

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
CROW BUTTE RESOURCES, INC. ,)	Docket No. 40-8943
)	ASLBP No. 08-867-02-OLA-BD01
(License Renewal for the)	
In Situ Leach Facility, Crawford, Nebraska))	June 25, 2015

**CONSOLIDATED INTERVENORS' AND OGLALA SIOUX TRIBE'S JOINT
MOTION FOR EXTENTION OF TIME TO FILE ANSWER TO NRC STAFF'S
MOTION IN LIMINE**

Consolidated Intervenors and the Oglala Sioux Tribe hereby submit this joint motion for extension of time to file an Answer to NRC Staff's Motion in Limine dated June 15, 2015, to today June 25, 2015. The undersigned represents that he consulted with the other parties concerning this motion and that Counsel for Crow Butte Tyson Smith stated his client took no position on this motion and Counsel for NRC Staff Marcia Simon likewise took no position on this motion.

The need for an extension of time results from the fact that the Board's March 25, 2015 Order required the Answer to the NRC Staff's Motion in Limine to be filed with the Board not later than seven (7) days after filing instead of the ten (10) days provided under NRC regulations. When the seven (7) days was agreed on, the schedule for these motions would not have interfered with the previously scheduled Lakota Sun Dance of the Afraid

of Bear/American Horse Tiospayes (each intervenors in this matter) with which several intervenors are intricately involved as sponsors, dancers, and supporters, and which Attorney Tom Ballanco has attended for more than 15 years. Further, at least one of our experts was participating in such Sun Dance.

When the schedule slipped to be a bit later, the seven (7) day period then fell just at the end of the Sun Dance which would have deprived Consolidated Intervenor of an opportunity to consult with Attorney Ballanco (who had agreed to take the lead on drafting the Answer to the NRC Staff's Motion in Limine while Attorney Frankel was on vacation and Attorney Ellison was in or preparing for a hearing on an unrelated matter) or with the intervenors clients or our expert concerning this motion from June 17 (Tree Day) until June 22 (the day after the end of the Sun Dance). Further, the Sun Dance ceremony, being the most sacred of the Lakota ceremonies, is very intense involving fasting from food and water and the offering of flesh and blood by traditional piercings and is not something that can be interrupted for legal or technical consultations. Therefore, Consolidated Intervenor was unable to properly prepare an Answer to the NRC Staff's Motion in Limine until the day after the conclusion of the ceremony.

Further, Consolidated Intervenor had agreed with Oglala Sioux Tribe Counsel Andrew Reid that we would take the lead on the scientific expert portions of the NRC Staff's Motion in Limine and would consult with Mr. Reid concerning his Answer on the cultural issues. None of those consultations were possible during the days from June 17-June 21 and could only be done on June 16, June 22-25. While some phone consultations

were held between Attorney Ballanco and Attorney Frankel and between Attorney Frankel and our experts, we were not able to begin to prepare any adequate form of Answer until Attorney Ballanco was fully available on June 22.

Accordingly, Consolidated Intervenors and Oglala Sioux Tribe are filing their respective Answers to the NRC Staff's Motion in Limine at the earliest practicable date but still within the ten (10) days that are provided under NRC Regulations and seek this extension of time from June 22 (the due date under the Board's March 25 Order until today, June 25). Based on the foregoing, we have demonstrated good cause for the Board to allow these late filed Answers and we see no possible prejudice to Crow Butte or the NRC Staff. In fact, the case of *Private Fuel Storage, LLC (Independent Spent Fuel Storage Installation)*, 2002 WL 818124 (NRC 2002), indicates that there is no prejudice from a delay on ruling on motions in limine and that such matters should be better taken up at the hearing when the Board may ask questions of the experts proffered by all parties and determine whether some of such testimony should be excluded. *Id.*

Consolidated Intervenors apologize for any inconvenience to the Board or to the Board Clerks related to this late filing and submit that none of the lateness involved any intention to seek an unfair advantage in this proceeding or to disrespect the Board's March 25th Order.

CONCLUSION

Based on the foregoing, Consolidated Intervenor and Oglala Sioux Tribe hereby move that the time for filing the Answers to the NRC Staff's Motion in Limine be extended until today and that the Answers filed today be accepted despite due date stated in the Board's March 25, 2015 Order.

Dated this 25th day of June, 2015.

Respectfully submitted,

_____/s/_____

David Frankel
Counsel for Consolidated Intervenor
1430 Haines Ave., Ste. 108-372
Rapid City, SD 57701
Tel: 605-515-0956
E-mail: arm.legal@gmail.com

_____/s/_____

Thomas J. Ballanco
Counsel for Consolidated Intervenor
945 Taraval Ave. # 186
San Francisco, CA 94116
(650) 296-9782
E-mail: HarmonicEngineering@gmail.com

_____/s/_____

Bruce Ellison
Counsel for Consolidated Intervenor
P.O. Box 2508
Rapid City, SD 57709
Tel: 605-348-9458
Email: belli4law@aol.com

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ‘**CONSOLIDATED INTERVENORS’ AND OGLALA SIOUX TRIBE’S JOINT MOTION FOR EXTENSION OF TIME TO FILE ANSWER TO NRC STAFF’S MOTION IN LIMINE**, in the captioned proceeding were served via email on the 25th day of June 2015, which to the best of my knowledge resulted in transmittal of same to those on the EIE Service List for the captioned proceeding.

Respectfully submitted,

/s/

David Frankel
Counsel for Consolidated Intervenors
1430 Haines Ave., Ste. 108-372
Rapid City, SD 57701
Tel: 605-515-0956
E-mail: arm.legal@gmail.com