

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

OGLALA SIOUX TRIBE,)	
)	
Petitioner,)	No. 17-1059
)	
v.)	
)	
UNITED STATES NUCLEAR REGULATORY COMMISSION and the UNITED STATES OF AMERICA,)	
)	
Respondents.)	

**FEDERAL RESPONDENTS' UNOPPOSED MOTION TO AMEND
BRIEFING SCHEDULE**

The U.S. Nuclear Regulatory Commission (NRC) and the United States of America (together, Federal Respondents) hereby move to amend the briefing schedule in the above-captioned case. The amendments we request would extend the deadlines for the Respondents' Brief, the Intervenor for Respondents' (Powertech's) Brief, the Petitioner Oglala Sioux Tribe's Reply Brief, the Deferred Appendix, and the parties' Final Briefs, while leaving the deadline for the Petitioner's Brief unchanged. We developed the proposed briefing schedule amendments in coordination with the other parties in this case, and the other parties have indicated they have no objection to the proposed amendments.

Under the briefing schedule issued by the Court on May 18, 2017, Petitioner's Brief is due on June 27, 2017, and Respondent's Brief is due on July 27, 2017. Lead counsel for the NRC had previously scheduled personal travel, involving non-refundable airline reservations, for approximately two weeks in July for a family event, which would account for roughly half of the Federal Respondents' allotted briefing time. The effective time for drafting a response brief is further limited by the need for the NRC to coordinate with the Department of Justice (DOJ), which represents the United States in this matter. In Hobbs Act lawsuits against the NRC, the NRC and DOJ typically collaborate on a joint Federal Respondents brief rather than filing separate briefs, and we currently anticipate filing a joint brief in this case.

In addition, the licensing proceeding before the NRC that has given rise to this case involves numerous disputed issues between the parties and, over the seven years since the licensing proceeding began, has spawned a massive administrative record. Indeed, just the certified *index* to the record, which the NRC filed on April 6, 2017, spans 232 pages (and lists over 1500 record documents). The Tribe has also signaled that it plans to raise a variety of issues in its brief, having listed six separate issues in its Statement of Issues to be Raised. These include several challenges regarding the technical merits of the pertinent NRC environmental impact analysis, the central component of which is a two-

volume site-specific Environmental Impact Statement spanning over 1300 pages. And that would be in addition to the Federal Respondents' jurisdictional challenge raised in the Federal Respondents' Motion to Dismiss in this case, which this Court, in an order issued on May 17, 2017, directed the parties to address in their briefs.

In light of these considerations, the Federal Respondents submit that an extension of two weeks to the current July 27 deadline for the Federal Respondents' brief would ensure there is sufficient time to complete a response brief in this case. If that extension (to August 10, 2017) is granted, Federal Respondents also request extensions of time for Powertech's Intervenor for Respondents' Brief, the Tribe's Reply Brief, the Deferred Appendix, and Final Briefs to account for the new Respondents' Brief deadline. The precise dates we are proposing for each step of the briefing schedule were determined in coordination with the other parties in this case, to ensure that the amended schedule would not result in any new schedule conflicts while attempting, given the Tribe's interest in keeping the case moving, to avoid any unnecessary delays. In full, the proposed amended schedule would be:

- Petitioner's Brief: June 27, 2017
- Respondents' Brief: August 10, 2017
- Intervenor for Respondents' Brief: August 21, 2017

- Petitioner's Reply Brief: September 12, 2017
- Deferred Appendix: September 19, 2017
- Final Briefs: September 26, 2017

Although the original timeframe provided by this Court for filing final briefs after completion of the deferred appendix was two weeks, the parties anticipate that one week, as provided in the amended schedule, would suffice in this case.

Accordingly, for the reasons discussed above, the Federal Respondents respectfully request, without objection from the other parties in this case, that this Court amend the briefing schedule in this case in the manner described above.

Respectfully submitted,

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Dated: June 1, 2017

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing Federal Respondents' Unopposed Motion to Amend Briefing Schedule complies with the formatting and type-volume restrictions of the rules of the U.S. Court of Appeals for the District of Columbia Circuit. The motion was prepared in 14-point, double spaced, Times New Roman font, using Microsoft Word 2013, in accordance with Fed. R. App. P. 32(a)(5) and Fed. R. App. P. 32(a)(6). The motion contains 696 words and therefore complies with Fed. R. App. P. 27(d)(2)(C).

/s/ James E. Adler

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CERTIFICATE OF SERVICE

I hereby certify that on June 1, 2017, the foregoing Federal Respondents' Unopposed Motion to Amend Briefing Schedule was served on all counsel of record in case number 17-1059 through the electronic filing system (CM/ECF) of the U.S. Court of Appeals for the District of Columbia Circuit.

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