

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))	

UNOPPOSED JOINT MOTION FOR EXTENSION OF TIME
FOR THE OGLALA SIOUX TRIBE AND CONSOLIDATED INTERVENORS
TO SUBMIT CONTENTIONS BASED ON THE DRAFT SUPPLEMENTAL
ENVIRONMENTAL IMPACT STATEMENT

Pursuant to 10 C.F.R. §§ 2.323 and 2.307(a), the Oglala Sioux Tribe (Tribe) and Consolidated Intervenor hereby submit this Unopposed Joint Motion for Extension of Time to Submit Contentions Related to the Draft Supplemental Environmental Impact Statement (Unopposed Motion). This Unopposed Motion seeks an extension of time up to and including Friday, January 25, 2013 in which to file any contentions related to the recently released Draft Supplemental Environmental Impact Statement (SDEIS). NRC Staff has informed undersigned counsel that it does not oppose this extension of time. Powertech (USA) Inc. has informed undersigned counsel that it does not take a position on this Motion.

The current deadline for filing any new or amended contentions based on the Draft Supplemental Environmental Impact Statement was established by this Board's November 2, 2010 Supplemental Initial Scheduling Order (at p. 5-6) and restated in the Board's October 16, 2012 Order (at p. 3-4). These Orders establish a deadline for the filing of any new or amended contentions based on the DSEIS at forty-five (45) days following notice of the issuance of the DSEIS. Pursuant to these Orders, counsel for NRC Staff duly notified counsel for the Tribe and

Consolidated Intervenor's of the availability of the DSEIS on November 16, 2012. As a result, the deadline for filing any new or amended deadlines based on the DSEIS currently falls on December 31, 2012 (New Year's Eve).¹

For the reasons set forth below, the Tribe and Consolidated Intervenor's hereby request an extension of the deadline until January 25, 2012 for the filing of any new or amended contentions based on the DSEIS.

First, the current deadline falls so that the time period for review of the 800+ page DSEIS document overlaps or conflicts with at multiple holidays, including Thanksgiving (Nov. 22), Channukah (Dec. 9-16), Christmas (Dec. 25), and New Year's Day (Dec. 31-Jan. 1), along with the Chief Big Foot Memorial Ride and Winter Solstice observances on the Pine Ridge Reservation. As a result, counsel for the Tribe and Consolidated Intervenor's, experts jointly retained by the Tribe and Consolidated Intervenor's, and staff for relevant Tribal government offices all have travel plans and/or family commitments that render preparation of contentions under the current deadline an undue burden – this applies in particular to the last two weeks of the deadline period (Dec. 17 – Dec. 31).

Second, the Oglala Sioux Tribal Council has recently had an election, and the newly elected officials were sworn in on December 4, 2012, with inauguration ceremonies on December 7, 2012. The newly-elected council will not have its first meeting until late December at the earliest, and will be out of session through the end of the month. The next scheduled Tribal Council meeting is set for January 24, 2013. In order to allow time for the newly elected

¹ Subsequently, NRC published notice of availability of the DSEIS in the Federal Register on November 26, 2012 (77 FR 70486-70487), setting the public comment deadline at January 10, 2013.

Council to familiarize itself with the issues involved in this case, and properly deliberate the Tribe's course of action in this matter, a deadline of January 25, 2013 is the earliest reasonable date for submission of new or amended contentions based on the DSEIS.

Third, the Tribe and Consolidated Intervenors are jointly retaining experts for review of the technical aspects of the DSEIS, and thus in order to make efficient use of those experts, a common deadline for both parties is necessary. Further, the Tribe and Consolidated Intervenors are working to coordinate contentions to the extent practicable in order to promote judicial economy, as is expressly encouraged by this Board's Orders. *See* October 4, 2010 Order at 7-8 ("Given that some of the admitted contentions involve overlapping issues, the Board recommended that Consolidated Intervenors and the Oglala Sioux Tribe consider the possibility of consolidating overlapping contentions and designating a lead party on those contentions."); November 2, 2010 Order at 6 (same). A coordinated deadline for filing contentions on the SDEIS would further this prospect.

Finally, no prejudice will result from such an extension. Despite the release of the DSEIS, NRC staff is still in the process of completing an inventory and environmental impact analysis of the cultural resources at the site. This information and analysis will have to be presented to the public and the parties in draft form for review, comment, and possible contentions. Thus, given the NRC staff's current procedure will require additional review of draft analyses at a future date, there is no harm in allowing the modest extension of time sought through this Joint Motion.

Therefore, the Tribe and Consolidated Intervenors request an extension of time until January 25, 2013 in which to submit any new or amended contentions based on the DSEIS.

Respectfully Submitted this 14th Day of December, 2012,

/s/ Jeffrey C. Parsons

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing UNOPPOSED MOTION FOR EXTENSION OF TIME in the above-captioned proceeding were served via the Electronic Information Exchange (“EIE”) on the 14th day of December 2012, which to the best of my knowledge resulted in transmittal of same to those on the EIE Service List for the captioned proceeding.

/s/ signed electronically by _____

Jeffrey C. Parsons
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