

release criteria for release of the facility for unrestricted use.” The AAR Corporation was directed to schedule and plan to characterize the extent of the contamination and to decontaminate the area to current NRC release criteria (ADAMS Accession No. ML110670259).

The AAR site was subsequently legally divided into the Eastern and Western Parcels. The NRC staff had previously evaluated the Eastern Parcel of the AAR site, and in December 2009, determined that the potential dose from the Eastern Parcel was in conformance with the dose criteria for unrestricted use (ADAMS Accession No. ML093490979).

In 2013, the NRC approved a plan to remediate the Western Parcel of the site in accordance with an AAR proposed Site Remedial Action Work Plan (Work Plan) as amended (letters dated August 7, 2013, and October 30, 2013; ADAMS Accession Nos. ML13220A447 and ML13308A323, respectively). The Work Plan proposed that soil within 32 specified grids containing thorium be excavated to a depth of 1 meter (m) and transported offsite for disposal at a facility in Belleville, Michigan, known as the Wayne Disposal Facility. The excavated areas were to be backfilled with clean fill.

As part of the review of the Work Plan, the NRC staff independently evaluated the dose using a dose assessment that staff performed in 2009 (ADAMS Accession No. ML093490979), as a basis for determining dose for the expected concentrations that would remain at the AAR site. The maximum dose determined by the NRC staff for these expected concentrations is 14 mrem/yr, projected to occur at time around 600 years.

From April to July 2014, AAR conducted remediation of the 32 grids at the site. On May 21, 2015 (ADAMS Package Accession No. ML15148A656), AAR submitted a “Project Completion Report and Request for Approval of Unrestricted Use Designation, AAR Corporation, 12633 Inkster Road, Livonia, Michigan, 48150, Western Parcel, Strategic Waste Excavation and Site Restoration Project” (Completion Report). The Completion Report states that the grids specified in the Work Plan were excavated.

The NRC staff and its contractor observed and inspected work at the AAR site several times during the remediation. During the final NRC staff's visit in July 2014, the NRC staff walked the site with a survey instrument and confirmed that the 32 specified grids were excavated per the Work Plan commitment.

The NRC Region III Inspectors performed an inspection at the AAR facility during part of the remediation activities. Results of the inspection are documented in NRC Inspection Report 040–00235/2013–001 (DNMS), dated February 24, 2015, (ADAMS Accession No. ML15056A162). The report concluded that AAR conducted the remediation in accordance with the Work Plan. The report also concluded that the licensee (Solutient, AAR's contractor) had complied with NRC and Department of Transportation regulations for shipments of radioactive waste.

The NRC staff concludes that AAR met the commitments to excavate the 32 specified grids and to dispose the excavated material offsite at an appropriate facility.

Based on the considerations discussed above, the NRC staff concluded that: (1) Radioactive material above release limits has been properly disposed for both Eastern and Western Parcels of the site; (2) reasonable effort has been made to eliminate residual radioactive contamination; and (3) final site surveys and associated documentation demonstrate that the entire site is suitable for unrestricted release in accordance with the criteria in 10 CFR part 20, subpart E.

Therefore, the AAR site at 12633 Inkster Road, Livonia, Michigan, is suitable for unrestricted use.

Dated at Rockville, Maryland, this 23rd day of September, 2015.

For the Nuclear Regulatory Commission.

Larry W. Camper,

Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8943; ASLBP No. 08–867–02–OLA–BD01]

Atomic Safety and Licensing Board; In the Matter of Crow Butte Resources, Inc. (License Renewal for the In Situ Leach Facility, Crawford, Nebraska); Notice of Supplemental Hearing

September 25, 2015.

Before Administrative Judges: Michael M. Gibson, Chair, Dr. Richard E. Wardwell, Brian K. Hajek, Alan S. Rosenthal (Special Assistant to the Board).

The Atomic Safety and Licensing Board (Board) hereby gives notice that it will convene a supplemental

evidentiary hearing to receive testimony regarding Crow Butte Resources' (Crow Butte) contested application to renew its U.S. Nuclear Regulatory Commission (NRC) license to operate an in-situ uranium leach recovery facility near Crawford, Nebraska.¹

I. Background of Proceeding

On May 27, 2008, notice of the Crow Butte License Renewal Application was published in the **Federal Register**.² Three groups petitioned to intervene as parties in the proceeding and requested an evidentiary hearing be held on the application.³ On November 21, 2008, the Board granted two of the petitions,⁴ admitting the Oglala Sioux Tribe and Consolidated Intervenors⁵ as parties.⁶ At that time, the Board admitted nine contentions proposed by the intervenors.⁷ Shortly thereafter, on December 10, 2008, the Board admitted a tenth contention.⁸ The NRC Staff and Crow Butte appealed the Board's admission of the contentions.⁹ On appeal, the Commission affirmed the intervenors' standing, and affirmed the admissibility of four of the ten contentions.¹⁰ On January 5, 2015, the Oglala Sioux Tribe and Consolidated Intervenors moved to admit new contentions based on the Environmental

¹ Application for 2007 License Renewal USNRC Source Materials License SUA–1534 Crow Butte License Area (Nov. 2007) (ADAMS Accession No. ML073480264) [hereinafter License Renewal Application]. “ADAMS” refers to the NRC's public document management system, and is discussed more below.

