

September 10, 2018

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

| | | |
|----------------------------|---|------------------------------|
| In the Matter of |) | |
| |) | Docket No. 40-8943-MLA-2 |
| CROW BUTTE RESOURCES, INC. |) | |
| |) | ASLBP No. 13-926-01-MLA-BD01 |
| (Marsland Expansion Area) |) | |

UNOPPOSED MOTION TO EXTEND TIME FOR FILING MOTIONS *IN LIMINE*

In accordance with the Atomic Safety and Licensing Board's (Board) Initial Prehearing Order dated February 8, 2013,¹ the NRC staff (Staff) hereby files this unopposed motion² requesting that the Board extend the deadline to file motions *in limine* by two business days, from September 11, 2018, to September 13, 2018.³ On September 5, 2018, the Staff timely filed its rebuttal statement of position and rebuttal testimony, in accordance with the deadline specified in the Board's most recent scheduling order dated May 21, 2018.⁴ The Oglala Sioux Tribe (OST) and Crow Butte Resources, Inc. (CBR) did not file their rebuttal statements of

¹ Memorandum and Order (Initial Prehearing Order) (February 8, 2013) (unpublished) (ADAMS Accession No. ML13039A271) ("February 2013 Order").

² In accordance with 10 C.F.R. § 2.323(b), on September 10, 2018, the Staff consulted by e-mail with counsel for Crow Butte Resources, Inc. (CBR), and counsel for the Oglala Sioux Tribe (OST) regarding this motion. Both counsel for CBR (Tyson Smith) and counsel for the OST (David Frankel) indicated that they support this motion.

³ The Staff recognizes that, pursuant to the Board's February 2013 Order, motions for extension of time are to be filed at least three business days before the due date of the submission for which an extension is sought. February 2013 Order at 6. However, under the circumstances described herein, it is not possible for the Staff to meet that requirement. The Staff is filing this motion to extend time at its earliest possible opportunity—the first business day after the filing of the CBR and OST rebuttal documents.

⁴ Memorandum and Order (License Amendment Effectiveness Stay Application, In Limine Motions, and Site Visit/Limited Appearance Session/Evidentiary Hearing Scheduling), Appendix A at 3 (May 21, 2018) (unpublished).

position and testimony until Friday, September 7, 2018.⁵ Therefore, the Staff did not have the opportunity to start reviewing the rebuttal filings until the morning of September 10, 2018. The Staff requires additional time to review the rebuttal testimony and exhibits, determine whether any portions of those documents should be excluded, and incorporate such requests into a motion *in limine*.

Based on the circumstances described above, and because neither CBR nor the OST oppose this motion, the Staff respectfully requests that the Board extend the deadline for filing motions *in limine* from September 11, 2018 to September 13, 2018.

Respectfully submitted,

/Signed (electronically) by/

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Dated at Lisle, Illinois
this 10th day of September, 2018

⁵ CBR filed its rebuttal documents at approximately 4 p.m. Eastern time on September 7; the OST filed its rebuttal documents at approximately 11:55 p.m. Eastern time on September 7. Staff counsel was not informed by either party that it would be filing after the stated deadline of September 5.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "UNOPPOSED MOTION TO EXTEND TIME FOR FILING MOTIONS IN LIMINE" in the above-captioned proceeding have been served via the Electronic Information Exchange (EIE), the NRC's E-Filing System, this 10th day of September 2018, which to the best of my knowledge resulted in transmittal of the foregoing to those on the EIE Service List for the above-captioned proceeding.

/Signed (electronically) by/
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Dated at Lisle, Illinois
This 10th day of September, 2018