

March 25, 2015

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of: )  
) Docket No. 40-8943  
CROW BUTTE RESOURCES, INC. )  
) ASLBP No. 08-867-02-OLA-BD01  
(License Renewal) )

JOINT UNOPPOSED MOTION TO AMEND DEADLINE  
FOR INITIAL DISCLOSURES ON NEWLY-ADMITTED CONTENTIONS

INTRODUCTION

Pursuant to 10 C.F.R. § 2.323(a), Crow Butte Resources, Inc. (“Crow Butte”) and the NRC Staff hereby jointly move to amend a deadline established by the Board in its Order (Granting NRC Staff and Crow Butte Joint Unopposed Motion for Extension of Time to Respond to Consolidated Intervenors’ Additional Contentions), dated March 19, 2015 (“March 19 Order”).<sup>1</sup> Specifically, in the March 19 Order, the Board established a March 30, 2015 deadline for “Admitted New/Amended Contention Mandatory Disclosure Updates/Updated Witness Lists.” The Board noted that this deadline is 14 days after the Board’s decision (LBP-15-11) admitting several new contentions based on the NRC Staff’s Environmental Assessment (“EA”). For the reasons discussed below, Crow Butte and the NRC Staff are requesting that the deadline for initial disclosures on newly-admitted contentions be changed to April 15, 2015, which is 30 days after issuance of LBP-15-11.

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<sup>1</sup> In accordance with 10 C.F.R. § 2.323(b), counsel for Crow Butte contacted counsel for the parties to discuss the issues underlying this motion in an attempt to resolve those issues prior to filing. Counsel for the NRC Staff agreed to join the motion. Counsel for CI stated that they do not oppose the motion. Counsel for OST takes no position on the motion.

First, under NRC regulations in 10 C.F.R. § 2.336(a), initial disclosures on admitted contentions are due 30 days after a decision to admit new contentions. In this case, immediately following the Board’s March 16th decision to admit new contentions, Crow Butte established an internal schedule and interim milestones related to the identification, review, and production of documents responsive to the newly-admitted contentions — with an ultimate deadline of April 15, 2015 (30 days after Board decision admitting contentions). Crow Butte therefore relied on NRC regulations in establishing its internal schedule for initial disclosures.

Second, Crow Butte and the NRC Staff have been responding on an accelerated timeframe to the intervenors’ 11 proposed new contentions in parallel with efforts to complete initial disclosures on new contentions. As detailed in the “Joint Unopposed Motion for Extension of Time to Respond to Consolidated Intervenors’ Motion for Additional Contentions Based on EPA Proposed Rules,” dated March 18, 2015, CI had 27 days from the oral argument and 52 days from the issuance of the proposed EPA rules to develop new or amended contentions, while Crow Butte and the NRC Staff only had 11 of the normal 25 days in which to prepare its response. The length of CI’s pleading, the number of new contentions, and accelerated time frame for preparing a response reduced the time available for Crow Butte and the NRC Staff to prepare initial disclosures for the newly-admitted contentions.

Third, the March 30 deadline for initial disclosures was not discussed during the January 8 teleconference or agreed to by the parties prior to its inclusion in the Board’s March 19 Order.<sup>2</sup> As a result, neither Crow Butte nor the NRC Staff was aware of the truncated time frame

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<sup>2</sup> Tr. at 565–89.

for making initial disclosures until the Board's March 19 Order.<sup>3</sup> By that time, three of the 14 days had elapsed, resulting in an even shorter period of time for making initial disclosures.

For the above reasons, there is good cause for revising the deadline for initial disclosures on the newly-admitted contentions to April 15, 2015. Crow Butte and the NRC Staff understand the Board's desire to adhere to the scheduled hearing dates of August 24-28, 2015, and do not believe granting this motion would adversely impact that schedule.

Respectfully submitted,

/s/ signed electronically by

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COUNSEL FOR CROW BUTTE  
RESOURCES, INC.

Dated at San Francisco, California  
this 25th day of March 2015

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<sup>3</sup> Moreover, the text of the March 19 Order did not indicate that it was creating new deadlines other than those previously agreed to among the parties. Nor did the caption for the Order indicate that the Board was setting new deadlines unrelated to the timing of a response to the proposed contentions relating to the pending EPA rulemaking.

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CERTIFICATE OF SERVICE

I hereby certify that copies of “JOINT MOTION TO AMEND DEADLINE FOR INITIAL DISCLOSURES ON NEWLY-ADMITTED CONTENTIONS” in the captioned proceeding have been served this 25th day of March 2015 via electronic mail to Consolidated Intervenor at [davidcoryfrankel@gmail.com](mailto:davidcoryfrankel@gmail.com), [Arm.legal@gmail.com](mailto:Arm.legal@gmail.com), and [harmonicengineering@gmail.com](mailto:harmonicengineering@gmail.com) and via the Electronic Information Exchange (“EIE”), which to the best of my knowledge resulted in transmittal of the foregoing to all those on the EIE Service List for the captioned proceeding other than Consolidated Intervenor.

/s/ signed electronically by \_\_\_\_\_

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