. That's simply how long it's going to take
8 for us to prepare we estimate at this point.

9 However, with regard with the SER, as we
10 do expect there to be open issues in the draft SER,
11 when that concludes or when we're able to write the
12 final SER depends, in large part, on how the applicant
13 responds to the open issues of the draft SER.

14 JUDGE YOUNG: And would there be any point
15 in asking applicant to enlighten us, or is that just
16 a matter of the acceptance of how they respond?

17 MR. SMITH: Your Honor, this is Tyson
18 Smith from Crow Butts.

19 You know, we are doing our best to respond
20 to the requests for information in as timely a fashion
21 as we can in terms of generating the information and
22 then providing it to the NRC staff.

23 JUDGE YOUNG: Okay. Well, I think as we
24 may have done this before, but we have to end up
25 setting initial dates and weather fallback dates if we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 do get into next winter for the hearing time. Because
 2 I think everyone knows that's the Board in the license
 3 renewal case got stranded by a blizzard trying to get
 4 to one oral argument, was it last late winter or early
 5 spring. And so we want to try to--

6 JUDGE COLE: It was snow shoe weather.

7 JUDGE YOUNG: Right. So in any event, the
 8 staff will continue to give us updates and we'll see
 9 where that takes us.

10 MR. ELLISON: Judge Young, this is Bruce
 11 Ellison on behalf Debra White Plume and Owe Aku.

12 JUDGE YOUNG: Could you get a little
 13 closer to the phone?

14 MR. ELLISON: Yes, ma'am. Thank you.

15 I have a question: Does it make sense for
 16 the intervenors to be providing, or I guess I should
 17 ask it this way. If we can get together and then,
 18 say, provide the Court with the responses to who would
 19 have primary in various issues, say in January can we
 20 have some flexibility with that in terms of should
 21 once we get the final Environmental Review let alone
 22 the draft SER, should that change at all, can we have
 23 some flexibility on that should we need to do that?

24 JUDGE YOUNG: Yes. We think that would be
 25 reasonable.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
 1323 RHODE ISLAND AVE., N.W.
 WASHINGTON, D.C. 20005-3701

1 MR. ELLISON: Thank you.

2 JUDGE YOUNG: And, of course, we don't
3 know whether there might be anymore contentions. Once
4 we get those documents we do want to remind everyone
5 of the deadlines that are set, or the timeline that we
6 set in our scheduling order. Make sure you keep to
7 those. In other words, 30 days after the relevant
8 document for any new contentions that would be based
9 on those.

10 And I don't know whether at this point
11 what procedure you have in place, what procedure the
12 staff has in place for notifying the parties of the
13 availability of the document. But just to avoid any
14 potential problems with that, could the staff make
15 sure that once these are issues that you immediately
16 let all parties know that they have been issued and
17 where they can be located. And we'll just count the
18 date that you notify everyone of that availability,
19 we'll count that as the date from which we start
20 counting the 30 days.

21 MR. ELLISON: Your Honor, this is Bruce
22 Ellison.

23 May I request that the applicant at least
24 send it to me if it wasn't planning to do it by
25 everybody, by email rather than a formal filing.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Because my office still struggles sometimes with
2 getting into the EIE.

3 MR. KLUKAN: Your Honor, this is Brad
4 Klukan for the NRC staff.

5 The staff anticipated sending a Board
6 notification out and notification to the parties of
7 when these documents are available, the final SER and
8 the final Environmental Review document. And also we
9 will let the parties know when the draft versions of
10 such are available.

11 But in that letter we would provide the ML
12 number to ADAMS so that the parties and the Board can
13 access the documents through the ADAMS system.

14 JUDGE YOUNG: Right. Thank you.

15 JUDGE COLE: But could you also email that
16 information to them?

17 MR. KLUKAN: Sure. No problem, Your
18 Honor.

19 MR. ELLISON: Thank you. Thank you very
20 much.

21 JUDGE YOUNG: All right. You've all
22 received the schedule. And most all the dates are
23 tied to various other dates. So we're not able at
24 this point to fill in actual dates. But with that
25 said, do any of the parties have any issues that you'd

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 like to raise with regard to the schedule, or as a
2 matter of fact, with regard to anything else? Let's
3 just use this as a status conference and an
4 opportunity for any issues that any party has to be
5 brought out and addressed or discussed, at least?

