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May 22, 2013

BY ELECTRONIC INFORMATION EXCHANGE

Administrative Judge G. Paul Bollwerk, III, Chairman
Administrative Judge Dr. Richard E. Wardwell
Administrative Judge Dr. Thomas J. Hirons
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Two White Flint North
11545 Rockville Pike
Mail Stop: T-3F23
Rockville, MD 20852

In the Matter of
CROW BUTTE RESOURCES, INC.
(Marsland Expansion Area)
Docket No. 40-8943-MLA-2

RE: Agreement of the Parties Regarding Mandatory Disclosures

Dear Administrative Judges:

As directed in the Memorandum and Order (Ruling on Intervention Petitions), dated May 10, 2013, the parties held a conference within ten days of the decision to discuss claims and defenses, the potential for settlement, and arrangements for the disclosures required under 10 C.F.R. § 2.336(a). The parties are prepared to discuss the first two issues (claims/defenses and settlement) at the prehearing conference to be held in the near future. The purpose of this letter is to inform the Board of the agreement among Crow Butte Resources, the Oglala Sioux Tribe, and the NRC Staff regarding disclosures under 10 C.F.R. § 2.336. Specifically, the parties have agreed to the following protocol:

1. The parties may limit the mandatory disclosures to final documents that they develop, and need not include drafts (including comments on drafts, transmittals of drafts, resolution of comments on drafts, and similar documents).

2. If the same relevant e-mail exists in multiple locations, each party may produce only one copy of that e-mail. If a chain or string of e-mails exists, the party need only produce the last e-mail in the chain or string provided that it includes all of the previous e-mails, as well as attachments to those e-mails, and recipients of the chain or string.
3. If the same document exists in both hard copy and electronic format, a party may produce the electronic copy only.
4. A party need not identify or produce any document that has been served on the other parties to this proceeding.
5. The parties need not identify or produce press clippings.
6. In connection with the NRC Staff's submittal of the hearing file, the NRC Staff will identify all relevant documents available via the NRC's website or ADAMS, as required by 10 C.F.R. §§ 2.336(b) and 2.1203. So long as a document is identified by the NRC Staff in the hearing file, the parties shall not otherwise be required to identify or produce such documents if it is available via the NRC's website or ADAMS.
7. The initial disclosures for all parties should be provided on September 9, 2013, and supplemented on the first day of each month thereafter.
8. The parties waive the requirement in 10 C.F.R. §§ 2.336(a)(3) and 2.336(b)(5) to produce a privilege log (*e.g.*, attorney-client communications, attorney work product, deliberative process). However, the parties will still produce as part of their disclosures a list of any documents withheld as proprietary or sensitive. The parties agree to preserve and maintain all discoverable privileged documents, including attorney-client privileged material and attorney work product, during the pendency of this proceeding.

Sincerely,

/s/ signed electronically by

Tyson R. Smith

cc: EIE Service List