

CROW BUTTE RESOURCES, INC.

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November 22, 1999

Mr. John Surmeier, Chief
Uranium Recovery Branch
Division of Waste Management
Office of Nuclear Material Safety and Safeguards
Mail Stop T-7-J-8
U.S. Nuclear Regulatory Commission
11545 Rockville Pike
Rockville, Maryland 20850

Re: Source Materials License SUA-1534
Docket No. 40-8943
Withdrawal of Request to Amend License

Dear Mr. Surmeier:

On August 26, 1999, Crow Butte Resources, Inc. (CBR) requested an amendment to Source Materials License SUA-1534. Specifically, CBR requested that License Condition 10.3C be amended to include a provision for secondary restoration goals. The use of secondary restoration goals was evaluated and accepted in the Environmental Assessment (EA) prepared by NRC in support of the renewal of SUA-1534¹. Section 4.1 of the EA states that "*...(I)f it is determined that a return to the pre-operational baseline is not reasonably achievable using best practicable technology, the secondary goal is to return the groundwater quality to a use consistent for which the water was suitable prior to the ISL operations, based on the class-of-use standards established by NDEQ*".

On October 16, 1999, NRC issued Amendment 6 to SUA-1534 in response to the amendment request. However, Amendment 6 was neither signed nor dated and contained several errors. Therefore, NRC withdrew the amendment for corrections. CBR continues to operate under Amendment 5 of SUA-1534 as the most recent approved license.

¹ USNRC, *Environmental Assessment for Renewal of Source Material License No. SUA-1534*, February 1998.





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In the course of reviewing Amendment 6, CBR noted that the Technical Evaluation Report² (TER) contained a table with the proposed NRC secondary restoration goals. These proposed secondary goals (contained in Table One of the TER) were based on the groundwater quality standards established in Title 118 of the Nebraska Department of Environmental Quality (NDEQ) Rules and Regulations³. However, CBR is required by the NDEQ to meet the restoration standards contained in the Class III Underground Injection Control (UIC) Permit. CBR's UIC Permit establishes restoration goals for many parameters that are more restrictive than those in Title 118. Many other parameters are not addressed in Title 118. By using Title 118 as the sole source for secondary restoration goals, NRC will effectively establish a third set of restoration criteria in addition to the current NRC primary goal (i.e., baseline) and NDEQ UIC Permit goals.

CBR believes that NRC erred in the TER by using the NDEQ Title 118 standards to establish secondary restoration goals. Title 118 is used by NDEQ as the foundation for groundwater regulatory programs. However, NDEQ has the discretion to set alternate or additional contaminant levels under other regulatory programs including Title 122⁴. UIC Permit number NE0122611 bases restoration values on Title 118 or other established documents. CBR contends that the "class-of-use standards established by NDEQ" for restoration at Crow Butte are contained in the UIC Permit and not in Title 118. This is also the view of NDEQ.

An apparent issue relates to which standards were reviewed by NRC in the preparation of the EA. CBR believes that the standards assessed in the EA must be the restoration values from the UIC permit. In Section 6.1.3 of the License Renewal Application (LRA)⁵ submitted by CBR, it is stated that "*(t)he primary goal of the groundwater restoration program is to return groundwater affected by mining operations to baseline values on a mine unit average. A secondary goal is to return the groundwater to a quality consistent with premining use or uses. The restoration values set by the Nebraska Department of Environmental Quality are consistent with this secondary goal. Restoration values, secondary goal, for each mining unit have been specified by the Nebraska Department of Environmental Quality for groundwater restoration efforts*". These restoration values from the UIC permit were then listed in Table 6.1-1 for Mine Units 1 through 5.

² USNRC, *Technical Evaluation Report*, October 5, 1999.

³ Nebraska Department of Environmental Quality Rules and Regulations, *Title 118, Groundwater Quality Standards and Use Classification*, September 1999.

⁴ Nebraska Department of Environmental Quality Rules and Regulations, *Title 122, Underground Injection and Mineral Production Wells*, May 1990.

⁵ Crow Butte Resources, Inc., *Application for Renewal of USNRC Radioactive Source Materials License SUA-1534*, December 1995.

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CBR believes that the EA must be based on the application, which clearly referenced the UIC permit restoration values, and not on generic state groundwater standards. This view is supported by the EA itself. The introduction to the EA states that it was based principally on information contained in the LRA and supplements submitted by CBR. Furthermore, Section 12.0 of the EA does not list Title 118 as a reference. Therefore, a reasonable interpretation is that the EA assessed the environmental impacts due to restoration to the UIC permit goals.

CBR believes that amendment of SUA-1534 to include Title 118 standards as the NRC secondary restoration goal will introduce further confusion into the process of determining whether a restored mine unit meets applicable NRC and NDEQ criteria. Therefore, CBR withdraws our request for amendment of License Condition 10.3C.

If you have any questions or require further information, please do not hesitate to contact me at (308) 665-2215.

Sincerely,
CROW BUTTE RESOURCES, INC.

A handwritten signature in black ink, appearing to read 'M. Griffin', with a large, stylized flourish at the end.

Michael Griffin
Manager of Environmental and Regulatory Affairs

cc: Mr. Steve Collings – CBR, Denver
Mr. Michael Linder – Director, NDEQ, Lincoln
Mr. William Ford - NRC