6 MS. DUGAN: This is Grace Dugan.

7 I'm confused about the October hearing
8 date you've referred to, Judge Young. If the final
9 Environmental Review is released in May, of course, we
10 don't early May or late May --

11 JUDGE YOUNG: I think it's March at this
12 point, right?

13 JUDGE COLE: It's March 2010.

14 MR. KLUKAN: Yes, correct, Your Honor.
15 But I'd also like to make one clarification. I
16 misspoke. There won't be a draft SER made available.
17 There will, however, be a draft Environmental Review
18 document made available to the public.

19 I misspoke.

20 JUDGE YOUNG: And that will be when?

21 MR. KLUKAN: There won't be a draft -- the
22 staff did not anticipate releasing for the public a
23 draft copy of the SER. The staff does, however,
24 anticipate releasing a public copy or a public
25 document or version of the draft Environmental Review

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 document. I misspoke there.

2 But, yes, the date is March '10, or March
3 2010 is the anticipated publication date.

4 JUDGE YOUNG: I'm sorry. What I was
5 trying to understand is are you saying that the March
6 2010 is the draft Environmental Review date or the
7 final?

8 MR. KLUKAN: That would be a final, Your
9 Honor. I apologize. I was simply stating that prior
10 to that we will also notify the Board and the parties
11 of the availability of the draft Environmental Review
12 document.

13 JUDGE YOUNG: And when would that draft
14 be, do you know?

15 Hello?

16 MR. KLUKAN: I'm sorry, Your Honor. This
17 is Brad Klukan. I'm conferencing right now, if you
18 could just give me one moment. Discussing it with
19 Steve Cohen, our team manager who is here.

20 JUDGE YOUNG: Okay.

21 MR. ELLISON: Your Honor, this is Bruce
22 Ellison.

23 With keeping in mind the March '10 day for
24 what I believe would be the final, or at least
25 tentatively the final Environmental Review, with

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 regards to the 30 day notice I just wanted to let
2 everyone know I start what could be a two week federal
3 jury trial on March 9th, so we would probably be
4 needing additional time on behalf of Debra White Plume
5 --

6 JUDGE YOUNG: I think that we probably
7 should set another status conference for maybe late
8 February or early March before that happens. And then
9 we can talk about whether that's still on and whether
10 you would need that time at that point.

11 MR. ELLISON: Thank you, Your Honor. I was
12 actually going to suggest that. So thank you.

13 JUDGE YOUNG: Okay. Is the staff finished
14 conferring?

15 MR. KLUKAN: Your Honor, just to clarify.
16 If the Environmental Review document turns out to be
17 EA and there's no finding of significant impact, there
18 won't be a draft made publicly available before the
19 publication of the final EA. But if the staff
20 determines that an EIS is necessary upon a finding of
21 significant impact, then the draft would be made
22 available prior to that at a time to allow for public
23 comment. But I can't say what that is yet as the
24 staff has not yet made the determination of whether
25 there is a significant impact to necessitate an EIS.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 JUDGE YOUNG: Okay. Well, just a couple
2 of things. And, let's deal with Ms. Dugan's question
3 first.

4 The way we came up with the October date
5 was to start with the 155 days after issuance of the
6 final Environmental Review document, being in March.
7 And then add to that the several ten day periods found
8 in --

9 MS. DUGAN: Yes. Yes, Judge. I am
10 evidently mistaken. I thought that the Environmental
11 Review document was contemplated for May. I thought
12 that's what the filing said.

13 JUDGE YOUNG: Oh, okay. I think it's
14 March.

15 JUDGE COLE: It is March.

16 JUDGE YOUNG: But I would guess, and this
17 may not be the case, but I hazard a guess that if the
18 staff decides that an EIS is necessary, that that
19 might be delayed further. In any event, with regard
20 to a draft document as Judge Cole just pointed out
21 that, that if there were to be any new contentions
22 filed on a draft Environmental Review document, that
23 those would be due 30 days after that.

24 And to the extent that there might be any
25 issues that are first made available at that point and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 not a later point, unless all the parties agree, then
2 in order to avoid an argument that well the
3 intervenors could have filed something based on the
4 draft Environmental document, you might want to pay
5 attention to what comes out at that point and be
6 prepared to file contentions within 30 days of that
7 draft date or request an extension at that time if you
8 think you need one at that time.

