

January 3, 2008

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
CROWE BUTTE RESOURCES, INC.)	Docket No. 40-8943
In-Situ Leach Facility, Crawford, Nebraska)	
)	
(License Amendment for North)	ASLBP No. 07-859-03-MLA-BD01
Trend Expansion Uranium Solution Project))	

NRC STAFF'S ANSWER IN OPPOSITION TO
OWE AKU'S MOTION FOR EXTENSION OF TIME

Pursuant to 10 C.F.R. § 2.307(a), the NRC Staff ("Staff") submits this response in opposition to Owe Aku's ("Petitioner") motion for an extension of time requesting an additional two weeks to gather affidavits to support its basis for standing. For the reasons explained in this answer, the Staff proposes that the Board limit petitioner's deadline to submit affidavits to 5 p.m. EST, Monday, January 7, 2008. The Staff respectfully requests that the Board consider the following:

1. In a December 18, 2008 telephone conference call, the Staff and Applicant agreed to a request for an extension of time until December 28, 2007, for petitioners to submit replies, and also agreed to allow petitioners to submit additional affidavits in support of standing by the same date.
2. Counsel is requesting a second extension of time, and as support, offers an explanation and affidavit by Director of Owe Aku, Ms. Debra White Plume, explaining the recent house fire she suffered on December 20, 2008. Counsel's motion does not offer, however, any explanation as to whether Petitioner Owe Aku attempted to delegate the responsibility of assisting counsel in obtaining these affidavits, as is the normal practice

in any organization, to another officer or member of Owe Aku, in light of Ms. White Plume's circumstances, so that these proceedings may be conducted in a fair and orderly manner according to the schedule.

3. Counsel for Petitioner did not contact counsel for the Staff as required by 10 C.F.R. § 2.323(b), to resolve these issues before filing the motion on the day the affidavits were to have been submitted. Such failure is a basis for rejection of a motion.
4. Since the filing of the motion for extension of time, counsel has already used seven days of the two weeks requested to prepare the appropriate affidavits. As the Board and counsel for Petitioner were aware, NRC Staff was unable to access email during the weekend of December 28-30, 2007. Counsel for Petitioner did not, as requested, electronically submit all required filings to Staff counsels' alternate email addresses (provided in the Board's order) on December 28, 2007. Thus, Staff counsel did not become aware of the motion until Monday, December 31, 2007.
5. Counsel's request for additional time places the deadline for submitting affidavits on or about January 11, 2008. In light of the number of affidavits filed by other petitioners, counsel for the Staff can fairly assume that Petitioner may potentially submit numerous affidavits which would not allow counsel for the Staff sufficient time to review, respond and obtain a decision from the Board with regard to that response in time for the January 16, 2008 oral argument. In addition, Petitioner's delay in filing the affidavits creates a burden, as counsel for the Staff is scheduled to travel to Nebraska early in the morning of January 15, 2008.
6. In light of the circumstances, the Staff is not opposed to an extension to January 7, 2008, with additional time for the Staff to review and respond by January 11, 2008.

Therefore, in light of the foregoing, the Staff respectfully requests that the Board limit the extension of time to allow Owe Aku until January 7, 2008, to file affidavits in support of its petition.

Respectfully submitted,

/RA/

Andrea Z. Jones
Marcia J. Simon
Counsel for NRC Staff

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CERTIFICATE OF SERVICE

I hereby certify that copies of the "NRC STAFF'S RESPONSE IN OPPOSITION TO OWE AKU'S MOTION FOR EXTENSION OF TIME" in the above captioned proceeding have been served on the following persons by deposit in the United States Mail; through deposit in the Nuclear Regulatory Commission internal mail system as indicated by an asterisk (*); and by electronic mail as indicated by a double asterisk (**) on this 3rd day of January 2008:

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