

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

September 30, 2014

ORDER  
(Adopting Transcript Corrections)

On August 19–21, 2014, the Licensing Board held an evidentiary hearing in this proceeding at the Hotel Alex Johnson in Rapid City, SD.<sup>1</sup> By Order issued September 8, 2014 the parties were afforded an opportunity to submit proposed transcript corrections.<sup>2</sup> The NRC Staff, Powertech USA, Inc. and the Oglala Sioux Tribe filed proposed transcript corrections.<sup>3</sup> The NRC Staff also identified three statements that, although transcribed correctly should, according to the NRC Staff, nonetheless be revised.<sup>4</sup> The NRC Staff asked that the Board and

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<sup>1</sup> Notice of Evidentiary Hearing (July 16, 2014).

<sup>2</sup> Post Hearing Order (Sept. 8, 2014) at 5; Tr. at 1324; see also 10 C.F.R. § 2.327(d).

<sup>3</sup> NRC Staff's Proposed Transcript Corrections (Sept. 4, 2014); Powertech (USA), Inc. Proposed Transcript Corrections (Sept. 19, 2014); Oglala Sioux Tribe's Hearing Transcript Corrections (Sept. 19, 2014).

<sup>4</sup> NRC Staff's Errata List For Hearing Transcript (Sept. 4, 2014) at 1.

the other parties consider these “errata.”<sup>5</sup> No parties filed objections to the proposed corrections, but the Oglala Sioux Tribe opposed the NRC Staff proposing errata changes as part of the transcript correction process.<sup>6</sup>

The Board has reviewed the parties’ proposals, and adopts the corrections set forth in Appendix A of this order. The NRC Staff errata have not been accepted.<sup>7</sup> The August 19–21 hearing transcript, the official record of the evidentiary hearing, is revised to reflect the corrections listed in Appendix A.

The record in this proceeding remains open, however, pending the parties filing a Joint Notice of Disclosure and additional testimony or exhibits, if any, based on the material directed to be disclosed in the Board’s September 8, 2014 Order.<sup>8</sup>

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

*/RA/*

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William J. Froehlich, Chair  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
September 30, 2014

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<sup>5</sup> Id.

<sup>6</sup> Oglala Sioux Tribe’s Hearing Transcript Corrections (Sept. 19, 2014) at 1.

<sup>7</sup> The Staff should confer with the parties as to the errata suggested and inform the Board why it would be appropriate to modify the transcript.

<sup>8</sup> Post Hearing Order (Sept. 8, 2014) at 19.

**Appendix A**

NRC Staff Proposed Corrections:

<b>Page</b>	<b>Line(s)</b>	<b>Delete</b>	<b>Insert</b>
718 <sup>9</sup>	3	Class 3	Class III
757	5	area potential	area of potential
762	16	which evaluating	which you are evaluating
776	14	tribe	tribes
795	15	approached	approach
795	20	included Powertech's	included in Powertech's
808	2	250,000	2,500
817	23	Mr.	Dr.
836	23	recognizance	reconnaissance
837	19	not	
837	20	that	like
837	25	work all	work with all
838	7	on	
838	12	or	
838	15	tell	heard
838	17	changing	challenging
838	23	There are	Under
838	24	There are	Under

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<sup>9</sup> This proposed correction appears on page 719, not page 718.

839	2	open-side	open-site
839	8	many	any
839	20	08018-D	018-D
840	4	they	there
841	11	in	
841	24	agencies need	agency needs
841	25	base on the level effort	based on the level of effort
841	25	then the	then a
845	5	Dr. Hsueh:	Dr. Sebastian:
847	15	open-side	open-site
847	16	open-side	open-site
910	11	or	of
919	21-22	to take from an application	a take permit application
961	25	in some to	in some way to
962	4-5	would conceivably considered	would conceivably have considered
980	15	contention	contentions
980	24	submitted in the Staff's	submitted in response to the Staff's
982	8-9	water quality in aquifer confinement	water quality and aquifer confinement
983	22	Board on Monday	Board heard on Monday
983	24	from	found
984	4	rates	rights

987	2	make sure that	make sure you know that
987	14	Mr. Clark	Mr. Pugsley
987	16	Mr. Clark	Mr. Pugsley
988	9	Mr. Clark	Mr. Pugsley
1021	21	we'll	will
1022	3	their	the
1023	7	service measurements	serves as the measurement
1023	24	1569	NUREG-1569
1023	25	5783	5.7.8.3
1024	14	isolated	isolation
1034	14	yearly	year
1036	10	can	
1037	2	Mr. Prikryl	Mr. Frankel
1057	1	REIs	RAIs
1057	8	that	
1089	3	11-5	11.5
1095	14	11-5	11.5
1096	1	aid	laid
1096	22	surety estimates, the amount	or surety estimate, by the amount
1120	19	Mr. Parsons	Mr. Pugsley
1121	5	Mr. Parsons	Mr. Pugsley
1121	9	Mr. Parsons	Mr. Pugsley
1123	18	Participant	Mr. Ballanco
1123	20	Participant	Mr. Ballanco

