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April 24, 2014

## **BY ELECTRONIC INFORMATION EXCHANGE**

Administrative Judge G. Paul Bollwerk, III, Chairman  
Administrative Judge Dr. Richard E. Wardwell  
Administrative Judge Dr. Thomas J. Hirons  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Two White Flint North  
11545 Rockville Pike  
Mail Stop: T-3F23  
Rockville, MD 20852

In the Matter of  
CROW BUTTE RESOURCES, INC.  
(Marsland Expansion Area)  
Docket No. 40-8943-MLA-2

## **RE: Comments on Schedule for Hearing**

Dear Administrative Judges:

In a Memorandum and Order (Request for Clarification and Opportunity for Response), dated April 17, 2014, the Board provided Crow Butte and the intervenor the opportunity to file a response to both the NRC Staff's filing on the hearing schedule, dated April 9, 2014, and its clarification submission, dated April 17, 2014. As the Board noted, the NRC Staff suggests that the general schedule for this proceeding be modified to permit the filing of new/amended environmental contentions after the NRC Staff's final EA/FONSI has been made publicly available, which is currently scheduled for July 31, 2015. The applicant agrees that this is an appropriate milestone, subject to 10 C.F.R. § 2.309(c), on which to base new/amended environmental contentions related to the NRC Staff environmental review document, with one exception discussed below.

In its April 17 filing with the ASLB, the NRC Staff indicated that it plans to make available the cultural resources section of the draft EA, along with supporting information, for public review and comment on the NRC's public website prior to completion of the entire draft

EA. According to the latest schedule, the NRC Staff expects to make the cultural resources section of the draft EA available on the NRC website in June 2014.<sup>1</sup> The NRC Staff also indicated that it would notify the Board and parties to the Marsland proceeding when the draft cultural resources section becomes available on the NRC website. Given the length of time between the public availability of the cultural resources section of the draft EA and issuance of the final EA, and consistent with the general framework for filing new/amended environmental contentions in 10 C.F.R. Part 2, Crow Butte believes proposed new/amended cultural resource contentions should be filed following publication of the cultural resources section of the draft EA in June 2014, rather than following publication of the final EA.

Sincerely,

/s/ signed electronically by  
Tyson R. Smith  
Darani M. Reddick  
Winston & Strawn LLP

cc: EIE Service List

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<sup>1</sup> In its April 17 Order, the Board stated that the NRC Staff intends to make available the cultural resources portion of the draft EA/FONSI in June 2015. But, according to the NRC Staff's April 9 filing with the ASLB and as confirmed by counsel for the NRC Staff for purposes of this letter, the NRC Staff's current schedule for publication of the cultural resources portion of the draft EA is June 2014. As a result, the cultural resources portion of the draft EA is expected to be available approximately 13 months prior to the final EA.