

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
April 15, 2019

ORDER

(Additional Information Relative to Pending Motion
to Set Schedule for Evidentiary Hearing)

Relative to a pending April 3, 2019 Nuclear Regulatory Commission Staff (NRC Staff) motion to set a schedule for an evidentiary hearing in the above-captioned docket, the Licensing Board issued an order on April 5, 2019 that (1) set forth several questions for the parties to answer by the April 15 date for responses to the Staff's motion and (2) provided a proposed schedule for a hearing, should the Staff's motion be granted.¹ On April 11, citing continuing weather-related issues at its Pine Ridge Reservation in South Dakota, intervenor Oglala Sioux

¹ Licensing Board Order (Setting Procedures to Address Motion to Set Schedule for Evidentiary Hearing) (Apr. 5, 2019) at 3 & app. A (unpublished); see NRC Staff's Motion to Set Schedule for Evidentiary Hearing (Apr. 3, 2019).

Tribe (OST) filed an essentially unopposed motion to extend the response date until April 18,² which the Board granted by order dated April 12.³

As a consequence of this extension, to remain consistent with the dates in the proposed schedule provided with the Board's April 5 issuance, the parties' hearing-associated filing dates would need to be extended by approximately one week. The revised proposed schedule, included as Appendix A to this order, makes such changes. Consequently, we request that in their responses to the Staff's April 3 motion, the parties answer the questions posed in the Board's April 5 order in light of this revision.

Additionally, consistent with the April 5 order, the Board would now plan on holding a teleconference with the parties during the week of April 22 regarding the Staff's motion and, as appropriate, to discuss the details of the hearing schedule attached as Appendix A. As was the case previously, all parties should be prepared to address the proposed hearing schedule together with any responses to the NRC Staff's motion. The parties also are encouraged to

² [OST] Motion for Extension of Time to Submit Responses (Apr. 11, 2019) at 2. In its motion, OST indicated that while the NRC Staff and Consolidated Intervenors had no objection to the requested extension, counsel for licensee Powertech USA, Inc., (Powertech) had not been able to ascertain his client's position on the OST motion. Id. at 1–2.

³ Licensing Board Order (Granting OST's Motion for Extension of Time to Submit Responses) (Apr. 12, 2019) (unpublished).

discuss the revised Appendix A with each other prior to the filing of responses to the NRC Staff's motion and to the all-parties teleconference.⁴

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

William J. Froehlich, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
April 15, 2019

⁴ In this regard, the Board is very much aware that recent weather has resulted in significant problems on the Pine Ridge Reservation. In the Board's view, however, that does not necessarily justify an open-ended approach to scheduling in the event a hearing is to be convened, particularly when OST's first evidentiary pre-filing under the proposed Appendix A schedule, which is a response to initial Staff and Powertech prefiled submissions, is not due for some six weeks. Nonetheless, to the degree OST wishes to advocate for an extension of portions or all of the proposed Appendix A schedule, it would be best served by proposing specific dates for filings and other events and by having its proposed approach endorsed by the NRC Staff and/or Powertech.

APPENDIX A: SCHEDULE – Powertech USA, Inc. (Dewey-Burdock In Situ Uranium Recovery Facility) Proceeding

Event:	Date:
All Parties Status Conference	Week of April 22, 2019
Evidentiary Hearing Schedule	
Positions Statement/Prefiled Direct Testimony from NRC Staff	May 17, 2019
Response Positions Statements/Prefiled Direct Testimony Supporting NRC Staff's Prefiled Direct Testimony	May 22, 2019
Response Position Statements/Prefiled Response Testimony Opposing NRC Staff's Prefiled Testimony and any Supporting Prefiled Testimony	June 14, 2019
Reply Position Statement/Prefiled Reply Testimony from NRC Staff	June 28, 2019
Proposed Cross-Examination Questions Due	July 12, 2019
Evidentiary Hearing	Week of August 5, 2019 ⁵
Proposed Findings of Fact/Conclusions of Law Due	September 9, 2019
Reply Findings of Fact/Conclusions of Law Due	September 23, 2019
Licensing Board Initial Decision	November 15, 2019

⁵ A final Board assessment regarding the length of the evidentiary hearing would await the receipt of the parties' direct, response, and reply testimony.

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 (Additional Information Relative to Pending Motion to Set Schedule for Evidentiary Hearing)** 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 (Additional Information Relative to Pending Motion to Set Schedule for Evidentiary Hearing)

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[Original signed by Herald M. Speiser]
Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 15th day of April, 2019