

July 23, 2015

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
) Docket No. 40-8943-OLA
CROW BUTTE RESOURCES, INC.)
) ASLBP No. 08-867-02-OLA-BD01
(License Renewal for the In-Situ Leach)
Facility, Crawford, Nebraska))

AFFIDAVIT OF NATHAN GOODMAN CONCERNING
FACTUAL ERROR IN ENVIRONMENTAL ASSESSMENT AND REBUTTAL TESTIMONY

I, Nathan Goodman, do hereby declare under penalty of perjury that the following statement is true and correct to the best of my knowledge and belief:

1. My name is Nathan Goodman. I am employed by the U.S. Nuclear Regulatory Commission (NRC) in the Environmental Review Branch in the NRC's Office of Nuclear Material Safety and Safeguards. I am the lead Environmental Project Manager for the Staff's review of Crow Butte Resources, Inc.'s (CBR's) application for the renewal its NRC source and byproduct materials license. In my capacity as lead Environmental Project Manager, I led the development of the Crow Butte Environmental Assessment (EA) and the technical review for all resource areas in the EA with the exception of Water Resources, where I assisted in the technical review. My statement of professional qualifications is Staff Exhibit NRC-004.
2. As explained in the Staff's Errata to the EA, dated July 23, 2015 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML15201A525), the Staff identified an error in the EA regarding the characterization of the terms of CBR's National Pollution Discharge Elimination System (NPDES) permit for land application of treated process wastewater. Specifically, in the EA's description of CBR's NPDES permit No. NE0130613 issued by the State of Nebraska Department of Environmental Quality (NDEQ), the NRC states

that “Land application after wet weather events will not be utilized by CBR since it is not included in the current NPDES permit No. NE0130613 from the State of Nebraska.” NPDES permit No. NE0130613 states, however, that “Land application of treated process wastewater shall only be permitted during and immediately after wet weather events.” Therefore, based upon the information in the NPDES permit, the relevant portion of the pertinent statement in the EA should instead state that “Land application except during and immediately after wet weather events will not be utilized by CBR”

3. The characterization of the NPDES permit’s terms regarding the permitted timeframe for the use of land application during and immediately after wet weather events was a drafting error that does not affect the Staff’s analyses or conclusions in the EA, nor the issuance of the FONSI. It remains the case that CBR must comply with the terms of its NPDES permit for any land application activities and cannot perform any land application activities that are not authorized by this permit.

4. However, this error in the EA was not discovered until after the Staff had filed its rebuttal testimony in the Crow Butte proceeding (Exhibit NRC-076). One statement in the Staff’s rebuttal testimony for Contention 12 reproduces and relies upon the inaccurately transcribed sentence in the EA. Therefore, as explained in the Staff’s Motion to Submit Revised Rebuttal Testimony and New Exhibit, dated July 23, 2015, that statement in the testimony is likewise inaccurate. No further portions of the Staff’s rebuttal testimony on Contention 12, or any portions of the Staff’s initial testimony (Exhibit NRC-001) on Contention 12, are affected by the error in the EA.

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

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Executed in Rockville, MD
This 23rd day of July, 2015