

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
)

POWERTECH (USA), INC.)
)

(Dewey-Burdock)
In Situ Uranium Recovery Facility))

Docket No. 40-9075-MLA

ORDER

On July 20, 2018, the U.S. Court of Appeals for the District of Columbia Circuit issued a decision in *Oglala Sioux Tribe v. NRC*, which reviewed the Commission's December 23, 2016, order (CLI-16-20) in the above-captioned proceeding.¹ The court held that the NRC violated the National Environmental Policy Act (NEPA) in connection with the NRC's use of an irreparable harm standard when considering suspension or vacatur of Powertech's license following the identification of a deficiency in the agency's NEPA analysis. The court declined, however, to vacate Powertech's license. Instead, the court remanded the case back to the Commission for further proceedings consistent with the court's opinion.

The Commission now invites all parties in the proceeding to provide their views on how the agency should respond to the court's remand to ensure consistency with the court's opinion going forward. The parties should address, at a minimum, the question of what legal standard the NRC should use. The parties' views are due by September 24, 2018. The parties' responses to these views are due by October 19, 2018. Submissions must comply with the page limitations for petitions for review and answers set forth in 10 C.F.R. § 2.341(b).

¹ 896 F.3d 520 (D.C. Cir. 2018).

This order is issued pursuant to my authority under 10 C.F.R. § 2.346(a).

IT IS SO ORDERED.

For the Commission

NRC Seal

/RA/

Rochelle C. Baval
Acting Secretary of the Commission

Dated at Rockville, Maryland
this 30th day of August, 2018.

OGC Mail Center:
RidsOgcMailCenter.Resource@nrc.gov

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

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

Dated at Rockville, Maryland
this 30th day of August, 2018