

ORAL ARGUMENT HELD NOVEMBER 9, 2021

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

No. 20-1489

OGLALA SIOUX TRIBE, ALIGNING FOR RESPONSIBLE MINING,
Petitioners,

v.

UNITED STATES NUCLEAR REGULATORY COMMISSION, UNITED
STATES OF AMERICA,
Respondents,

and

POWERTECH (USA), INC.,
Intervenor.

Petition for Review of Final Order of the United
States Nuclear Regulatory Commission

**UNOPPOSED MOTION FOR A 30-DAY EXTENSION OF TIME TO
FILE RESPONSES TO PETITION FOR REHEARING EN BANC**

Respondents United States Nuclear Regulatory Commission and the
United States of America (together, Federal Respondents) respectfully
request a 30-day extension of time for Federal Respondents and Intervenor
Powertech (USA), Inc., to file responses to the petition for rehearing en banc

filed by Petitioners Oglala Sioux Tribe and Aligning for Responsible Mining. Petitioners take no position on this motion.

1. By order of October 4, 2022, this Court directed Federal Respondents and the Intervenor to file responses to the Petitioners' petition for rehearing en banc within 15 days of the date of the order.

2. The responses to the petition for rehearing en banc are due on Wednesday, October 19, 2022. No prior extension has been requested. A 30-day extension would make the responses due on November 18, 2022.

3. Petitioners' petition for rehearing en banc, filed on September 23, 2022, will require significant time in which to respond. The response requires substantial coordination and review by attorneys and management at the Nuclear Regulatory Commission and the Department of Justice. Meanwhile, undersigned counsel for Respondent United States of America has deadlines and other litigation obligations that have, and will continue to, require attention, including oral argument in *Los Angeles v. Federal Aviation Administration*, No. 21-71170 (9th Cir.), on October 18, 2022, a brief due in *Eagle County v. Surface Transportation Board*, No. 22-1019 (D.C. Cir.) on October 28, 2022, and a brief due in *BP America Production Co. v. Haaland*, No. 22-8024 (10th Cir.), on November 11, 2022. Undersigned counsel also oversees the petition for review practice within the Appellate

Section of the Environment and Natural Resources Section, which involves substantial obligations supervising other attorneys in petitions for review cases. For all these reasons, Federal Respondents need an additional 30 days to respond to the rehearing petition.

4. Intervenor Powertech (USA), Inc., joins in this motion to coordinate briefing with the Federal Respondents.

Accordingly, Federal Respondents respectfully request that the Court extend the deadline for Federal Respondents and the Intervenor to file responses to Petitioners' petition for en banc review to November 18, 2022.

Respectfully submitted,

/s/ Justin D. Heminger

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October 7, 2022

CERTIFICATE OF COMPLIANCE

1. This document complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A) because, excluding the parts of the document exempted by Rule 32(f), this document contains 343 words.

2. This document complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Rule 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in 14-point Times New Roman font.

/s/ Justin D. Heminger

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