9 So as said before, it would probably be a
10 good idea to set another status conference for
11 sometime in maybe February or early March. February
12 might be better. And probably what we'll do is just
13 ask people to give us your available dates or we'll
14 issue some. I don't think we're prepared at this
15 point to set anything definite in February. But if
16 everyone can sort of anticipate and check their
17 calendars after the conference.

18 Does anyone at this point know of any
19 dates in February when you would not be available? It
20 might be better to check in more detail as we get
21 closer to that time. Maybe in January.

22 Ms. Dugan, did that address your question?

23 MS. DUGAN: It did. Thank you.

24 JUDGE YOUNG: Okay. Are there any other
25 issues that any party would like to raise?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Hearing none, dare we assume that we have
2 nothing further to talk about today?

3 MR. ELLISON: Bruce Ellison on behalf of
4 Owe Aku and Debra White Plume.

5 We have nothing further at this time, Your
6 Honor.

7 JUDGE YOUNG: Anyone else?

8 Is the staff still here?

9 MR. KLUKAN: Yes, Your Honor.

10 JUDGE YOUNG: And you have nothing
11 further?

12 Applicant?

13 MR. SMITH: Nothing further, Your Honor.

14 JUDGE YOUNG: Okay. And Ms. Dugan and Mr.
15 Robinson?

16 MR. ROBINSON: Nothing further.

17 JUDGE YOUNG: And did Mr. Frankel or
18 Ballanco join us at any point? I don't think so.

19 Okay. Within the next couple of weeks
20 we'll issue another order following up on this
21 telephone conference. And to the extent, of course,
22 that any party has any issues that you'd like to raise
23 or if any party would like to ask that we schedule
24 another status conference before the one that we've
25 tentatively set for February, feel free to contact

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 everyone. It's best that you would contact all the
2 parties verbally in advance, and then file something
3 in writing just requesting that we set another
4 conference or raising whatever issue you'd like to
5 raise.

6 Anything else, Judge Oliver?

7 JUDGE OLIVER: I had one question. And
8 this is to the staff and it deals with procedure. I'm
9 just not familiar with it.

10 The scheduling is based around the two
11 reports. And you said that the timing of the reports
12 is based on the response from the applicant. Do you
13 go through the report entirely and you send out a list
14 of responses or as you go through the report and you
15 run across questions, then you ask the applicant for
16 responses? Do you understand my question?

17 MR. KLUKAN: One moment, Your Honor, while
18 I conference very quickly with my team leader, Mr.
19 Cohen, just to make sure I'm stating it correctly.

20 Your Honor, I think this addresses your
21 question. As the staff prepares the SER and
22 identifies questions or issues that are unanswered.
23 And then once compiling this list, either presents
24 them on a subject-by-subject basis to the applicant or
25 presents them in toto to the applicant all the open

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 issues the staff identifies in the draft SER as its
2 put together.

3 JUDGE OLIVER: Okay. Thank you.

4 JUDGE YOUNG: Judge Cole, did you --

5 JUDGE COLE: This is Judge Cole, I have
6 nothing further.

7 JUDGE YOUNG: All right. It was pleasant
8 talking with all of you today.

9 Does the court reporter have any last
10 minute things before we sign off?

11 I guess we can go off the record. We don't
12 need to put anything further on the record.

13 (Whereupon, the Pre-Hearing Status
14 Conference was adjourned at 3:00 p.m.)

15

16

17

18

19

20

21

22

23

24

25

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

CERTIFICATE

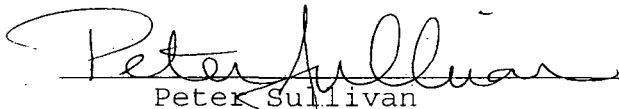
This is to certify that the attached proceedings
before the United States Nuclear Regulatory Commission
in the matter of: Crow Butte Resources, Inc.
 Leach Uranium Recovery Fac.

Name of Proceeding: Pre-Hearing Conference

Docket Number: 40-8943-MLA

Location: (teleconference)

were held as herein appears, and that this is the
original transcript thereof for the file of the United
States Nuclear Regulatory Commission taken by me and,
thereafter reduced to typewriting by me or under the
direction of the court reporting company, and that the
transcript is a true and accurate record of the
foregoing proceedings.


Peter Sullivan
Official Reporter
Neal R. Gross & Co., Inc.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701