

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

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| In the Matter of POWERTECH USA, INC. (Dewey-Burdock In Situ Uranium Recovery Facility) |
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Docket No. 40-9075-MLA
ASLBP No. 10-898-02-MLA-BD01
May 13, 2019

ORDER

(Providing Additional Case Management Information)

On May 2, 2019, the Board issued an Order supplementing the Case Management Order issued June 2, 2014 in the above-captioned proceeding.¹ On May 10, 2019, the NRC Staff filed a response with two comments.²

The first comment concerns the NRC Staff's use of non-public information previously referenced in the NRC Staff's August 17, 2018 summary disposition motion.³ The Board appreciates the NRC Staff providing this information in response to our 2019 Case Management Order and notes that the procedural approach outlined by the NRC Staff regarding that information seems appropriate.⁴

¹ Licensing Board Order (Providing Case Management Information) (May 2, 2019) (unpublished) [hereinafter 2019 Case Management Order]; see also Licensing Board Order (Providing Case Management Information) (June 2, 2014) (unpublished).

² NRC Staff Response to Case Management Order (May 10, 2019) at 1. No other party submitted comments to the Board's 2019 Case Management Order.

³ Id. at 1–2.

⁴ Although none of the other parties has identified the need to rely upon any non-public information in support of its case or to revise the existing protective order in this proceeding, in the event any subsequent submission by a party engenders reliance on any additional non-

The second matter raised by the NRC Staff concerns the provisions of the Board's 2019 Case Management Order regarding party duplication of prefiled exhibits.⁵ As the NRC Staff suggests, with the filing schedule for the parties' evidentiary material for this portion of the proceeding being serial rather than simultaneous—with the NRC Staff filing first, followed by responses supporting and then responses opposing the NRC Staff's initial material, and concluding with a NRC Staff reply to those responses—the potential for duplication should be substantially reduced. Certainly, to the degree the NRC Staff provides as a prefiled exhibit an item that was not previously identified as a portion of the evidentiary record of this proceeding, other parties should utilize the NRC Staff's exhibit number in referencing that item in their position statements and prefiled testimony, albeit without prejudice to a subsequent motion in limine (per the Appendix A schedule in the Board's 2019 Case Management Order) regarding the NRC Staff's previously unidentified item.⁶ The same would go for subsequent references by a party to a prefiled exhibit submitted for the first time by another party as part of its response supporting or opposing the NRC Staff's initial material.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

William J. Froehlich, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
May 13, 2019

public information or the need for a protective order revision, the Board should be informed promptly of such a circumstance. See 2019 Case Management Order at 7 n.13.

⁵ Id. at 2–3.

⁶ Such a motion could object to all or a specified portion of the exhibit.

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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 (Providing Additional Case Management Information)** 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 (Providing Additional Case Management Information)

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[Original signed by Diane B. Garvin]
Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 13nd day of May, 2019