

July 28, 2015

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:)	
)	Docket No. 40-8943
CROW BUTTE RESOURCES, INC.)	
)	ASLBP No. 08-867-02-OLA-BD01
(License Renewal))	

CROW BUTTE RESPONSE TO MOTION
REGARDING TESTIMONY OF DR. REDMOND

In accordance with 10 C.F.R. § 2.323(c), Crow Butte Resources, Inc. (“Crow Butte”) files this answer to the “Oglala Sioux Tribe’s Motion To Call Contention 1 Witness Out Of Order, Or, Alternatively, To Reset Contention 1,” dated July 28, 2015. As indicated during consultations with the other parties, Crow Butte has no objection to revising the order of the hearing to accommodate Dr. Redmond’s travel plans. However, in the interest of efficiency and judicial economy, Crow Butte believes that Dr. Redmond should testify as part of the planned panel on Contention 1, rather than individually. Having multiple panels on Contention 1 is unnecessary and could create the potential for duplicative testimony by subsequent OST/CI witnesses on Contention 1 or conflicting testimony at a later date that could not be resolved without Dr. Redmond’s presence. Multiple panels would only cause delay and uncertainty.

Further, there should be little risk of scheduling conflicts for other witnesses or prejudicing other parties. The Board previously asked the parties to ensure that their witnesses would be available during the week of August 24, 2015, and the hearing dates were selected based, in part, on witness availability. There should be no harm to the participants from a slight reordering the contentions to accommodate the intervenors’ witness’s previously-undisclosed

travel plans.¹ And, if anything, proceeding with Contention 1 first should ameliorate concerns regarding tribal elders' travel plans by providing a firm schedule for addressing the cultural resource issues associated with Contention 1 (*i.e.*, at the outset of the hearing).

For these reasons, Crow Butte does not object to reordering the contentions at the evidentiary hearing to accommodate Dr. Redmond's schedule, so long as it is done in an efficient and non-prejudicial manner.

Respectfully submitted,

/s/ signed electronically by
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COUNSEL FOR CROW BUTTE
RESOURCES, INC.

Dated at San Francisco, California
this 28th day of July 2015

¹ It is worth noting that this is an issue of the intervenors' (or at least their witness's) own making. The dates for the evidentiary hearing were set more than six months ago, on January 8, 2015. Tr. 587. A participant in an NRC proceeding should anticipate having to manipulate its resources, however limited, to meet its obligations. *Wisconsin Electric Power Co.* (Point Beach Nuclear Plant, Units 1 and 2), ALAB-666, 15 NRC 277, 279 (1982). This could include, for example, identifying and retaining alternate experts who would be available for the evidentiary hearing.

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CERTIFICATE OF SERVICE

I hereby certify that copies of “CROW BUTTE RESOURCES’ REBUTTAL STATEMENT OF POSITION” in the captioned proceeding have been served this 28th day of July 2015 via electronic mail to Consolidated Intervenor at davidcoryfrankel@gmail.com, Arm.legal@gmail.com, and harmonicengineering@gmail.com and via the Electronic Information Exchange (“EIE”), which to the best of my knowledge resulted in transmittal of the foregoing to all those on the EIE Service List for the captioned proceeding other than Consolidated Intervenor.

/s/ signed electronically by
Tyson R. Smith
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COUNSEL FOR CROW BUTTE
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