

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
POWERTECH (USA), INC.)
)
(Dewey-Burdock)
In Situ Uranium Recovery Facility))

Docket No. 40-9075-MLA

ORDER

On July 20, 2018, the U.S. Court of Appeals for the District of Columbia Circuit issued a decision in *Oglala Sioux Tribe v. NRC*, which reviewed the Commission's December 23, 2016, order (CLI-16-20) in the above-captioned proceeding.¹ The court held that the NRC violated the National Environmental Policy Act (NEPA) in connection with the NRC's use of an irreparable harm standard when considering suspension or vacatur of Powertech's license following the identification of a deficiency in the agency's NEPA analysis. The court declined, however, to vacate Powertech's license. Instead, the court remanded the case back to the Commission for further proceedings consistent with the court's opinion.

The Commission now invites all parties in the proceeding to provide their views on how the agency should respond to the court's remand to ensure consistency with the court's opinion going forward. The parties should address, at a minimum, the question of what legal standard the NRC should use. The parties' views are due by September 24, 2018. The parties' responses to these views are due by October 19, 2018. Submissions must comply with the page limitations for petitions for review and answers set forth in 10 C.F.R. § 2.341(b).

¹ 896 F.3d 520 (D.C. Cir. 2018).

This order is issued pursuant to my authority under 10 C.F.R. § 2.346(a).

IT IS SO ORDERED.

For the Commission

NRC Seal

/RA/

Rochelle C. Bavor
Acting Secretary of the Commission

Dated at Rockville, Maryland
this 30th day of August, 2018.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER OF THE SECRETARY** have been served upon the following persons by Electronic Information Exchange, and by electronic mail as indicated by an asterisk (*).

U.S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board (ASLB)
Mail Stop T-3F23
Washington, DC 20555-0001

William J. Froehlich, Chair
Administrative Judge
william.froehlich@nrc.gov

Mark O. Barnett
Administrative Judge
mark.barnett@nrc.gov

G. Paul Bollwerk, III
Administrative Judge
paul.bollwerk@nrc.gov

Margaret J. Bupp, Esq., Chief Counsel
margaret.bupp@nrc.gov

Sarah B. Ladin, Law Clerk
Sarah.Ladin@nrc.gov

Joseph D. McManus, Law Clerk
Joseph.McManus@nrc.gov

U.S. Nuclear Regulatory Commission
Office of Commission Appellate Adjudication
Mail Stop O-16B33
Washington, DC 20555-0001
OCA Mail Center
ocaamail@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Rulemakings & Adjudications Staff
Mail Stop O-16B33
Washington, DC 20555-0001
hearingdocket@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop O-15 D21
Washington, DC 20555-0001
Mary Spencer, Esq.
mary.spencer@nrc.gov

Susan Vrahoretis, Esq.
Susan.Vrahoretis@nrc.gov

Emily Monteith, Esq.
emily.monteith@nrc.gov

Lorraine Baer, Esq.
Lorraine.Baer@nrc.gov

Sabrina Allen, Paralegal
sabrina.allen@nrc.gov
Krupskaya T. Castellon, Paralegal
Krupskaya.Castellon@nrc.gov

OGC Mail Center:
RidsOgcMailCenter.Resource@nrc.gov

POWERTECH (USA) INC., DEWEY-BURDOCK IN SITU RECOVERY FACILITY
DOCKET NO. 40-9075-MLA
ORDER OF THE SECRETARY

Counsel for the Applicant (Powertech)
Thompson & Pugsley, PLLC
1225 19th Street, NW, Suite 300
Washington, DC 20036
Christopher S. Pugsley, Esq.
cpugsley@athompsonlaw.com
Cynthia L. Seaton, Paralegal
cseaton@athompsonlaw.com
Anthony J. Thompson, Esq.
ajthompson@athompsonlaw.com

Consultant to Applicant (Powertech)
WWC Engineering
1849 Terra Ave.
Sheridan, WY 82801
Jack Fritz
jfritz@wwcengineering.com

Counsel for the Oglala Sioux Tribe
Western Mining Action Project
P. O. Box 349
Lyons, CO 80540
Jeffrey C. Parsons, Esq.
wmap@igc.org

Counsel for the Oglala Sioux Tribe
Energy & Conservation Law
1911 Main Avenue, Suite 238
Durango, CO 81301
Travis E. Stills, Esq.*
stills@frontier.net

Counsel for Consolidated Intervenors
David C. Frankel, Esq.
1430 Haines Ave., #108-372
Rapid City, SD 57701
E-mail: arm.legal@gmail.com

Counsel for Consolidated Intervenors
(Susan Henderson and Dayton Hyde)
Law Office of Bruce Ellison
P.O. Box 2508
Rapid City, SD 57709
Bruce Ellison, Esq.*
belli4law@aol.com
Roxanne Andre, Paralegal*
roxanneandre@yahoo.com

Counsel for Consolidated Intervenors
(Dayton Hyde)
Thomas J. Ballanco, Esq.*
945 Traval Street, #186
San Francisco, CA 94116
harmonicengineering@gmail.com

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

Dated at Rockville, Maryland
this 30th day of August, 2018