

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

Before Administrative Judges:

Ann Marshall Young, Chair
Dr. Richard F. Cole
Dr. Fred Oliver

In the Matter of

CROW BUTTE RESOURCES, INC.
(License Amendment for the North Trend
Expansion Project)

Docket No. 40-8943

ASLBP No. 07-859-03-MLA-BD01

August 21, 2012

ORDER

(Concerning Recent Changes to 10 C.F.R. Part 2)

On August 3, 2012, the U.S. Nuclear Regulatory Commission published in the Federal Register a notice of adoption of a final rule, incorporating changes to its 10 C.F.R. Part 2 rules of practice, effective September 4, 2012.¹ In the statement of considerations for the rule, under the heading, “Effectiveness of the Final Rule,” it is stated that, in open proceedings, “if there is a dispute over an adjudicatory obligation or situation arising prior to the effective date of the new rule, the former rule provisions would be used. However, the new or amended requirements will be effective and govern all obligations and disputes that arise after [September 4, 2012].”² Moreover, “[t]he new and amended requirements in the final rule will not be retroactively applied to presiding officer determinations and decisions issued prior to the effective date of the final rule.”³ The Commission directed that “Licensing Boards should . . . take the necessary steps to notify parties of their obligations once the final rule becomes effective.”⁴

¹ Amendments to Adjudicatory Process Rules and Related Requirements, 77 Fed. Reg. 46,562 (Aug. 3, 2012).

² *Id.*

³ *Id.*

⁴ *Id.*

To that end, the Board advises all parties to familiarize themselves with the new rule provisions, and as well to note the following advice: The standards for the filing of new and amended contentions will be governed by 10 C.F.R. § 2.309 as amended (with changes to, among others, subsections (c) and (f)), though the timeliness deadline of thirty days set forth in our original scheduling order of November 5, 2009, shall remain in effect, as will the 20-day deadline for answers to such contentions.⁵ All other provisions in our November 5, 2009, order shall remain in effect, including those at section II, ¶ B, see 10 C.F.R. §§ 2.319(g), (k); 2.321(c); 2.332(a)(1), (a)(3), except as revised upon motion by a party.

As the Board has previously indicated to the parties, we will schedule a telephone conference once the Staff has completed and issued its safety and environmental documents, to address specific scheduling questions and any other appropriate matters. If any party wishes the Board to schedule an earlier conference to discuss any matters, including any relating to the subjects herein addressed, that party may file a motion to such effect, after consulting with the other parties in the proceeding and as otherwise provided at 10 C.F.R. § 2.323, as amended.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Ann Marshall Young, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland
August 21, 2012⁶

⁵ See 77 Fed. Reg at 46,591. See also Licensing Board Order (Schedule for Proceeding; Telephone Status Conference) (Nov. 5, 2009) at 5 (unpublished).

⁶ Copies of this Order were filed with the agency's EIE system for service to the parties on this date.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of)
)
CROW BUTTE RESOURCES, INC.) Docket No. 40-8943-MLA
)
In-situ leach Uranium Recovery Facility,)
Crawford, Nebraska)
)
(License Amendment for the North Trend)
Expansion Area))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Concerning Recent Changes to 10 C.F.R. Part 2)** have been served upon the following persons by Electronic Information Exchange.

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[Original signed by Nancy Greathead]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 21st day of August 2012