

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

September 4, 2015

ORDER

(Admitting Exhibits; Scheduling Supplemental Testimony and October Hearing Day)

The Board held a hearing on the Crow Butte Resources (Crow Butte) license renewal from Monday, August 24 through Friday, August 28, 2015.<sup>1</sup> At the hearing, new exhibits were submitted in response to witness testimony and questions from the Board. In accordance with 10 C.F.R. § 2.337, the Board has determined that the following exhibits are reliable, material, and relevant to the proceeding, and so admits:

- Board exhibits, BRD-001 through BRD-029, with the exception of BRD-010;<sup>2</sup>
- Crow Butte exhibits, CBR-061 through CBR-064; and
- Oglala Sioux Tribe exhibits, OST-002 and OST-003.

The Board denies admission of Consolidated Intervenors' exhibit INT-078, the Anders affidavit. By Tuesday, September 8, 2015, the NRC Staff will submit additional modelling data related to

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<sup>1</sup> Judge Rosenthal, who serves as Special Assistant to the Board, was unable to be present at the hearing.

<sup>2</sup> Not all Board exhibits are on the Electronic Hearing Docket at this time, but they will be placed on the Electronic Hearing Docket shortly.

the Environmental Assessment that was not disclosed to the intervening parties pursuant to 10 C.F.R. § 2.1203. This modeling data will be marked as NRC-093. By Thursday, September 10, 2015, Consolidated Intervenors and Crow Butte will file exhibits INT-072 through INT-077 and BRD-010, respectively. The Board will rule on the admissibility of these materials shortly after they are submitted.

Some of the new exhibits submitted by the parties have raised questions regarding admitted contentions that will need to be addressed through additional testimony. Supplemental direct testimony will be due by Friday, September 18, 2015, rebuttal testimony will be due by Monday, September 28, 2015, and *in camera* proposed questions will be due by Monday, October 5, 2015. The Board intends to hold a single day of hearing between October 20 and October 23, 2015, to examine the parties' witnesses on the new testimony. This additional day of hearing will either be conducted over the telephone or, if suitable arrangements can be made, by video conference.

The testimony and additional hearing day will be strictly limited to the following topics:

- Whether the water levels in the Brule aquifer have lowered due to mining activities;
- What is the available head in the Basal Chadron/Chamberlain Pass formation and the maximum anticipated drawdown during Crow Butte's operation and restoration of its mining facility;
- Whether the results from the four pump tests demonstrate a hydraulic connection between the Brule and Basal Chadron/Chamberlain Pass formations;
- Whether the Basal Chadron/Chamberlain Pass formation exists beneath the Pine Ridge reservation and its connection (if any) to the Basal Chadron/Chamberlain Pass formation beneath the license renewal area;
- To what degree (if any) do the additional exhibits affect the conclusions regarding the structure of the White River feature and the NRC Staff's maximum likelihood modeling; and
- To what degree (if any) do the additional exhibits illustrate the groundwater flow directions in the Arikaree and Brule aquifers underlying the Pine Ridge reservation and the license renewal area.

All proffered direct and rebuttal testimony must be confined to one of the six topics listed above, must focus on how such evidence supports (or not) that party's previous position in this hearing, and may not be used to raised new issues that are outside the scope of the admitted contentions. While it may be necessary for a party to submit additional exhibits in support of the direct or rebuttal testimony associated with these six topics listed above, the Board directs the parties to limit such additional exhibits to those that are clearly relevant to, and directly support, the six topics listed above. Moreover, the Board will not consider any new document if it is merely listed as a reference in a party's direct or rebuttal testimony associated with these six topics listed above. Rather, any such new document will be considered only if it is formally offered as an exhibit filed in EIE and a copy of same is provided to the parties hereto within the deadlines established herein.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

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Michael M. Gibson, Chair  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
September 4, 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 (Admitting Exhibits; Scheduling Supplemental Testimony and October Hearing Day)** have been served upon the following persons by Electronic Information Exchange, and by electronic mail as indicated by an asterisk.

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DOCKET NO. 40-8943-OLA

**ORDER (Admitting Exhibits; Scheduling Supplemental Testimony and October Hearing Day)**

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[Original signed by Brian Newell ]  
 Office of the Secretary of the Commission

Dated at Rockville, Maryland  
 this 4<sup>th</sup> day of September , 2015