



SECRETARY

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

December 23, 2016

IN RESPONSE, PLEASE  
REFER TO: M161223

MEMORANDUM FOR: Brooke P. Clark, Director  
Office of Commission Appellate Adjudication

FROM: Annette L. Vietti-Cook, Secretary */RA/*

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 9:55 A.M.,  
FRIDAY, DECEMBER 23, 2016, COMMISSIONERS'  
CONFERENCE ROOM, ONE WHITE FLINT NORTH,  
ROCKVILLE, MARYLAND (OPEN TO PUBLIC ATTENDANCE)

I. SECY-15-0132 – POWERTECH (USA), INC. (DEWEY-BURDOCK IN SITU URANIUM RECOVERY FACILITY)—PETITIONS FOR REVIEW OF LBP-15-16 AND RELATED INTERLOCUTORY DECISIONS

The Commission,<sup>1</sup> with Commissioner Svinicki dissenting in part and Commissioner Baran dissenting in part, approved a Memorandum and Order addressing four petitions for review relating to a materials license application for an *in situ* uranium recovery site filed by Powertech (USA), Inc. All parties to the proceeding—the Oglala Sioux Tribe, Consolidated Intervenors, Powertech, and the NRC Staff—have filed petitions for review of the Atomic Safety and Licensing Board’s Partial Initial Decision, and in the case of the Tribe and Consolidated Intervenors, earlier Board decisions finding several of their proffered contentions inadmissible.

The Memorandum and Order grants each party’s petition for review in part. The Memorandum and Order takes review of each party’s petition with respect to the finality of the Board’s ruling on Contentions 1A and 1B, finds that Board’s ruling on these contentions should be considered “final,” and directs that the proceeding remain open for the narrow purpose of resolving the deficiencies identified in these contentions. The Memorandum and Order takes review of the Staff’s and Powertech’s petitions with respect to the Board’s direction to the Staff to address the deficiencies identified in Contentions 1A and 1B and affirms the Board’s direction to the Staff with respect to these contentions. The Memorandum and Order denies the remainder of Powertech’s, the Staff’s, and Consolidated Intervenors’ petitions for review. The Memorandum and Order takes review of the Tribe’s petition with respect Contention 8, affirms the Board’s conclusion with respect to that contention, and denies the remainder of the Tribe’s petition for review.

(Subsequently, on December 23, 2016, the Secretary signed the Memorandum and Order.)

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<sup>1</sup> Section 201 of the Energy Reorganization Act, 42 U.S.C. Section 5841, provides that action of the Commission shall be determined by a majority vote of the members present. Commissioners Svinicki and Baran were present in the Conference Room. Chairman Burns was present via speakerphone.

cc: Chairman Burns  
Commissioner Svinicki  
Commissioner Baran  
EDO  
OGC  
CFO  
OCAA  
OCA  
OIG  
OPA  
ODs, RAs, ACRS, ASLBP (via E-Mail)  
PDR