

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

In the Matter of:)	
)	
POWERTECH (USA), INC.)	Docket No. 40-9075-MLA
)	
(Dewey-Burdock In Situ Uranium Recovery)	
Facility))	

ORDER

This proceeding involves Powertech’s application for a license to conduct *in situ* leach uranium recovery operations at its Dewey-Burdock facility in South Dakota. See 75 Fed. Reg. 467 (Jan. 5, 2010). The Oglala Sioux Tribe has filed a Request asking that the Commission: (1) grant a 90-day extension of time both to them and to all other members of the public in which to file their Petition to Intervene and Request for Hearing, which includes their initial contentions; and (2) grant a separate extension of 90 days following the Staff’s disclosure of Sensitive Unclassified Non-Safeguards Information (“SUNSI”) in which to file contentions based on those materials. David Cory Frankel has filed a subsequent letter adopting the Tribe’s first request on behalf of himself and a group of individual petitioners. The NRC Staff denied Mr. Frankel access to SUNSI material and Mr. Frankel did not appeal that determination; thus, he will not have access to that information in this proceeding.

The Applicant has responded in opposition to all requests for extensions of time and the NRC Staff has responded in opposition to both requests for 90-day extensions by the Tribe and the 90-day request from Mr. Frankel. The Staff consents to a 15-day extension for the Tribe to file a Petition to Intervene and Request for Hearing, but does not consent to an extension to file SUNSI-based contentions. The Staff does not consent to any extension for Mr. Frankel.

Initially, a potential intervenor may only request an extension of time for itself; it may not request an extension of time for another person. Thus, the requests for a 90-day extension of time for the general public to file Petitions to Intervene and Requests for Hearing made by both the Tribe and Mr. Frankel are denied.

In addition, the requests by both the Tribe and Mr. Frankel for a 90-day extension of time for filing the Petition to Intervene and Request for Hearing (with initial contentions) are hereby denied. Likewise, the Tribe's request for a 90-day extension of time for filing SUNSI contentions is denied.

The current deadline for filing a Petition to Intervene and Request for Hearing is March 8, 2010, to which the NRC Staff has consented to a 15-day extension. The Licensing Board is expected to issue a protective order in the near term, providing the Tribe with access to the SUNSI materials, triggering its deadline to submit SUNSI-based contentions within 25 days. An extension of time to file the Petition to Intervene and Request for Hearing (with non-SUNSI contentions) to coincide with the deadline to file SUNSI contentions will not create a significant delay in the proceeding. The Tribe is granted an extension of time to file its Petition to Intervene, Request for Hearing, and non-SUNSI contentions until the deadline that the Licensing Board will establish for the filing of its SUNSI-contentions.

Mr. Frankel's request for an extension of time in which to file his Petition to Intervene and Request for Hearing is denied. Mr. Frankel's request that the Commission order the Staff to place three "hard copies" of the application materials in reading rooms in South Dakota (as opposed to the two copies to which the Staff has agreed) is also denied.

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

IT IS SO ORDERED.

FOR THE COMMISSION

[NRC SEAL]

/RA/

Annette Vietti-Cook
Secretary of the Commission

Done at Rockville, Maryland
this 5th day of March, 2010.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
POWERTECH (USA) INC.) Docket No. 40-9075-MLA
(Dewey-Burdock In Situ Recovery Facility)
Source Materials License Application))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order of the Secretary of the Commission, dated March 5, 2010, have been served upon the following persons by Electronic Information Exchange.

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POWERTECH (USA) INC., (Dewey-Burdock In Situ Recovery Facility) Docket 40-9075-MLA
Order of the Secretary of the Commission

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

Dated at Rockville, Maryland
this 5th day of March 2010.