

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before the Licensing Board:

G. Paul Bollwerk, III, Chairman
Dr. Fred Oliver

In the Matter of

CROW BUTTE RESOURCES, INC.

(North Trend Expansion Project)

Docket No. 40-8943-MLA

ASLBP No. 07-859-03-MLA-BD01

May 7, 2018

MEMORANDUM AND ORDER

(Reinstating NRC Staff Status Reporting Requirement in Response
to Applicant-Requested Suspension of Licensing Review Process)

By letter dated December 24, 2015, the Nuclear Regulatory Commission (NRC) staff informed the Licensing Board that, in response to a recent request by applicant Crow Butte Resources, Inc., (CBR) to discontinue staff review of CBR's North Trend Expansion Project (NTEP) application in favor of prioritizing review of CBR's Marsland Expansion Area (MEA) application, the staff had suspended review of the NTEP application until the MEA application review was complete. See Letter from David M. Cylkowski, NRC Staff Counsel, to Licensing Board (Dec. 24, 2015) at 1. Thereafter, in a January 12, 2016 issuance, the Board directed that within ten days of the date the MEA application review was complete, the staff should provide the Board with an approximation of when the staff believed it would be able to give the Board a new estimate for the completion dates for the staff's draft and final environmental review documents in this proceeding. See Licensing Board Memorandum and Order (Regarding NRC Staff License Review Scheduling Status Reports) (Jan. 12, 2016) at 1–2 (unpublished). In a

May 2, 2018 letter, acknowledging that the staff had notified the MEA licensing board of the availability of the staff's final environmental assessment that completed the staff's licensing review in that case, the staff advised this Board that it is unable to provide estimated completion dates for the draft or final environmental review documents at this time because the NTEP environmental review remains suspended at CBR's request. See Letter from David M. Cylkowski, NRC Staff Counsel, to Licensing Board at 1 (May 2, 2018). As referenced in the staff's May 2 letter, see id. at 1 n.3, the basis for the review suspension appears to be an April 4, 2018 letter from CBR to the staff stating that

the uranium market has been significantly depressed for a number of years, and this fact lead to Cameco's decision to suspend productions activities at the Crow Butte Operation. Unfortunately, due to the continued depressed market, Cameco has suspended plans to pursue uranium recovery at the [NTEP] as well. We formally request that NRC staff suspend any review of the license application for the [NTEP] at this time.

Letter from Walter Nelson, SHEQ Coordinator, Cameo Resources, Crow Butte Operation, to Director, NRC Office of Nuclear Material Safety and Safeguards at 1 (Apr. 4, 2018) (ADAMS Accession No. ML18102A537).

Given the apparently indeterminate nature of this suspension of the staff's CBR license application review, the Board will reinstitute the prior requirement that the staff provide periodic reports on the status of its review process, albeit at quarterly (i.e., three-month) intervals, with the first report due on Monday, July 2, 2018.¹ Moreover, notwithstanding this periodic reporting requirement, the staff remains responsible for advising the Board and the other parties promptly of any matter that may affect its licensing review schedule for this proceeding. Additionally, the

¹ As is the case with the first report, if the dates for these quarterly staff reports (i.e., July 1, October 1, January 1, and April 1) fall on a weekend, holiday, or other day when NRC headquarters is not open for business, the staff's report will be due the next business day. See 10 C.F.R. § 2.306(a).

previously-established schedule for mandatory document disclosures remains in effect for all parties.² See Licensing Board Order (Schedule for Proceeding; Telephone Status Conference) (Nov. 5, 2009) at 4 (unpublished).

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

G. Paul Bollwerk, III, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland

May 7, 2018

² In light of the open-ended nature of this suspension, the parties also may wish to explore the possibility of reaching a settlement under which, in return for a staff commitment to seek re-noticing of the opportunity for a hearing on the NTEP application at an appropriate point in the future under such conditions as might be agreed to by the parties (to be defined in the settlement agreement), the intervenors would accede to a “without prejudice” dismissal of this adjudicatory proceeding. See AmerenUE (Callaway Plant, Unit 2), LBP-09-23, 70 NRC 659, 663 (2009). And to the degree the parties may find it useful to have a settlement judge appointed to explore this potential, they should so advise the Board, which can relay their joint request to the Chief Administrative Judge. See 10 C.F.R. § 2.338(b).

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of)
)
CROW BUTTE RESOURCES, INC.) Docket No. 40-8943-MLA
)
In-situ leach Uranium Recovery Facility,)
Crawford, Nebraska)
)
(License Amendment for the North Trend)
Expansion Area))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MEMORANDUM AND ORDER (Reinstating NRC Staff Status Reporting Requirement in Response to Applicant-Requested Suspension of Licensing Review Process)** have been served upon the following persons by Electronic Information Exchange.

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[Original signed by Herald M. Speiser ____]
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Dated at Rockville, Maryland
this 7th day of May, 2018