² Notice of Opportunity for Hearing, Crow Butte Resources, Inc., Crawford, NE., *In Situ* Leach Recovery Facility, 73 FR 30,426 (May 27, 2008).

³ Oglala Delegation of the Great Sioux Nation Treaty Council Request for Hearing and Petition for Leave to Intervene (July 30, 2008) (ADAMS Accession No. ML082170263); Oglala Sioux Tribe Request for Hearing and/or Petition to Intervene (July 29, 2008) (ADAMS Accession No. ML082170264); Consolidated Request for Hearing and Petition for Leave to Intervene (July 28, 2008) (ADAMS Accession No. ML082170525).

⁴ See LBP–08–24, 68 NRC 691, 760 (2008).

⁵ *Id.* Although originally named Consolidated Petitioners, the Board now refers to Beatrice Long Visitor Holy Dance, Debra White Plume, Thomas Kanatakeniate Cook, Loretta Afraid of Bear Cook, Afraid of Bear/Cook Tiwahe, Joe American Horse, Sr., American Horse Tiospaye, Owe Aku/Bring Back the Way, and the Western Nebraska Resources Council as Consolidated Intervenors.

⁶ The Board denied a request to intervene by the Oglala Delegation of the Great Sioux Nation Treaty Council, but admitted the delegation as an interested local government body. *Id.*

⁷ *Id.* at 760–61.

⁸ See LBP–08–27, 68 NRC 951, 957 (2008).

⁹ NRC Staff's Notice of Appeal of LBP–08–24, Licensing Board's Order of November 21, 2008, and Accompanying Brief (Dec. 10, 2008) (ADAMS Accession No. ML083450781); Crow Butte Resources' Notice of Appeal of LBP–08–24 (Dec. 10, 2008) (ADAMS Accession No. ML083450359).

¹⁰ See CLI–09–9, 69 NRC 331, 366 (2009).

Assessment,¹¹ which the NRC Staff made available on October 27, 2014.¹² The Board admitted five new contentions, and supplemented one of the four previously admitted contentions.¹³

From August 24 through August 28, 2015, the Board held an evidentiary hearing under 10 CFR part 2, subpart L procedures. During this evidentiary hearing the parties submitted new exhibits in response to witness testimony and questions from the Board. These exhibits have been admitted,¹⁴ and the Board has determined that some of the new exhibits raise questions regarding admitted contentions that need to be addressed through additional testimony. As a result, the parties are submitting additional pre-filed testimony to the Board, and a supplemental hearing limited to these new matters will be held on October 23, 2015.

II. Matters To Be Considered

At the supplemental evidentiary hearing the Board will receive testimony on the following topics:

- Whether the water levels in the Brule aquifer have lowered due to mining activities;
- What is the available head in the Basal Chadron/Chamberlain Pass formation and the maximum anticipated drawdown during Crow Butte's operation and restoration of its mining facility;
- Whether the results from the four pump tests¹⁵ demonstrate a hydraulic connection between the Brule and Basal Chadron/Chamberlain Pass formations;
- Whether the Basal Chadron/Chamberlain Pass formation exists

¹¹ The Oglala Sioux Tribe's Renewed and New Contentions Based on the Final Environmental Assessment (October 2014) (Jan. 5, 2015) (ADAMS Accession No. ML15005A541); Consolidated Intervenor's New Contentions Based on the Final Environmental Assessment (October 2014) (Jan. 5, 2015) (ADAMS Accession No. ML15006A274).

¹² Environmental Assessment Availability Notification, Letter from Marcia Simon, NRC Staff Counsel, to Administrative Judges and Parties (Oct. 27, 2014) (ADAMS Accession No. ML14300A228). The Environmental Assessment was prepared pursuant to the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*, and the agency's implementing regulations, located in 10 CFR part 51.

¹³ LBP-15-11, 81 NRC __, __ (slip op. at 59-61) (Mar. 16, 2015).

