

October 14, 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 MOTION TO ADMIT TESTIMONY AND EXHIBITS ADDRESSING  
POWERTECH'S SEPTEMBER 14, 2014 DISCLOSURES**

The NRC Staff moves for the Board to admit its supplemental testimony and exhibits addressing the information that Powertech disclosed on September 14, 2014. These information include: (1) well log data Powertech recently acquired from Energy Fuels, (2) a July 2014 letter from the U.S. Bureau of Land Management (BLM) regarding Powertech's Plan of Operations for the Dewey-Burdock site, (3) an eagle take permit application that Powertech filed in January 2014, and (4) Powertech's draft Avian Management Plan for the Dewey-Burdock site.

As the Staff explains in its supplemental testimony, none of the newly disclosed information calls into question the findings in the Final Supplemental Environmental Impact Statement (FSEIS) the Staff prepared for the Dewey-Burdock Project. The Staff's targeted review of the new well log data confirmed the Staff's findings regarding important attributes of the Dewey-Burdock hydrogeology, while disproving certain claims made by the Intervenor's experts. The BLM letter does not present new information affecting the Staff's conclusions in the FSEIS—the BLM is simply requesting more information from Powertech—and in fact the FSEIS already addresses most of the issues raised by the BLM. While the take permit

application and draft Avian Management Plan identify some mitigation measures that the Staff did not list specifically in the FSEIS, this is to be expected, because Powertech was still developing mitigation measures when the Staff finalized the FSEIS. In fact, these documents support the Staff's analysis, because they provide specific examples of mitigation measures, such as access controls, lighting, and buffers, that the Staff discussed in the FSEIS.

In sum, Powertech's recent disclosures largely support, and in no way contradict, the Staff's findings in the FSEIS. These disclosures fail to support the Intervenors' contentions, and they serve only to confirm that when preparing the FSEIS the Staff complied with the National Environmental Policy Act.

The Staff has consulted with the other parties to obtain their views on this motion. The Staff's understanding is that the parties have mutually agreed to not oppose supplemental testimony and exhibits addressing how Powertech's September 14, 2014 disclosures are relevant to the admitted contentions. The parties do, however, reserve their rights to respond to any new evidence as appropriate and file motions directed toward any other party's supplemental testimony or exhibits.

Respectfully submitted,

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

*/Signed (electronically) by/*  
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Dated at Rockville, Maryland  
This 14<sup>th</sup> day of October 2014