1124	1	Participant	Mr. Ballanco
1132	21	be violated	be in violation of
1133	7	Mr. Clark	Mr. Pugsley
1138	18	225	2-25
1139	19	adds for	add to
1146	18	Chairman Froehlich	Mr. Prikryl
1146	20	counted	accounted
1167	4	radiant	gradient
1185	9	Mr. Parsons	Mr. Pugsley
1205	19	proposed action in Chapter 7	proposed action and in Chapter 7
1207	15-16	Commission's and Powertech's license very specifically described	Commission's regulations and Powertech's license very specifically describe
1208	1	Getting to	Setting aside
1208	17	these	the
1208	23	licensing decision. And so every other	licensing decision until every other
1218	18	on	
1220	5	appropriate	inappropriate
1257	14	strong	small
1264	16	use	take
1273	16	Female Participant	Ms. Yilma
1283	25	cord	corridor
1285	21	Male Participant	Mr. Lancaster
1286	17	Male Participant	Mr. Lancaster

1286	22	Male Participant	Mr. Lancaster
1298	5	and	on
1301	16	CLI 12-0575 NRC	CLI-12-05, 75 NRC
1301	18	CLI 02-2250 NRC	CLI-02-22, 50 NRC
1302	2	CLI 05-1561 NRC	CLI-05-15, 61 NRC
1302	7	about	by
1302	10	licensed	license
1302	16	licensed	license
1302	19	CLI 0601	CLI-06-01
1302	19	CLI 9922	CLI-99-22
1302	20	licensed	license
1302	25	on	in
1302	25	EAS	EIS
1304	9-10	consideration mitigation	consideration of mitigation
1304	12	law in mitigation	law on mitigation

PowerTech Proposed Corrections:

<b>Page</b>	<b>Line(s)</b>	<b>Delete</b>	<b>Insert</b>
702	9	combined source	combined source and
703	16	DEIS	DSEIS
703	25	DEIS	DSEIS
705	3	though	through
705	4	though	through
716	21	witnesses	witnesses' testimony
722	19	archaeology laboratory	Archeology Laboratory
723	14	Adrian	Adrien
729	18	reasonable good faith	reasonable and good faith
739	18	NRC-35	NRC-035
740	11	contacting/consulting	contacting consulting

751	1	Not much before the	Not much before. The
756	22	is from	is for
759	22	Act. Is	Act. CHAIRMAN FROEHLICH: Is
765	16	ar	are
766	17	plinth	flint
772	12	arrow	annual
775	2	Presentation	Preservation
790	21-22	Exhibit NRC 15	Exhibit NRC-015
801	11	Ogalas	Oglalas
814	20	stats	states
822	4	and evaluated	unevaluated
842	19	He	She
844	20	know	
847	20	projects	Project
848	4	site	tribe
856	9	your	you're
857	1	historic cultural	historic or cultural
857	18	ALC	ALAC
860	2	APP-63	APP-063
862	2	impact	agreement
871	11	culled	called
871	23	property	properties
881	13, 15, 16	April	August
900	11	Pirko	Prikryl
906	1	LeGarry	LaGarry
912	15	Powertech	Exhibit
925	8	957	972
931	16	APP-016(b)	APP-016-B
940	25	frack load	frac flow
943	11	APP-016(g)	APP-016-G
952	22	APP-016(d)	APP-016-D
952	24	15(d)	015-D
953	10	APP-015(d)	APP-015-D
957	5	JUDGE COLE	CHAIRMAN FROEHLICH
962	3	EIS	SEIS
962	17	EIS	SEIS
966	24	data, compilations	data compilations
973	3	NRC 013	NRC-013
973	5	delegated to under	delegated to them under
973	19	5 (b) (5)	5B(5)
974	13	guidance,	guidance is
974	15	is delegated	as delegated
975	14	CLI 0601	CL-06-01



