

August 26, 2014

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)	)	

**NRC STAFF'S RESPONSE TO OGLALA SIOUX TRIBE'S  
AUGUST 16, 2014 MOTION**

On August 16, 2014, the Oglala Sioux Tribe moved for the Board to compel Powertech to disclose the following documents:

- (1) documents containing borehole data referenced in Powertech's August 7, 2014 e-mail to the Board;
- (2) a take permit application that Powertech submitted to the U.S. Fish and Wildlife Service in January 2014; and
- (3) correspondence with the U.S. Bureau of Land Management (BLM), including a July 8, 2014 letter from BLM requesting additional information on Powertech's Plan of Operations and any Powertech responses to the letter

During the recent oral hearing, counsel for Powertech stipulated that his client would make all borehole data in Powertech's possession available for review by the Oglala Sioux Tribe and the Consolidated Intervenors.<sup>1</sup> Based on this stipulation, it is the Staff's understanding that the first disclosure issue the Tribe identified in its motion has been resolved.

Regarding the second and third issues, the Staff believes the disclosure issues could be resolved quickly if Powertech submits the specified documents for *in camera* review by the

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<sup>11</sup> Hearing Transcript at 1180–1181. Counsel for Powertech explained that, because the borehole data is proprietary information, his client would seek a protective order limiting disclosure of the data by either the Tribe's or the Consolidated Intervenors' reviewing experts.

Board. The Board can then determine whether, as the Tribe claims, the documents are relevant to any of the issues within admitted contentions 1A, 2, 3, 4, or 6.<sup>2</sup>

Respectfully submitted,

*/Signed (electronically) by/  
Michael J. Clark  
Michael J. Clark  
Counsel for the NRC Staff*

*/Signed (electronically) by/  
Patricia A. Jehle  
Patricia A. Jehle  
Counsel for the NRC Staff*

Dated at Rockville, Maryland  
This 26<sup>th</sup> day of August 2014

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<sup>2</sup> Tribe's Motion at 6.

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CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 2.305, I certify that counsel for the NRC Staff served copies of the Staff's Response to Oglala Sioux Tribe's August 16, 2014 Motion through the NRC's Electronic Information Exchange (EIE) on August 26, 2014. Counsel for the Staff served those representatives exempted from filing through the EIE with copies of its Response by electronic mail, also on August 26, 2014.

***/Signed (electronically) by/  
Michael J. Clark***

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