

November 18, 2016

Crow Butte Resources, Inc.  
ATTN: Mr. Brent Berg  
P.O. Box 169  
Crawford, NE 69339

SUBJECT: BILLING FOR POST-HEARING WORK REGARDING THE PARTIAL INITIAL DECISION OF THE ATOMIC SAFETY AND LICENSING BOARD IN THE MATTER OF THE CROW BUTTE RESOURCES, INC. LICENSE RENEWAL (DOCKET NUMBER 40-8943)

Dear Mr. Berg:

On May 26, 2016, the Atomic Safety and Licensing Board (Board) in the Crow Butte *in situ* uranium recovery facility license renewal proceeding issued a partial initial decision regarding the cultural and historic resources contention (LBP-16-07). The Board concluded that the U.S. Nuclear Regulatory Commission (NRC) staff's tribal cultural properties (TCPs) survey did not meet the identification obligations under the National Historic Preservation Act (NHPA) and that the NRC staff's National Environmental Policy Act (NEPA) review failed to take a "hard look" at potential TCPs.

During its ongoing efforts to address the Board's findings, the NRC staff identified an issue regarding the costs related to its curative actions. The NRC staff previously concluded that it was not required to bill Crowe Butte Resources, Inc. under Title 10 of the *Code of Federal Regulations* (10 CFR) Part 170 (direct fee-billable work) for these efforts. This was communicated to your counsel during the July 2016 teleconference call with the Board. Since then, the NRC staff revisited this matter and the NRC's Office of the Chief Financial Officer (CFO) has determined that this work must be billed under 10 CFR Part 170. On November 1, 2016, the NRC staff informed Crow Butte Resources, Inc. of these determinations in a teleconference call with Mr. Larry Teahon, through its monthly status update.

Going forward, you will be billed under Part 170 for the staff's efforts to address the Board's findings and complete the staff's NHPA and NEPA review for Crow Butte's application. As has been the case to date, consistent with the provisions in 10 CFR Part 171, you will not be billed for the staff's activities in direct support of the conduct of the contested hearing. Additionally, pursuant to its authority, the CFO will waive any costs incurred prior to October 31, 2016, for the staff's curative actions in response to the Board's partial initial decision due to the difficulty in segregating those costs from other non-fee billable activities.

B. Berg

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If you have any questions, please contact either Mr. Nathan Goodman or Mr. Ron Burrows of my staff. Mr. Goodman, the Environmental Project Manager can be reached by telephone at (301) 415-0221 or via e-mail at [Nathan.Goodman@nrc.gov](mailto:Nathan.Goodman@nrc.gov). Mr. Burrows, the Licensing Project Manager can be reached by telephone at (301) 415-6443 or via e-mail at [Ronald.Burrows@nrc.gov](mailto:Ronald.Burrows@nrc.gov).

Sincerely,

*/RA/*

Marc L. Dapas, Director  
Office of Nuclear Material Safety  
and Safeguards  
U.S. Nuclear Regulatory Commission

Docket No. 040-08943  
License No. SUA-1534

B. Berg

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Sincerely,

*/RA/*

Marc L. Dapas, Director  
Office of Nuclear Material Safety  
and Safeguards  
U.S. Nuclear Regulatory Commission

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