

**NUCLEAR REGULATORY COMMISSION****[Docket No. 40–8943–MLA–2; ASLBP No. 13–926–01–MLA–BD01]****Crow Butte Resources, Inc. (Marsland Expansion Area); Memorandum and Order (Order to Show Cause)**

October 22, 2014.

**Atomic Safety and Licensing Board Panel**

Before the Licensing Board: G. Paul Bollwerk, III, Chairman, Dr. Richard E. Wardwell, Dr. Thomas J. Hirons.

The Atomic Safety and Licensing Board hereby directs intervenor Oglala Sioux Tribe (OST) to show cause as to why this litigation should not be dismissed for want of prosecution.

The locus of this case is a challenge by OST to a May 2012 application by Crow Butte Resources, Inc., (CBR) to amend CBR's existing 10 CFR part 40 source materials license to operate a satellite in situ uranium recovery facility on the Marsland Expansion Area (MEA) site. OST was admitted as an intervenor to this proceeding in May 2013, with the Licensing Board finding that OST had established standing and submitted two admissible contentions. *See* LBP–13–6, 77 NRC 253, 304–05 (2013), *aff'd*, CLI–14–02, 79 NRC 11, 14 (2014). Thereafter, in June 2013 CBR and the Nuclear Regulatory Commission (NRC) staff lodged appeals with the Commission contesting the Board's standing and contention admissibility determinations. *See* [CBR] Notice of Appeal of LBP–13–06 (June 4, 2013); NRC Staff's Notice of Appeal of LBP–13–6, Licensing Board's Order of May 10, 2013, and Accompanying Brief (June 4, 2013). Although OST filed no answer in response to the staff and CBR appeals, the Commission upheld the Board's standing and contention admissibility rulings. *See* CLI–14–02, 79 NRC at 14.

OST's two admitted contentions challenged information provided by CBR in its environmental report (ER) document submitted in support of CBR's license amendment application. OST contention 1, which is entitled "Failure to Meet Applicable Legal Requirements Regarding Protection of Historical and Cultural Resources," seeks to challenge the discussion of affected historic and cultural resources in the CBR ER. *See* LBP–13–6, 77 NRC at 306. On June 30, 2014, the staff issued its draft environmental assessment (EA) regarding potential impacts to cultural resources in the MEA site. *See* [CBR] Proposed [MEA] NRC Documentation of the NHPA Section 106 Review (Draft

Cultural Resources Sections of [EA]) 1 (June 30, 2014) (ADAMS Accession No. ML14176B129). With the issuance of this document, the schedule previously established by the Board for filing any new or amended contentions relative to that document was activated. *See* Licensing Board Memorandum and Order (Revised General Schedule) (Aug. 8, 2014) at 1–2 (unpublished) [hereinafter Revised General Schedule]. OST, however, failed to submit any new or amended contentions relative to the draft EA, after which the Board outlined the schedule for party dispositive motions and responsive pleadings regarding OST contention 1. *See id.* at 2.

In accord with that filing schedule, the staff submitted a motion for summary disposition of OST contention 1, and CBR filed a response in support of the staff's motion. *See* NRC Staff's Motion for Summary Disposition of Contention 1 (Aug. 6, 2014) [hereinafter Staff Contention 1 Dispositive Motion]; [CBR] Response in Support of NRC Staff Motion for Summary Disposition of Contention 1 (Aug. 18, 2014). OST, however, failed to answer either filing. On October XX, 2014, the Board granted the staff's summary disposition request and dismissed OST contention 1. *See* Licensing Board Memorandum and Order (Ruling on Motion for Summary Disposition Regarding Oglala Sioux Tribe Contention 1) (Oct. 22, 2014) at 2 (unpublished). As a consequence, only one issue statement, OST contention 2, which bears the title "Failure to Include Adequate Hydrogeological Information to Demonstrate Ability to Contain Fluid Migration," *see* LBP–13–6, 77 NRC at 306, remains active in this case.<sup>1</sup>

OST last submitted a filing in this proceeding on September 10, 2013. *See* [OST's] Initial Mandatory Disclosures (Sept. 10, 2013). As far as the Board is aware, the most recent contact with OST counsel came in the context of the recent summary disposition filings. According to the staff, in seeking to fulfill the staff's responsibility under 10 CFR 2.323(b) to consult with OST before filing its dispositive motion regarding OST contention 1, the staff was able to reach Ms. Cindy Gillis, counsel for OST,<sup>2</sup> but she informed the staff that

<sup>1</sup> Based on the current staff review schedule for the CBR application that calls for issuance of the staff's final environmental document on or about July 31, 2015, an evidentiary hearing regarding OST contention 2 is scheduled for May/June 2016. *See* Revised General Schedule app. A, at 1, 3.

<sup>2</sup> Having filed a notice of appearance, *see* Notice of Appearance (Jan. 29, 2013), and apparently not having submitted a notice of withdrawal, as far as the Board is aware Ms. Waonsilawin Cindy Gillis remains OST's attorney of record for this proceeding.

they "should contact the in-house counsel for the Tribe." Staff Contention 1 Dispositive Motion at 1 n.2. The staff reports it made several attempts to reach OST in-house counsel, albeit without success, and that a further email to Ms. Gillis went unanswered. *See id.*

Despite the opportunity to make a filing before the Commission regarding the CBR and staff standing and contention admissibility appeals and before the Board in response to the staff's draft EA cultural resources sections or the staff's motion for summary disposition of OST contention 1, all arguably significant matters in this proceeding, OST failed to provide a submission of any kind. Indeed, OST has made no filing in this proceeding in over a year. It thus appears to the Board that OST does not have any interest in further pursuing this litigation.

