

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the matter of	)	
	)	
POWERTECH (USA) INC.	)	Docket No. 40-9075-MLA
	)	ASLBP No. 10-898-02-MLA-BD01
(Dewey-Burdock In Situ Uranium	)	
Recovery Facility)	)	

**REBUTTAL TO OPENING POSITIONS OF APPLICANT  
AND NRC STAFF**

The Consolidated Intervenors hereby submit this rebuttal to the Opening Testimony and Exhibits submitted by Applicant and the NRC Staff, where necessary and appropriate.

**Contention 1B**

Contention 1B involves the failure of the NRC Staff and Applicant to properly identify and determine the impact of the proposed ISL mining operation on cultural resources of the ancestors of the local indigenous population, members of Tribes of which have long ties to the area.

In this regard, the Consolidated Intervenors respectfully submit the July 14, 2014 Statement of Dr. Lou Redmond [Ex INT-019] to further rebut Applicant and NRC staff experts' claims that the Section 106 surveys were properly and sufficiently conducted to identify indigenous cultural resources and that any

unidentified resources would be responsibly identified and mitigated by the so-called Programmatic Agreement.

### **Contention 3**

Contention 3 is a safety contention involving issues related to the hydrogeologic confinement of the aquifer the Applicant proposes to ISL mine.

The Consolidated Intervenor submit the Rebuttal Testimony of Dr. Hannan LaGarry [Ex INT-020] in response to the proffered testimony of Hal DeMuth [Ex APP-013] and Errol Lawrence [Ex APP-037] as to the leaky and in some parts unconfined hydrological connections between the Fall River and Lakota aquifers of the Inyan Kara. Part of the deficiency of the Application and the FSEIS is the failure to recognize faults and fractures in the proposed project area evident on satellite photographs. Such faults and fractures involve potential hydrological pathways not in any way analyzed by Applicant or NRC Staff - but simply dismissed as non-existent.

Amongst other things, Dr. LaGarry further refutes the statement of DeMuth, Lawrence, and Doyle Fritz that the ISL mines in the United States "have operated safely for decades." LaGarry provides reference to substantial evidence to the contrary, the long list of safety and environmental violations at many of these mines, including those where DeMuth and Lawrence worked. The website is <http://www.wise-uranium.org/umopusa.html>.

Consolidated Intervenors submit in further rebuttal to the Applicant's assertion of historic environmental safety, federal and state records of excursions, spills, leaks, and other permit and regulatory violations, both reported and unreported by the respective company, including as examples: the Crow Butte ISL mine in Crawford, Nebraska [Ex INT-021], the Smith-Highland Ranch in Wyoming [Ex INT-022], and the Irigaray-Christiansen Ranch [Ex INT-023].

Dated this 15<sup>th</sup> day of July, 2014.

Respectfully submitted,

/s/ Bruce Ellison

BRUCE ELLISON

P.O. Box 2508

Rapid City, SD 57709

Attorney for Consolidated Intervenors