

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

Before Administrative Judges:

William J. Froehlich, Chairman  
Dr. Mark O. Barnett  
G. Paul Bollwerk, III

In the Matter of  
  
POWERTECH USA, INC.  
  
(Dewey-Burdock  
In Situ Uranium Recovery Facility)

Docket No. 40-9075-MLA

ASLBP No. 10-898-02-MLA-BD01

October 13, 2016

MEMORANDUM AND ORDER

(Requesting Scheduling Information for Telephone Conference Call)

On April 30, 2015, the Board issued a Partial Initial Decision addressing seven contentions raised by the Oglala Sioux Tribe and the Consolidated Intervenors.<sup>1</sup> Regarding Contentions 1A and 1B, the Board concluded that the Final Supplemental Environmental Impact Statement (FSEIS) did not adequately address the environmental effects of the Dewey-Burdock project on Native American cultural, religious, and historic resources.<sup>2</sup> In addition, the Board determined that meaningful government-to-government consultations between the Oglala Sioux Tribe and the NRC Staff had not taken place.<sup>3</sup> The Board stated that these deficiencies could

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<sup>1</sup> Powertech USA, Inc. (Dewey-Burdock In Situ Uranium Recovery Facility), LBP-15-16, 81 NRC 618 (2015). Petitions for review of the Board's April 30, 2015 decision are pending before the Commission.

<sup>2</sup> Id. at 657.

<sup>3</sup> Id.

be remedied, if the NRC Staff initiated government-to-government consultations to supplement the FSEIS and the Record of Decision.<sup>4</sup>

The Board retained jurisdiction of this proceeding pending further consultations and required the NRC Staff to submit monthly status reports describing consultations with the Ogala Sioux Tribe.<sup>5</sup> With the exception of a “face-to-face” meeting on May 19, 2016, the status reports filed by NRC Staff do not reflect significant progress towards resolving the deficiencies identified by the Board.<sup>6</sup> In fact, after seventeen months, the parties have only engaged in stakeholder introductions and the “start” of a dialogue.<sup>7</sup>

The Board intends to convene a telephone conference with the parties to discuss the status of government-to-government consultations. The Board requests that on or before Friday, October 21, 2016, one representative of the collective parties contact Board law clerk Cooper Strickland at [Cooper.Strickland@nrc.gov](mailto:Cooper.Strickland@nrc.gov) and provide dates and times (Eastern Time) that the parties will be available for a telephone conference between:

Monday, October 31, 2016, and Thursday, November 3, 2016; and

Monday, November 7, 2016, and Thursday, November 10, 2016.

The Board anticipates that this conference will last no more than two hours.

Once the Board has received scheduling information from the parties, it will provide

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<sup>4</sup> Id. at 657–58.

<sup>5</sup> Id. at 658.

<sup>6</sup> NRC Staff’s Consultation Status Update (June 1, 2016).

<sup>7</sup> Id.

notice regarding the date and time of the conference, dial-in instructions, and information regarding the subjects to be discussed.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

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William J. Froehlich, Chairman  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
October 13, 2016

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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POWERTECH (USA) INC.	)	Docket No. 40-9075-MLA
(Dewey-Burdock In Situ Recovery Facility)	)	
	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MEMORANDUM AND ORDER (Requesting Scheduling Information for Telephone Conference Call)** have been served upon the following persons by Electronic Information Exchange, and by electronic mail as indicated by an asterisk.

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POWERTECH (USA) INC., DEWEY-BURDOCK IN SITU RECOVERY FACILITY  
DOCKET NO. 40-9075-MLA

**MEMORANDUM AND ORDER (Requesting Scheduling Information for Telephone Conference Call)**

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[Original signed by Clara Sola \_\_\_\_\_]  
Office of the Secretary of the Commission

Dated at Rockville, Maryland  
this 13<sup>th</sup> day of October 2016