¹⁴ Licensing Board Order (Admitting Remaining Exhibits; Scheduling Transcript Corrections) (Sept. 10, 2015) (unpublished); Licensing Board Order (Admitting Exhibits; Scheduling Supplemental Testimony and October Hearing Day) (Sept. 4, 2015) (unpublished).

¹⁵ Crow Butte conducted four pump tests to estimate the hydraulic properties of the Basal Chadron and Brule aquifer as a result of pumping water from the uranium-bearing ore zone of the Basal Chadron.

beneath the Pine Ridge reservation and its connection (if any) to the Basal Chadron/Chamberlain Pass formation beneath the license renewal area;

- To what degree (if any) do the additional exhibits that were admitted after the hearing commenced affect the conclusions regarding the structure of the White River feature and the NRC Staff's maximum likelihood modeling; and
- To what degree (if any) do the additional exhibits that were admitted after the hearing commenced illustrate the groundwater flow directions in the Arikaree and Brule aquifers underlying the Pine Ridge reservation and the license renewal area.

III. Date, Time, and Location of the Supplemental Evidentiary Hearing

The supplemental hearing will commence on Friday, October 23, 2015, at 10:00 a.m. Eastern Time, 8:00 a.m., Mountain Time, and will continue until complete.¹⁶ The parties have the opportunity to participate in this supplemental hearing either in person, through video conference, or by telephone. The judges will be present in the Atomic Safety and Licensing Board Panel's Rockville Hearing Room, with a video conference link set up to the Scottsbluff Room of the student center of Chadron State College, 1000 Main Street, Chadron, Nebraska 69337. An Information Technology specialist from the Atomic Safety and Licensing Board Panel will be present in the Scottsbluff Room to assist with the video conference link. Any parties or witnesses unable to attend the hearing either in Rockville or in Chadron will be provided with a call in number and may participate in the hearing by telephone.

Members of the public and media are welcome to attend and observe the evidentiary hearing either in the Rockville Hearing Room or in Chadron State College's Scottsbluff Room. The Scottsbluff Room will open at 7:30 a.m. Mountain Time on the day of the hearing. A telephone bridge line will also be provided for members of the public who are unable to travel to either location, but nevertheless wish to listen to the proceeding. The dial in number for this bridge line is (888) 603-7019, and the passcode for listen-only access

¹⁶ Funding for the U.S. government for fiscal year 2016 has not yet been appropriated by Congress. The NRC may be able to operate for a limited period of time even without funding appropriated. The parties to this proceeding will be made aware if ASLBP activities must be suspended because the NRC has to shut down. Once funding for ASLBP activities becomes available, the Board will contact the parties either to reaffirm the October 23 supplemental hearing date, or to reschedule the hearing if that proves necessary.

to the hearing is 7856326. Participation in the hearing, however, will be limited to the parties' lawyers and witnesses. Please be aware that security measures will be employed at the entrance to both facilities, including searches of hand-carried items such as briefcases or backpacks. No signs, banners, posters, or other displays will be permitted.¹⁷ No firearms or other weapons will be allowed in either facility, and the Board's Notice regarding weapons, dated July 14, 2015, remains in effect.¹⁸ Moreover, Chadron State College places additional restrictions on the presence of weapons on campus.¹⁹

IV. Availability of Documentary Information Regarding the Proceeding

Documents relating to Crow Butte's License Renewal Application are available on the NRC Web site at <http://www.nrc.gov/info-finder/materials/uranium/licensed-facilities/crow-butte.html>. These and other documents related to this proceeding are available for public inspection at the Commission's Public Document Room (PDR), located in One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, or electronically from the publicly available records component of the NRC's document management system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.²⁰ Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR reference staff by telephone between 8:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday (except federal holidays) at (800) 397-4209 or (301) 415-4737, or by sending an email to pdr.resource@nrc.gov.

It is so ordered.

Dated: September 25, 2015.

¹⁷ See Procedures for Providing Security Support for NRC Public Meetings/Hearings, 66 FR 31,719 (June 12, 2001).

¹⁸ Licensing Board Notice (Regarding Weapons at Atomic Safety and Licensing Board Proceeding) (July 14, 2015) at 1 (prohibiting the possession of weapons at "all proceedings conducted in Nebraska by the Atomic Safety and Licensing Board of the U.S. Nuclear Regulatory Commission").

¹⁹ See *Chadron State College Student Handbook* 36-37 (2015 rev.), available at http://www.csc.edu/documents/publications/csc_student_handbook.pdf.

²⁰ Documents which are determined to contain sensitive or proprietary information may only be available in redacted form. All non-sensitive documents are available in their complete form.

For the Atomic Safety and Licensing Board.

