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	Docket No. 40-9075-MLA
POWERTECH USA, INC.	ASLBP No. 10-898-02-MLA-BD01
(Dewey-Burdock In Situ Uranium Recovery Facility)	June 2, 2014

ORDER
(Providing Case Management Information)

This proceeding concerns contentions brought by the Oglala Sioux Tribe and Consolidated Intervenors to challenge Powertech (USA), Inc.'s application to construct and operate an in-situ leach uranium recovery facility in Custer and Fall River Counties, South Dakota. This Order provides instructions to the parties on how prefiled testimony and exhibits must be submitted in advance of the evidentiary hearing.

I. PROCEDURAL MATTERS

A. Filing Dates

As specified in the Board's Procedural Schedule,[1] the parties' position statements and prefiled direct testimony is due on all contentions from all parties simultaneously on June 20, 2014. The answering statements and testimony are due on July 15, 2014.

[1] Memorandum (Summarizing the February 12, 2014 Teleconference) (Feb. 20, 2014) at Appendix A (unpublished).

B. Exhibits and Prefiled Testimony

Prehearing evidentiary submissions should comprise an initial written statement of position, prefiled testimony, and exhibits necessary to support all factual claims made by the parties.

C. Statements of Position and Evidence

The parties' statements of position should clearly identify each of the issues the parties wish to raise at the evidentiary hearing. Each issue should be fully explained and supported with pinpoint citations to specific evidence, statutes, regulations, or other authorities. It is important that the parties make explicit connections between the statements of position and the submitted evidence. The explanation of how each party position is supported by a particular aspect of an exhibit will facilitate a promptly issued initial decision.

D. Submitting Testimony

Testimony must be prefiled in conformity with 10 C.F.R. § 2.1207. When testimony refers to or is based upon a document, the document must be provided to the Board as one of the party's exhibits, and the testimony should include a citation to the exhibit and, whenever possible, the pages of the exhibits on which the testimony is based. Exhibits shall be numbered and identified as set forth in more detail below. The testimony must also include a supporting affidavit as required by 10 C.F.R. § 2.1207(a)(1).

Per 10 C.F.R. 2.304(g), each item of prefiled testimony and each exhibit must be submitted through the agency's electronic filing system. All prefiled testimony and exhibits will be received into evidence in exhibit form pursuant to 10 C.F.R. § 2.1207(b)(2).

E. Witness Lists

Pursuant to 10 C.F.R. § 2.336(a)(1), parties to this proceeding are required to provide a list of any person "upon whose opinion the party bases its claims and contentions and may rely upon as a witness," along with a copy of the substantive basis for that person's opinion. These lists will be due from all parties on June 20, 2014.

F. Witness Background Information

The parties should provide a resume or other detailed statement describing each witness' education and experience related to the subject matter of his or her testimony.

G. Duplicate Exhibits

Only one copy of each document should be offered into evidence. Therefore, if one party offers a certain document, other parties should not offer the same document as evidence, but should instead rely on the document already filed. To facilitate this, the parties must discuss with one another and determine whether any of the exhibits one party intends to offer into evidence would be duplicated by another party. The parties must then coordinate to determine who will offer that exhibit into evidence. All parties should then reference this single filing of the exhibit. If a party recognized as the only party to offer a document later decides not to offer the document, that party must provide timely notice of its intent to the other party.

H. Proposed Questions

Parties may submit questions they wish the Board to consider asking witnesses, pursuant to 10 C.F.R. § 2.1207(a)(3)(i) and (ii). This submittal should contain a brief description of the issue or issues that the party contends need further examination, the objective of the examination, and the proposed line of questioning (including specific questions) that may logically lead to achieving the objective. Proposed examination questions and plans should be filed only with the Board, using the NRC's electronic filing system, and not served on other parties.

I. Motions for Cross Examination

Motions to conduct cross examination of a specified witness or witnesses should be filed and served in the normal manner. The associated cross examination plan required by 10 C.F.R. § 2.1204(b), however, should be filed only with the Board, using the NRC's electronic filing system, and not served on other parties.

