

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

Before Administrative Judges:

Michael M. Gibson, Chairman  
Dr. Richard F. Cole  
Brian K. Hajek

In the Matter of

CROW BUTTE RESOURCES, INC.

(License Renewal for the In Situ Leach Facility,  
Crawford, Nebraska)

Docket No. 40-8943

ASLBP No. 08-867-02-OLA-BD01

August 5, 2009

ORDER

(Ruling on Intervenor's Motion and Application for Stay Pending Appeal)

On June 1, 2009, Consolidated Intervenor's moved to stay the above-captioned proceeding pending resolution of an appeal of the Oglala Sioux Tribe and the Consolidated Intervenor's from the Commission's ruling in CLI-09-09.<sup>1</sup> The Applicant and the NRC Staff filed responses in opposition to this motion.<sup>2</sup> On July 22, 2009, the United States Court of Appeals for the Eighth Circuit issued a decision that effectively dismissed the appeal of CLI-09-09.<sup>3</sup>

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<sup>1</sup> Intervenor's Motion and Application for Stay Pending Appeal (June 1, 2009).

<sup>2</sup> Crow Butte Resources' Answer to Intervenor's Motion and Application for Stay Pending Appeal (June 11, 2009); NRC Staff's Response to Intervenor's Motion and Application for Stay Pending Appeal (June 11, 2009).

<sup>3</sup> Oglala Sioux Tribe v. NRC, No. 09-2262 & 09-2285, slip op. (8th Cir. July 22, 2009) (judgment granting Respondent's motion to dismiss consolidated petitioners for review).

Thus, the issue before the Board regarding the stay of this proceeding pending the appeal is now moot. The motion is therefore DENIED.

It is so ORDERED:

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

                    /RA/                    

Michael M. Gibson, Chairman  
ADMINISTRATIVE JUDGE

                    /RA/                    

Dr. Richard F. Cole  
ADMINISTRATIVE JUDGE

                    /RA/                    

Brian K. Hajek  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
August 5, 2009

\* Copies of this notice were sent this date by the agency's E-Filing system to the counsel/representatives for (1) applicant Crow Butte Resources, Inc.; (2) Consolidated Intervenor; (3) NRC Staff; 4) Oglala Delegation of the Great Sioux Nation Treaty Council; and 5) Oglala Sioux Tribe.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
CROW BUTTE RESOURCES, INC.	)	Docket No. 40-8943-OLA
	)	
In-Situ Leach Uranium Recovery Facility,	)	
Crawford, Nebraska	)	
	)	
(License Amendment)	)	

CERTIFICATE OF SERVICE

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

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ORDER (RULING ON INTERVENORS' MOTION AND APPLICATION  
FOR STAY PENDING APPEAL)

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[Original signed by Nancy Greathead]  
Office of the Secretary of the Commission

Dated at Rockville, Maryland  
this 5<sup>th</sup> day of August 2009