Michael M. Gibson,

Chair, Administrative Judge, Rockville, Maryland.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76063; File No. SR-NYSEARCA-2015-81]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Several Rules to Address Certain Order Handling Obligations on the Part of Its Floor Brokers

October 1, 2015.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on September 16, 2015, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend several rules to address certain order handling obligations on the part of its Floor Brokers. The text of the proposed rule change is available on the Exchange’s Web site at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries,

set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend several rules to address certain order handling obligations on the part of its Floor Brokers. Specifically, the Exchange is proposing to amend Rules 6.62, 6.46, and 6.48 to clarify whether orders sent to Floor Brokers are considered “Held” or “Not Held”. This proposal would enable the Exchange to compete with options exchanges that have already implemented the types of changes being proposed here.⁴

Current Rule 6.62(f) defines whether orders sent to Floor Brokers are presumed to be “Held” or “Not Held.”⁵ A “Not Held” order generally is one where the customer gives the Floor Broker discretion in executing the order, both with respect to the time of execution and the price (though the customer may specify a limit price), and the Floor Broker works the order over a period of time to avoid market impact while seeking best execution of the order. A “Held” order generally is one where the customer seeks a prompt execution at the best currently available price or prices.

The Exchange now proposes to establish in Rules 6.62(f), 6.46, and 6.48 a different default status for orders sent to Floor Brokers because the Exchange believes that these provisions are intended to protect against a broker failing to properly represent and ultimately execute orders.⁶ Specifically the Exchange is proposing to amend Rule 6.62(f) to provide that “[a]n order entrusted to a Floor Broker will be considered a Not Held Order, unless

⁴ See Securities and Exchange Act Release Nos. 75299 (June 25, 2015), 80 FR 37700 (July 1, 2015) (Approval Order); 74990 (May 18, 2015), 80 FR 29767 (May 22, 2015) (SR-CBOE-2015-047) (Notice). The Exchange notes that, unlike CBOE, the Exchange does not route certain electronic order to Floor Brokers. Therefore, the Exchange is not proposing rule text mirroring CBOE’s rule in this regard.

⁵ Rule 6.62(f) (Orders Defined) defines a “Not Held Order” as an order that is marked as “not held”, “NH”, or “take time,” or “which bears any qualifying notation giving discretion as to the price or time at which such order is to be executed.”

⁶ The Exchange notes that at the time these rules were adopted, virtually all options orders (large or small and retail or professional) were handled by Floor Brokers. Given the discrete profile of orders handled by Floor Brokers today (generally large size orders and often multi-leg) it is reasonable for Floor Brokers to “work” orders that are entrusted to them because that is the reason a customer would utilize a Floor Broker in today’s environment.

otherwise specified by a Floor Broker’s client.” The Exchange is also proposing to add new Commentary .06 to Rule 6.46 (Responsibilities of Floor Brokers) and to add language to Rule 6.46 (Discretionary Transaction) that mirrors the language it proposes to add to Rule 6.62(f). The Exchange believes that these proposed changes, taken together, would result in a change to the default order handling obligations for orders sent to Floor Brokers (*i.e.*, the Exchange would consider all orders sent to Floor Brokers to be “Not Held” by default).

The Exchange notes that Rules 6.46 and 6.48 were based upon rules that were adopted prior to electronic trading and, therefore, did not contemplate the interaction between an electronic environment and a trading floor and have not been amended to specifically address that interaction. While it is clear that Floor Brokers have more discretion with regards to the manner in which they represent and execute orders on a trading floor than does a computer routing an order to the Exchange for execution, the bounds of the discretion have not been entirely clear. Rules 6.46 and 6.48, among others, set certain boundaries to a Floor Broker’s discretion, but the Exchange believes the current marketplace, with electronic and floor trading, favors an amendment to those boundaries.

Electronic and floor trading gives clients the choice between an Options Trading Permit (“OTP”) Holder or OTP Firm that routes orders to the Exchange electronically or an OTP Holder or OTP Firm that executes orders via a Floor Broker. The Exchange believes that clients are keenly aware that the differences between electronic and floor trading include at least the following factors: A computer cannot deviate from its programed instructions, whereas a Floor Broker can take into account the nuance of the marketplace, such as the makeup of a particular trading floor, the individuals on that trading floor, and how the electronic books interact with that environment. The Exchange believes that clients use Floor Brokers precisely because Floor Brokers can take into account the nuance of the marketplace (*i.e.*, exercise a certain level of discretion) to potentially provide higher execution quality. The Exchange likewise believes that if a client did not want a Floor Broker to use their expertise in the execution of an order, the client would simply send orders to the Exchange electronically.

Given that Floor Brokers have more discretion with regards to the manner in which they represent and execute orders than do computers executing electronic orders, the Exchange is proposing to

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.