

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before the Licensing Board:

G. Paul Bollwerk, III, Chair
Nicholas G. Trikouros
Dr. Craig M. White

In the Matter of

CROW BUTTE RESOURCES, INC.

(North Trend Expansion Project)

Docket No. 40-8943-MLA

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

January 2, 2024

MEMORANDUM AND ORDER
(Establishing Schedule for Responses
to Motion to Withdraw Application)

By motion filed on December 29, 2023, pursuant to 10 C.F.R. § 2.107(a) applicant Crow Butte Resources, Inc. (CBR) requests permission to withdraw its pending application to amend its existing 10 C.F.R. Part 40 source materials license to authorize CBR to conduct in situ uranium recovery (ISR) operations at the North Trend Expansion Area (NTEA), without prejudice to CBR resubmitting such an application at a future date.¹ In that motion, in accord with section 2.323(b), CBR states that upon inquiry (1) the NRC Staff and section 2.315(c) interested governmental entities the Oglala Sioux Tribe and the Oglala Delegation of the Great Sioux Nation Treaty Council indicated they do not oppose CBR's motion; and (2) the Consolidated Intervenors declared that if CBR's request for withdrawal is granted it should be

¹ See Motion to Withdraw License Amendment Application (Dec. 29, 2023) at 2–4. In support of its request for withdrawal without prejudice, CBR asserts that it “does not want to expend additional resources to complete licensing of the NTEA and has no plans to re-file an application for the site.” Id. at 3–4.

with prejudice to CBR being able to submit another license amendment application seeking authorization for ISR operations at the NTEA.²

Given this information, the Licensing Board establishes the following schedule of dates on or before which any pleading in response to CBR's withdrawal request must be filed:³

Answer Supporting CBR's Withdrawal Motion Monday, January 8, 2024

Answer by Consolidated Intervenors Responding to CBR's Motion for Withdrawal Without Prejudice and to Any Answer Supporting CBR's Motion⁴ Tuesday, January 16, 2024

Any additional responsive pleading sought to be filed by any participant shall be considered a reply pleading that requires the Board's approval prior to filing.⁵

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

G. Paul Bollwerk, III, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland
January 2, 2024

² See *id.* at 1. The Consolidated Intervenors consist of the Western Nebraska Resources Council, Debra White Plume, and Owe Aku/Bring Back the Way.

³ A request for an extension of the filing deadlines established under this schedule must (1) be submitted in writing at least three (3) business days before the due date for the pleading for which an extension is sought; (2) indicate whether the request is opposed or supported by the other participants to this proceeding; and (3) demonstrate appropriate cause that supports granting the extension. See Licensing Board Order (Regarding Schedule and Guidance for Proceedings) (Dec. 12, 2007) at 5 (unpublished). Further, any pleading opposing an extension request must be submitted no later than the next business day after the extension request is filed.

⁴ If no answer in support of CBR's withdrawal motion is filed by January 8, 2024, any answer by Consolidated Intervenors to CBR's motion to withdraw without prejudice must be filed on or before Wednesday, January 10, 2024.

⁵ See 10 C.F.R. § 2.323(c). A motion to file a reply and any opposition thereto likewise are subject to the same substantive and timing requirements that apply to a time extension motion. See *supra* note 3. And although the agency's general rules regarding motions practice do not provide for reply pleadings, see 10 C.F.R. § 2.323(c), the Board will presume that for a reply to be timely, it would have to be filed within seven (7) days of the date of service of the answer it is intended to address, see *id.* § 2.309(i)(2).

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 (Establishing Schedule for Responses to Motion to Withdraw Application)** have been served upon the following persons by Electronic Information Exchange.

U. S. Nuclear Regulatory Commission
Office of Commission Appellate
Adjudications
Mail Stop: O-16B33
Washington, DC 20555-0001
E-mail: ocaamail@nrc.gov

U. S. Nuclear Regulatory Commission
Office of the Secretary
Mail Stop O-16B33
Washington, DC 20555-0001
E-Mail: hearingdocket@nrc.gov

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

U. S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop - O-14A44
Washington, DC 20555-0001
Travis C. Jones, Esq.
Marcia J. Simon, Esq.
Brian P. Newell, Senior Paralegal
Georgiann E. Hampton, Paralegal
Caitlin R. Byrd Paralegal

G. Paul Bollwerk, III, Chair
Administrative Judge
E-mail: paul.bollwerk@nrc.gov

E-mail: travis.jones@nrc.gov
marcia.simon@nrc.gov
brian.newell@nrc.gov
georgiann.hampton@nrc.gov
caitlin.byrd@nrc.gov

Nicholas G. Trikouros
Administrative Judge
E-mail: nicholas.trikouros@nrc.gov

Craig M. White
Administrative Judge
E-mail: craig.white@nrc.gov

Noel Johnson, Law Clerk
Email: noel.johnson@nrc.gov

Counsel for Crow Butte Resources, Inc.
Anne Leidich, Esq.
1200 Seventeenth Street NW
Washington, DC 20036
E-mail: anne.leidich@pillsburylaw.com

Emily Newman, Law Clerk
Email: emily.newman@nrc.gov

Crow Butte Resources, Inc. - Docket No. 40-8943-MLA

MEMORANDUM AND ORDER (Establishing Schedule for Responses to Motion to Withdraw Application)

Western Nebraska Resources Council
Chief Joseph American Horse,
Thomas K. Cook and Francis E. Anders
David Cory Frankel, Esq.
1430 Haines Ave., #108-372
Rapid City, SD 57701
E-mail: david@frankel.law

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

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

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 2nd day of January 2024.