

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

William J. Froehlich, Chairman
Dr. Mark O. Barnett
G. Paul Bollwerk, III

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
March 18, 2019

ORDER
(Scheduling Third Telephonic Conference Call)

On January 29, 2019, the Board held its second conference call with the parties to this proceeding to discuss the Oglala Sioux Tribe's January 11, 2019 response to the NRC Staff's November 21, 2018 letter, as well as the recent progress made by the NRC Staff in its efforts to resolve Contention 1A.¹ The parties have agreed to a third telephone conference to be held on Thursday, March 21, 2019 beginning at 2:00 PM Eastern Daylight Time. The Board anticipates that this conference will last no more than two hours.

The Board will establish a bridge line for this telephone conference, with three lines provided for each party. Listen-only telephone access will also be made available for members of the public. The Board's law clerk will contact the participants by email to provide the telephone number and passcodes for participation and listen-only access. Members of the public who wish to listen to the conference may also contact the Board's law clerk, Taylor

¹ Tr. at 1523–54.

Mayhall, at 301-415-3027 or Taylor.Mayhall@nrc.gov, for the necessary listen-only telephone access information.

From the public docket of this licensing proceeding the Board is aware of both the NRC Staff's March 1, 2019 letter to the Oglala Sioux Tribe (ADAMS Accession No. ML19066A395) and the Tribe's March 12 response (ADAMS Accession No. ML19074A235). Bearing in mind that the Board has reviewed these two documents, during the conference, the Board would like to discuss the following questions:

NRC Staff

- In addition to what is described in the Staff's March 1 letter, is there any additional information of which the Board should be aware relative to the NRC Staff's efforts since the previous teleconference towards resolving Contention 1A?
- How has the Tribal Liaison Branch been involved in any recent interactions between the Staff and the Oglala Sioux Tribe, in particular the February 19 teleconference and the February 22 meeting? Does the Staff intend to involve the Tribal Liaison Branch in all future negotiations with the Tribe regarding Contention 1A?
- What additional input from the Tribe does the Staff need to begin implementing each aspect of the March 2018 approach?
- What additional information does the Staff envision obtaining if the Oglala Sioux Tribe cooperates in implementing the March 2018 Approach, including the field survey and the associated oral history interviews? How will the information be documented?
- What does the Staff envision in terms of additional information gathering if the Oglala Sioux Tribe does not cooperate with implementing the March 2018 Approach, including the field survey and/or the associated oral history interviews? How would this circumstance be documented?
- What is the NRC Staff's response to the Tribe's suggestion that a multi-day meeting be convened to develop the survey methodology?

Oglala Sioux Tribe

- Given its March 12 response, what particular matters does the Tribe still believe need to be discussed and resolved with the NRC Staff to begin implementing each aspect of the March 2018 approach?
- The Oglala Sioux Tribe, as well as the other parties, previously agreed to the March 2018 Approach as a reasonable way to resolve Contention 1A.² Will the

² LBP-18-5, 89 NRC __, __ (slip op. at 42) (Oct. 30, 2018); see also Tr. at 1389 ("But we're comfortable with, as we stated multiple times, the approach that the NRC Staff has laid out."); 1432 ("And so we maintain the position that [the] March 2018 approach is a reasonable one and would not like to see backsliding.").

Tribe continue working with the NRC Staff towards implementation of the March 2018 Approach, within the parameters set out by LBP-18-5?

- What specific changes does the Tribe wish to have incorporated in the NRC Staff's draft site survey methodology? Has the Tribe conveyed any specific elements to be included or their effect on the proposed time line to the NRC Staff?
- Will the Tribe participate in the activities and schedule as outlined in the NRC Staff's Nov. 21 letter, including the April 1 date to start implementing the first phase of the field survey?

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

William J. Froehlich, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
March 18, 2019

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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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 (Scheduling Third Telephonic Conference Call)** 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
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[Original signed by Clara Sola _____]
Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 18th day of March, 2019