

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

Before Administrative Judges:

Michael M. Gibson, Chair
Dr. Richard E. Wardwell
Brian K. Hajek
Alan S. Rosenthal (Special Assistant to the Board)

In the Matter of

CROW BUTTE RESOURCES, INC.

(License Renewal for the
In Situ Leach Facility, Crawford, Nebraska)

Docket No. 40-8943

ASLBP No. 08-867-02-OLA-BD01

July 31, 2015

ORDER

(Redaction of Documents)

The Board may have occasion to use certain documents at the upcoming August 24, 2015 evidentiary hearing that are not listed on any party's exhibit list and that appear not to be publicly available. Most of these documents, as identified below by ADAMS number, apparently are marked as not publicly available because they may contain information about cultural sites protected under the National Historic Preservation Act and related state laws.¹ The Board wishes to afford the parties an opportunity to review these documents before the hearing to prevent any accidental release of non-public information. By Monday, August 10, 2015, the parties shall jointly (1) advise the Board if any of the documents in ADAMS that are listed below contain material that should not be disclosed to the public, (2) state the law or privilege that prevents disclosure of such material to the public, and (3) produce to the Board and the parties

¹ Many of these documents have been disclosed as part of the 10 C.F.R. § 2.336 disclosure process. See NRC Staff Hearing File Update 76, attach. 2, at 1 (Apr. 15, 2015) (ADAMS Accession No. ML15105A609); Crow Butte Resources' Initial Disclosures on Newly Admitted/Amended Contentions and Updated Witness List, attach. A, at 1–2 (Apr. 15, 2015) (ADAMS Accession No. ML15105A530) [hereinafter "Crow Butte Updated Disclosures"].

public versions of such documents that redact any material that should not be disclosed to the public.

Consultations Related to Traditional Cultural Properties (TCP) Survey Development

- ML120590330 – February 14, 2012 Section 106 Consultation Meeting Transcript
- ML120590341 – February 15, 2012 Section 106 Consultation Meeting Transcript
- ML12171A342 – April 24, 2012 Conference Call Transcript
- ML12248A204 – August 9, 2012 Conference Call Transcript
- ML12264A599 – August 21, 2012 Conference Call Transcript
- ML13161A362 – May 23, 2013 Section 106 Consultation Meeting Transcript

Proposed Statements of Work Related to TCP Survey Development

- ML120870189 – March 8, 2012 Crow Butte Applicant Proposed Statement of Work
- ML12278A189 – September 27, 2012 Dewey Burdock Makoche Wowapi Tribe Proposed Statement of Work

In addition to the foregoing, the Board has identified other documents that could not be found in ADAMS but that the Board may have occasion to use at the upcoming hearing:

- (1) at least one updated Applicant Proposed Statement of Work (and possibly other substantially similar documents) regarding the TCP Survey of the Crow Butte license renewal area,² and
- (2) at least one Tribe Proposed Statement of Work (and possibly other substantially similar documents) regarding the TCP Survey of the Crow Butte license renewal area.³

By Monday, August 10, 2015, the parties shall likewise jointly (1) advise the Board if any of these documents contain material that should not be disclosed to the public, (2) state the law or privilege that prevents disclosure of such material to the public, and (3) produce to the Board

² Crow Butte Updated Disclosures, attach. A, at 1–2 (Production Bates Numbers CBR-LR-000759, CBR-LR-000764 through CBR-LR-000767).

³ See E-mail from Haimaniot Yilma, Project Manager, NRC, Inviting Undisclosed Recipients to August 9, 2012 Teleconference (Part 2 of 2) (Aug. 7, 2012) (ADAMS Accession No. ML12261A426).

and the parties public versions of such documents, and any other substantially similar documents, that redact any material that should not be disclosed to the public.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Michael M. Gibson, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland
July 31, 2015

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
CROW BUTTE RESOURCES, INC.) Docket No. 40-8943-OLA
)
In-Situ Leach Uranium Recovery Facility,)
Crawford, Nebraska)
)
(License Renewal))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Redaction of Documents)** have been served upon the following persons by Electronic Information Exchange, and by electronic mail as indicated by an asterisk.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: ocaamail@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop O-16C1
Washington, DC 20555-0001
Hearing Docket
E-mail: hearingdocket@nrc.gov

Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission.
Mail Stop T-3F23
Washington, DC 20555-0001

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop O-15D21
Washington, DC 20555-0001
Marcia J. Simon, Esq.
David Cylkowski, Esq.
Emily Monteith, Esq.
Sabrina Allen, Law Clerk
E-mail:
marcia.simon@nrc.gov
david.cylkowski@nrc.gov
sabrina.allen@nrc.gov
emily.monteith@nrc.gov

Michael M. Gibson, Chairman
Administrative Judge
E-mail michael.gibson@nrc.gov

Richard E. Wardwell
Administrative Judge
E-mail: richard.wardwell@nrc.gov

Alan S. Rosenthal
Administrative Judge
E-mail: alan.rosenthal@nrc.gov

Brian K. Hajek
Administrative Judge
E-mail: brian.hajek@nrc.gov

Winston & Strawn, LLP
101 California Street
San Francisco, CA 94111
Tyson R. Smith, Esq.
Noelle R. Formosa, Esq.
Counsel for Crow Butte Resources, Inc.
E-mail:
trsmith@winston.com
nformosa@winston.com

DOCKET NO. 40-8943-OLA

ORDER (Redaction of Documents)

Owe Oku, Debra White Plume,
and David House
P.O. Box 2508
Rapid City, South Dakota 57709
Bruce Ellison, Esq.
Roxanne Andre
E-mail: belli4law@aol.com
E-mail: roxanneandre@yahoo.com

Ved Nanda Center for International and
Comparative Law
1075 Waite Drive
Boulder, CO 80303
Andrew Reid, Esq.
Counsel for Oglala Sioux Tribe
E-mail: lawyerreid@gmail.com

Thomas J. Ballanco*
945 Taraval Avenue, # 186
San Francisco, CA 94116
Counsel for Joe American Horse, Thomas
Cook, Loretta Afraid-of-Bear Cook, Slim
Buttes Community, and Pine Ridge
Reservation, South Dakota 57770
E-mail: HarmonicEngineering@gmail.com

Western Nebraska Resources Council
Chief Joseph American Horse
Thomas K. Cook, Francis E. Anders
David Cory Frankel, Esq.*
P.O. 3014
Pine Ridge, South Dakota 57770
E-mail: Arm.legal@gmail.com

McGuire Law Firm
625 South 14th Street, Suite C
Lincoln, Nebraska 68508
Mark D. McGuire
Counsel for Crow Butte Resources, Inc.
E-mail: mdmcguire46@gmail.com

Winston & Strawn, LLP
1700 K Street
Washington, DC 20006
Noelle R. Formosa, Esq.
Carlos L. Sisco, Paralegal
Counsel for Crowe Butte Resources, Inc.
E-mail: nformosa@winston.com
csisco@winston.com

[Original signed by Clara Sola _____]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
This 31st day of July, 2015