

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

Before Administrative Judges:

William J. Froehlich, Chairman
Dr. Richard F. Cole
Dr. Mark O. Barnett

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
July 9, 2010

MEMORANDUM
(Notice pursuant to 10 C.F.R. § 2.309(i))

On August 10, 2009 Powertech (USA), Inc. (Powertech) filed an application with the NRC requesting a license to construct and operate a proposed in-situ leach uranium recovery (ISR) facility in Custer and Fall River Counties, South Dakota.¹ In response to the public notice of the application², two petitions to intervene and requests for hearing were filed. The first petition was filed on March 8, 2010 by several individuals and organizations sharing common counsel (Consolidated Petitioners).³ The second petition was filed by the Oglala Sioux Tribe on April 6, 2010.⁴ On April 30, 2010 the Consolidated Petitioners filed an additional contention based on SUNSI material.⁵

¹ See ADAMS Accession No. ML092870155.

² Notice of Opportunity for Hearing, License Application Request of Powertech (USA) Inc. Dewey-Burdock In Situ Uranium Recovery Facility in Fall River and Custer Counties, SD, and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information (SUNSI) for Contention Preparation, 75 Fed. Reg. 467, 470 (Jan. 5, 2010).

³ Consolidated Request for Hearing and Petition for Leave to Intervene (March 8, 2010).

⁴ Petition to Intervene and Request for Hearing of the Oglala Sioux Tribe (April 6, 2010).

⁵ Petitioners' Request for Leave to File a New Contention Based on SUNSI Material (Apr. 30, 2010).

Powertech and the NRC Staff filed oppositions to the petitions to intervene and requests for hearing.⁶ Powertech and the NRC Staff also filed in opposition to the additional contention based on SUNSI material.⁷

Due to various factors, including a lengthy resubmitted application and voluminous responsive pleadings, motions for extensions of time filed by the parties, and an oral argument on standing and contention admissibility held in Custer, SD on June 8 and 9, 2010, the Board hereby provides notice pursuant to 10 C.F.R. § 2.309(i) that it currently anticipates issuing a decision regarding the petitioners' hearing requests no later than August 20, 2010.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

William J. Froehlich, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
July 9, 2010

⁶ Applicant Powertech (USA) Uranium Corporation's Response to Consolidated Petitioners' Request for a Hearing/Petition for Intervention (Apr. 12, 2010). NRC Staff's Response to Hearing Request of Consolidated Petitioners (Apr. 12, 2010). Applicant Powertech (USA) Inc.'s Response to Petitioner Oglala Sioux Tribe's Request for a Hearing/Petition for Intervention (May 3, 2010). NRC Staff's Response to Oglala Sioux Tribe's Hearing Request (May 3, 2010).

⁷ Applicant Powertech (USA) Uranium Corporation's Response to Consolidated Petitioners' Request for Leave to File a New Contention Based on SUNSI Material (May 23, 2010). NRC Staff's Response to Consolidated Petitioners' Contention Filed on April 30, 2010 (May 21, 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 Board **MEMORANDUM (Notice pursuant to 10 C.F.R. § 2.309(i))**, dated July 9, 2010, have been served upon the following persons by Electronic Information Exchange.

U.S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board (ASLB)
Mail Stop T-3F23
Washington, DC 20555-0001

William J. Froehlich, Chair
Administrative Judge
wjf1@nrc.gov

Richard F. Cole
Administrative Judge
richard.cole@nrc.gov

Mark O. Barnett
Administrative Judge
mark.barnett@nrc.gov

Anthony C. Eitrem, Esq., Chief Counsel
ace1@nrc.gov
Megan Wright, Law Clerk
megan.wright@nrc.gov

U.S. Nuclear Regulatory Commission
Office of Commission Appellate Adjudication
Mail Stop O-16C1
Washington, DC 20555-0001
OCA Mail Center
ocaamail@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Rulemakings & Adjudications Staff
Mail Stop O-16C1
Washington, DC 20555-0001
hearingdocket@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop O-15 D21
Washington, DC 20555-0001
Catherine Scott, Esq.
clm@nrc.gov
Michael Clark, Esq.
mjc1@nrc.gov
Brett Klukan, Esq.
brett.klukan@nrc.gov
Patricia Jehle, Esq.
patricia.jehle@nrc.gov

OGC Mail Center:
OGCMailCenter@nrc.gov

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

MEMORANDUM (Notice pursuant to 10 C.F.R. § 2.309(i))

Counsel for the Applicant
Thompson & Pugsley, PLLC
1225 19th Street, NW, Suite 300
Washington, DC 20036
Christopher Pugsley, Esq.
cpugsley@athompsonlaw.com
Anthony J. Thompson, Esq.
ajthompson@athompsonlaw.com

Counsel for the Oglala Sioux Tribe
Gonzales Law Firm
522 7th Street, Suite 202
Rapid City, SD 57701
Grace Dugan, Esq.
dugan@wavecom.net

Counsel for the Oglala Sioux Tribe
Western Mining Action Project
P. O. Box 349
Lyons, CO 80540
Jeffrey C. Parsons, Esq.
wmap@igc.org

Counsel for the Oglala Sioux Tribe
Energy Minerals Law Center
1911 Main Avenue, Suite 238
Durango, CO 81301
Travis E. Stills, Esq.
stills@frontier.net

Counsel for multiple petitioners -

Organizations:
Aligning for Responsible Mining
Clean Water Alliance

Individuals:
Theodore P. Ebert
Gary Heckenlaible
Susan Henderson
Dayton Hyde
Lilias Jones Jarding

David Frankel, Esq., Legal Director
Aligning for Responsible Mining
P.O.B. 3014
Pine Ridge, SD 57770
arm.legal@gmail.com

Law Office of Bruce Ellison
P.O. Box 2508
Rapid City, SD 57709
Bruce Ellison, Esq.
belli4law@aol.com
Roxanne Andre, Paralegal
roxanneandre@yahoo.com

Thomas J. Ballanco, Esq.
Attorney for Dayton Hyde
945 Traval Street, #186
San Francisco, CA 94116
harmonicengineering1@mac.com

[Original signed by Linda D. Lewis] _____
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 9th day of July 2010.