J. Availability of Witnesses

Unless the Board orders otherwise, each party must, at its own expense and effort, assure that each person for whom it has submitted written testimony attends the evidentiary hearing in person and is available to testify and to respond orally to the questions.

II. REQUIRED FORMATTING

A. Exhibit Numbering

In accordance with 10 C.F.R. § 2.304(g), each item of prefiled testimony and each proposed exhibit must be submitted via the agency's e-filing system as an individual electronic file. Each document must be marked with a three character party designation followed by a three character zero-filled number. The three character designations to be used by the parties are "NRC" for the NRC Staff, "APP" for Powertech, "OST" for the Oglala Sioux Tribe, and "INT" for Consolidated Intervenors. The numbering sequence for the NRC Staff's proposed exhibits should be numbered, NRC-001, NRC-002, . . . NRC-999. All other parties should follow this same pattern while substituting their own three character designation. Each party should attempt to order and number prefiled testimony and exhibits in the order in which it plans to identify and present them for inclusion in the record.

The exhibit number should be placed in the upper right hand corner of the first page of the prefiled testimony or exhibit. A party should only use a separate cover sheet if there is no space on the page of the document where the exhibit number can be placed so that it is clear and legible. All pages in the exhibit should be numbered consecutively so that they can be referred to easily and quickly at the evidentiary hearing.

If a previously filed exhibit must be revised, the revised exhibit should be labeled with '-R' following the numbering sequence. For example, if exhibit NRC-005 must be revised, the revised exhibit would be labeled NRC-005-R. If this exhibit must again be revised, it would be labeled NRC-005-R2.

B. Large File Size Exhibits

If prefiled testimony or an exhibit needs to be separated into multiple segments to ensure that it does not exceed the agency's recommended file size,[2] each segment should be labeled by adding a letter directly following the exhibit number to reflect the relationship of each part of the prefiled testimony or exhibit to the other parts. For example, if NRC Staff exhibit NRC-005 must be submitted in multiple parts, each portion should be assigned a different exhibit number: NRC-005-A, NRC005-B, NRC005-C, etc.

C. Proposed Exhibit List

When the prefiled testimony, proposed exhibits, or revisions are filed, each party should submit its prefiled exhibit list via the NRC's e-filing system using the exhibit list template included as Attachment A to this Order. In addition, each party should submit, via email, an electronic copy of its prefiled exhibit list, preferably in Microsoft Word, to the Board's law clerk, Nicholas Sciretta (Nicholas.Sciretta@nrc.gov).

III. MISCELLANEOUS

A. Communications

If either party has a question related to this Order or any other procedural matter, that party may communicate the question to the Board's law clerk, Nicholas Sciretta. The party doing so must include all other parties on any email sent.

B. Evidentiary Hearing

The evidentiary hearing will be conducted under the procedures set forth at 10 C.F.R. Part 2, Subpart L, and the hearing will be held in Rapid City, South Dakota from August 19–21, 2014. The specific times and location of the hearing will be announced in a subsequent order.

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[2] See Guidance for Electronic Submissions to the NRC, rev. 6.1 at 15–16 (May 27, 2011), available at http://www.nrc.gov/site-help/e-submittals/guide-electronic-sub.pdf.

C. Limited Appearance Statement

The limited appearance statements will be heard by the Board in Hot Springs, South Dakota on August 18, 2014. The specific times and location of the sessions will be announced in a subsequent order.

D. Prehearing Conference Call

As noted in the Procedural Schedule, the Board will hold a prehearing conference call with the parties on August 5, 2014 to discuss additional administrative details concerning the evidentiary hearing. The Board will also discuss the dates by which parties may submit questions to the Board to ask at the evidentiary hearing, and rule on any prehearing motions.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

_____
William J. Froehlich, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland
June 2, 2014

Attachment A

Submitted/Revised: [Month/Day/Year]

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
2014 Evidentiary Hearing

[Party] Hearing Exhibits

[Party] Exhibit #	Witness/Panel	Description

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)	)	
	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Providing Case Management Information)** 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
ORDER (Providing Case Management Information)

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

Dated at Rockville, Maryland,
this 2nd day of June 2014.