

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD PANEL

Before Administrative Judges:
Ann Marshall Young, Chair
Dr. Richard F. Cole
Dr. Fred W. Oliver

In the Matter of

CROW BUTTE RESOURCES, INC.
(License Amendment for the North Trend
Expansion Project)

Docket No. 40-8943
ASLBP No. 07-859-03-MLA-BD01

June 18, 2009

ORDER
**(Ruling on Intervenors' Motion and Application for Stay Pending Appeal
in Related License Renewal Proceeding)**

Intervenors in this materials license proceeding have petitioned for a stay of this proceeding until certain appeals from a recent decision of the Nuclear Regulatory Commission in a related license renewal proceeding have been finally resolved.¹ As pointed out by counsel for Applicant,² however, the Commission has not yet ruled on the appeals from LBP-08-06 and LBP-09-01 filed by the parties in *this* proceeding, and any stay request is therefore premature in this proceeding.³

¹ Intervenors' Motion and Application for Stay Pending Appeal in Related License Renewal Proceeding (June 1, 2009) [hereinafter Motion to Stay].

² Crow Butte Resources' Answer to Intervenors' Motion and Application for Stay Pending Appeal in Related License Renewal Proceeding (June 11, 2009) at 4.

³ Nor do many of Intervenors' arguments bear close logical scrutiny in light of the fact that the Commission has not at this point ruled on appeals from the Board's rulings in LBP-08-06 and LBP-09-01. See, e.g., Intervenors' statement that "the mandatory disclosures will now be limited to those excluding the foreign ownership issue." Motion to Stay at 2. Although some of the contentions originally admitted in the license renewal proceeding were similar to those admitted in this proceeding, they were not identical nor were they admitted on identical grounds, and the Commission will not necessarily make identical rulings on the pending appeals in this proceeding. After the Commission has issued its rulings, the Licensing Board will convene a telephone conference to address the future course of this proceeding.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of)
)
CROW BUTTE RESOURCES, INC.) Docket No. 40-8943-MLA
)
In-situ leach Uranium Recovery Facility,)
Crawford, Nebraska)
)
(License Amendment for the North Trend)
Expansion Area))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ORDER (RULING ON INTERVENORS' MOTION AND APPLICATION FOR STAY PENDING APPEAL IN RELATED LICENSE RENEWAL APPLICATION) have been served upon the following persons by Electronic Information Exchange.

Office of Commission Appellate
Adjudications
U. S. Nuclear Regulatory Commission
Washington, DC 20555-001
E-mail: ocaamail@nrc.gov

Administrative Judge
Ann Marshall Young, Chair
Atomic Safety and Licensing Board Panel
Mail Stop – T-3 F23
U. S. Nuclear Regulatory Commission
Washington, DC 20555-001
E-mail: ann.young@nrc.gov

Administrative Judge
Richard F. Cole
Atomic Safety and Licensing Board Panel
Mail Stop – T-3 F23
U. S. Nuclear Regulatory Commission
Washington, DC 20555-001
E-mail: richard.cole@nrc.gov

Administrative Judge
Frederick W. Oliver
Atomic Safety and Licensing Board Panel
Mail Stop – T-3 F23
U. S. Nuclear Regulatory Commission
Washington, DC 20555-001
E-mail: fxo1@nrc.gov

Docket No. 40-8943-MLA
 ORDER (RULING ON INTERVENORS' MOTION AND APPLICATION FOR STAY
 PENDING APPEAL IN RELATED LICENSE RENEWAL APPLICATION)

Thomas Kanatakeniate Cook
 1705 So. Maple St.
 Chadron, NE 69337
 E-mail:
slmbttsag@bbc.net

Mark D. McGuire, Esq.
 McGuire and Norby
 605 South 14th Street, Suite 100
 Lincoln, NE 68508
 E-mail: mdmsjn@windstream.net

Winston & Strawn, LLP
 101 California Street
 San Francisco, CA 94111
 Tyson R. Smith, Esq.
 Emily J. Duncan
 Counsel for Crow Butte Resources, Inc.
 E-mail:
trsmith@winston.com
ejduncan@winston.com

The Oglala Delegation of the Great Sioux
 Nation Treaty Council
 Thomas J. Ballanco, Esq.
 Harmonic Engineering, Inc.
 945 Taraval Ave. # 186
 San Francisco, CA 94116
 E-mail:
HarmonicEngineering1@mac.com

U.S. Nuclear Regulatory Commission
 Office of the General Counsel
 Mail Stop O-15D21
 Washington, DC 20555-0001
 Catherine Marco, Esq.
 Brett Klukan, Esq.
 Molly Barkman, Esq.
 E-mail:
clm@nrc.gov; Brett.Klukan@nrc.gov;
molly.barkman@nrc.gov

Owe Oku, Debra White Plume,
 and David House
 P.O. Box 2508
 Rapid City, South Dakota 57709
 Bruce Ellison, Esq.
 E-mail:
belli4law@aol.com

OGC Mail Center:
OGCMailCenter@nrc.gov

Western Nebraska Resources Council
 Chief Joseph American Horse
 Thomas K. Cook, Francis E. Anders
 David Cory Frankel, Esq.
 P.O. 3014
 Pine Ridge, South Dakota 57770
 E-mail:
arm.legal@gmail.com

Alberto Saldamando
 International Indian Treaty Council
 2940 16th Street, Suite 205
 San Francisco, CA 94103-3688
 E-mail:
alberto@treatycouncil.org

Docket No. 40-8943-MLA
ORDER (RULING ON INTERVENORS' MOTION AND APPLICATION FOR STAY
PENDING APPEAL IN RELATED LICENSE RENEWAL APPLICATION)

Western Nebraska Resources Council,
Chief Joseph American Horse, Thomas
K. Cook, and Francis E. Anders
Shane C. Robinson, Esq.
2814 E. Olive St.
Seattle, WA 98122
E-mail:
shanecrobinson@gmail.com

Debra L. White Plume, Director
Owe Aku, Bring Back the Way
P.O. Box 325
Manderson, SD 57756
E-mail:
LAKOTA1@gwtc.net

Elizabeth Lornia, Esq.
Gonzalez Law Firm
522 7th Street, Suite 202
Rapid City, SD 57701
E-mail:
elorina@gnzlawfirm.com

U.S. Nuclear Regulatory Commission
Office of the Secretary
Mail Stop O-16C1
Washington, DC 20555-0001

Hearing Docket
E-Mail: hearingdocket@nrc.gov

[Original signed by Nancy Greathead]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 18th day of June 2009