976	13	Hall Demuth	Hal Demuth
977	3	one-and-a-half	one-half
977	19	Record and Decision	Record of Decision
981	5	NRC 013 <sup>10</sup>	NRC-013
981	22	commission	Commission
982	11	NRC 12	NRC-012
987	21	determining in compliance	determining compliance
1005	21	NRC 13	NRC-013
1009	14	ASR	ISR
1011	1	APP 013	APP-013
1017	21	us plain water	use plain water
1017	24	Table 7.3-1	Table 2.7.3-1
1022	23	oat	at
1027	2	of we pump	if we pump
1028	16	founds	found
1045	14	radiant	gradient
1048	7	up to a year	up to a standard
1050	14	with the Fuson	through the Fuson
1080	23	a valuation	evaluation
1081	18	minestream that worked prior to our breaking	monitoring network prior to operating
1094	15	permitted	permanent
1095	4	stock irrigation	stock or irrigation
1095	20	with the 60	within 60
1097	3	line	mine
1107	16	OST-	INT-
1111	4	015(f)	O15-F
1111	11	015(f)	O15-F
1112	10	USGS work. So if I	USGS work. ¶ JUDGE BARNET: So If I
1112	18	anhydride	anhydrite
1112	22	anhydride	anhydrite
1123	16	you'd he'd forward	he'd come forward
1126	24	off the record at 3:55 p.m. and resumed at 3:55 p.m.	off the record at 3:55 p.m. and resumed at 4:00 p.m.
1127	20	label	labeled
1131	14	NRC 12	NRC-012
1138	11	classified	Class V
1138	15	problems	ponds
1139	4	HP	HDPE
1142	10	serious	series

<sup>10</sup> 'NRC 13' appears in the transcript.

1144	11	do make	do you make
1149	23	270.2	274.2
1150	4	concluded	included
1150	8	annual recharge	average annual
1150	21	Environmental	Environment
1151	11	concluded	included
1153	14	PNR-14 C-1	P&R-14-C-1
1167	15	MS. McLEAN	DR. MORAN
1167	20	MS. McLEAN	DR. MORAN
1178	11, 21	BARRETT	BARNETT
1178	23	tell I'm	tell me if I'm
1179	13	BARRETT	BARNETT
1180	24	electronic	electric
1192	1-2	I will not possibly clarify it, it will	I will possibly clarify it
1193	16	all but	only
1194	21	Witness'	Witnesses'
1196	22	reply	
1201	1, 3, 17	BARRETT	BARNETT
1206	5	417	427
1209	11	record of decision	Record of Decision
1209	12	assesses	assess
1211	11	record of decision	Record of Decision
1212	8	their	the
1222	15, 18, 22	BARRETT	BARNETT
1223	1	BARRETT	BARNETT
1225	1	BARRETT	BARNETT
1235	3	3, 4.14	4.14
1236	10	a Level 2	11e.(2)
1237	23	BARRETT	BARNETT
1238	10	BARRETT	BARNETT
1239	22	BARRETT	BARNETT
1240	22	MALE PARTICIPANT	Mr. Fritz
1241	13, 17, 25	BARRETT	BARNETT
1252	17	Rangers	Ranchers
1260	8	source	solution
1260	12	models	metals
1260	25	pond	well
1261	13	2.51	2-51
1262	16	list	lists
1264	7	into	into account
1265	22	storage	injection
1269	9	441	4-41
1270	22	443	4-43

1272	9	MALE PARTICIPANT	MR. LANCASTER
1276	2	you	you've
1276	12	build	bale
1280	5	532	5-32
1280	18, 21	MALE PARTICIPANT	MR. DEMUTH
1282	8	exactly	exactly clear
1283	23	Section 4.89	page 4-89
1283	25	for power cord	from power
1284	3	specifically	especially
1285	17	Was	Is
1286	22	EIS.	EIS?
1290	23	criterion 5(b)(5)	Criterion 5B(5)
1290	24	commission approved background.	"Commission-approved background."
1292	1	breach of	breccia
1292	10	areas	area is
1294	14	bleed only	bleed is only
1294	20	application	applications
1295	3, 8	licensed	license
1295	5	precedence	precedent
1297	5	NPDS	NPDES
1298	20	NRC-18A and 18B	NRC018-A and 018-B
1299	3, 9	standing	Standing
1299	4	NRC-18D	NRC-018-D
1299	8	NRC-31	NRC-031
1300	11	NRC-13	NRC-013
1302	6	licensed	license
1307	25	Appendix 8, the Appendix 8	Appendix A, the Appendix A
1308	13	false	faults,
1308	24	licensed	license
1313	2	differs	defers
1316	25	document	documents
1319	7	of	or
1319	20	party	parties
1326	23	15 <sup>th</sup>	5th

OST Proposed Corrections:

- Page 755 Line 9: delete "we I think have" insert "I think we have"
- Page 764 Line 8: delete "Ogala" insert "Oglala"
- Page 801 Line 11: delete "Ogalas" insert "Oglalas"
- Page 825 Line 25: delete: "going force" insert "going to force"
- Page 900 Line 14: delete "Mr." insert "Dr."

Page 994 Line 14: delete "DNER" insert "DENR"; Line 19: delete "DNER" insert "DENR"  
Page 1003, Line 20: delete "mores" insert "years"  
Page 1004, Line 10: delete "I" insert "In"

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 (Adopting Transcript Corrections)** 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 (Adopting Transcript Corrections)**

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Office of the Secretary of the Commission

Rockville, Maryland  
September 30, 2014