

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

August 5, 2010

ORDER

(Denying Motion Re: Invite to Lakota Ceremony)

On July 16, 2010, Petitioner Theodore P. Ebert, through his counsel, filed a motion inviting this Licensing Board and all parties to the above docket to participate in a traditional Lakota ceremony at a time and date to be determined by the Board.<sup>1</sup> Mr. Ebert is a Petitioner in the Powertech licensing proceeding but has been denied standing in that case.<sup>2</sup> On July 26, 2010, both Powertech and the NRC Staff filed responses opposing Mr. Ebert's motion.<sup>3</sup>

While the Board appreciates Mr. Ebert's invitation – especially the motivation to bring together people of differing cultures, viewpoints, and positions – we must deny Mr. Ebert's motion. The Board does not believe that convening the parties to participate in a traditional Lakota ceremony will assist in the development of a sound judicial record. Moreover, it would require the Board to act outside of its adjudicatory role. While the ceremony would be both interesting and educational, the Commission's regulations make clear that our role is an

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<sup>1</sup> Petitioner Ebert's Motion RE: Invite to Lakota Ceremony (July 16, 2010).

<sup>2</sup> See Powertech (USA), Inc. (Dewey-Burdock In-Situ Uranium Recovery Facility), LBP-10-16, 72 NRC \_\_, \_\_ (slip op. at 16-19) (Aug. 5, 2010).

<sup>3</sup> Response to Consolidated Petitioners' Regarding Invite to Lakota Ceremony (July 26, 2010); NRC Staff's Opposition to Petitioner Theodore Ebert's Motion for the Board to Convene a Traditional Lakota Ceremony (July 26, 2010).

adjudicatory role.<sup>4</sup> The Board, however, appreciates the invitation and the spirit in which it was extended.

The Board will be conducting limited appearance statement sessions in this case in accordance with 10 C.F.R. § 2.315(a). At that time, Mr. Ebert, along with interested members of the public, is welcome to share his thoughts and concerns with the Board.

For the foregoing reasons, Mr. Ebert's motion is denied.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD<sup>5</sup>

/RA/

William J. Froehlich, Chairman  
ADMINISTRATIVE JUDGE

Rockville, MD  
August 5, 2010

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<sup>4</sup> See 10 C.F.R. § 2.321(a) ("In proceedings for granting, suspending, revoking, or amending licenses or authorizations as the Commission may designate, the Atomic Safety and Licensing Board shall perform the adjudicatory functions that the Commission determines are appropriate." (emphasis added)).

<sup>5</sup> Copies of this memorandum and order were sent this date by the agency's E-Filing system to the counsel/representatives for (1) Consolidated Petitioners; (2) the Oglala Sioux Tribe; (3) the NRC Staff; and (4) Powertech USA, Inc.

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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 **ORDER (Denying Motion Re: Invite to Lakota Ceremony)**, dated August 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 NO. 40-9075-MLA

**ORDER (Denying Motion Re: Invite to Lakota Ceremony)**

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

Dated at Rockville, Maryland  
this 5<sup>th</sup> day of August 2010.