As a consequence, the Board hereby gives notice that, absent some response from OST within thirty days of the date of publication of this issuance in the **Federal Register** that demonstrates a continued interest in this cause, the Board will dismiss OST contention 2 and terminate this proceeding.<sup>3</sup> Applicant CBR and the staff likewise are permitted to file a response to this issuance within that time frame if either wishes to do so.

It is so ordered.

For the Atomic Safety and Licensing Board.

Dated: Rockville, Maryland, October 22, 2014.

**G. Paul Bollwerk, III,**  
*Chairman, Administrative Judge.*

[FR Doc. 2014–25643 Filed 10–27–14; 8:45 am]

**BILLING CODE 7590–01–P**

**POSTAL REGULATORY COMMISSION****[Docket Nos. MC2015–2 and CP2015–4; Order No. 2221]****New Postal Product****AGENCY:** Postal Regulatory Commission.**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing concerning an addition of Priority Mail Express and Priority Mail Contract 16 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

<sup>3</sup> As the Commission noted in its ruling affirming the Board's standing and contention admissibility rulings, pursuant to 10 CFR § 2.320, "the Tribe's failure to pursue a contention in the future could result in (among other things) dismissal of the contention." CLI–14–2, 79 NRC at 14 & n.10.

**DATES:** *Comments are due:* October 29, 2014.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202-789-6820.

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- I. Introduction
- II. Notice of Commission Action
- III. Ordering Paragraphs

**I. Introduction**

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*, the Postal Service filed a formal request and associated supporting information to add Priority Mail Express & Priority Mail Contract 16 to the competitive product list.<sup>1</sup>

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

**II. Notice of Commission Action**

The Commission establishes Docket Nos. MC2015-2 and CP2015-4 to consider the Request pertaining to the proposed Priority Mail Express & Priority Mail Contract 16 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than October 29, 2014. The public portions of these filings can be accessed via the Commission's Web site (<http://www.prc.gov>).

<sup>1</sup> Request of the United States Postal Service to Add Priority Mail Express & Priority Mail Contract 16 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, October 21, 2014 (Request).

The Commission appoints Curtis E. Kidd to serve as Public Representative in these dockets.

**III. Ordering Paragraphs**

*It is ordered:*

1. The Commission establishes Docket Nos. MC2015-2 and CP2015-4 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Curtis E. Kidd is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than October 29, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Shoshana M. Grove,**  
*Secretary.*

[FR Doc. 2014-25496 Filed 10-27-14; 8:45 am]

**BILLING CODE 7710-FW-P**

**POSTAL REGULATORY COMMISSION**

[Docket Nos. CP2012-22; Order No. 2219]

**Amendment to Postal Product**

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing concerning amending the existing Parcel Select & Parcel Return Service Contract 3 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* October 29, 2014.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202-789-6820.

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- I. Introduction
- II. Notice of Filings
- III. Ordering Paragraphs

**I. Introduction**

On October 20, 2014, the Postal Service filed notice that it has agreed to an Amendment to the existing Parcel

Select & Parcel Return Service Contract 3 negotiated service agreement approved in this docket.<sup>1</sup> In support of its Notice, the Postal Service includes a redacted copy of the Amendment and a certification of compliance with 39 U.S.C. 3633(a), as required by 39 CFR 3015.5.

The Postal Service also filed the unredacted Amendment and supporting financial information under seal. The Postal Service seeks to incorporate by reference the Application for Non-Public Treatment originally filed in this docket for the protection of information that it has filed under seal. *Id.*

The Amendment seeks to adjust prices and terms contained in the Parcel Select & Parcel Return Service Contract 3 in a manner contemplated in and consistent with the original contract's terms, which account for changes in costs while maintaining the contract's ability to meet the requirements of 39 U.S.C. 3633(a). Specifically, the Amendment revises the contract terms to include certain Parcel Select Service destination sectional center facility (DSCF) 3-digit and other pieces, resulting in a modification of contract rates in accordance with the annual adjustment calculations (of Table 1a in section I.D., and section I.E.). *Id.* Attachment A at 1-3.

The Postal Service intends for the Amendment to become effective one business day after the date that the Commission completes its review of the Notice. *Id.* The Postal Service asserts that the Amendment will not impair the ability of the contract to comply with 39 U.S.C. 3633. *Id.* Attachment B.

**II. Notice of Filings**

The Commission invites comments on whether the changes presented in the Postal Service's Notice are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than October 29, 2014. The public portions of these filings can be accessed via the Commission's Web site (<http://www.prc.gov>).

The Commission appoints James F. Callow to represent the interests of the general public (Public Representative) in this docket.

**III. Ordering Paragraphs**

*It is ordered:*

1. The Commission reopens Docket No. CP2012-22 for consideration of matters raised by the Postal Service's Notice.

<sup>1</sup> Notice of United States Postal Service of Change in Prices Pursuant to Amendment to Parcel Select & Parcel Return Service Contract 3, October 20, 2014 (Notice).