UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

In the Matter of POWERTECH (USA), INC.,. (Dewey-Burdock In Situ Uranium Recovery Facility)	Docket No. 40-0975-MLA ASLBP No. 10-898-02-MLA-BD01 April 19, 2010

PETITIONER'S CONSOLIDATED REPLY TO APPLICANT AND NRC STAFF ANSWERS TO HEARING REQUEST/PETITION TO INTERVENE

Petitioners[1] hereby submit this consolidated reply to the Response of Applicant POWERTECH (USA), INC.. ("Applicant") dated April 12, 2010 (the "Powertech Response"), and to the Response of the NRC Staff dated April 12, 2010 (the "NRC Staff Response").[2]

I. INTRODUCTION

Petitioners timely filed a Request for Hearing and Petition to Intervene dated March 8, 2010 (the "Petition").[3] Each Petitioner is in the pathway of contaminants from the proposed ISL uranium mining operations of Applicant described in the Application. In summary, Applicant's proposed operations are to be mining uranium from the Inyan Kara aquifer in mineralized areas located in an already mined-over and highly radioactive part of Custer and Fall River Counties, South Dakota. There are known fractures and faults, breccia tubes, and intersecting above-ground and underground waterways, artesian

[1] Theodore P. Ebert, David Frankel, Gary Heckenlaible, Susan Henderson, Dayton Hyde, Lilias C. Jones Jarding, Clean Water Alliance ("CWA"), and Aligning for Responsible Mining ("ARM").
[2] Since Petitioners are submitting only one (1) page for each ten (10) pages of the Responses, we hope the Board will take extra time to carefully consider this short reply.
[3] Capitalized terms that are not defined herein have the meanings assigned to them in the Petition.

wells, and man-made wells, which causes point source releases in unknown ways of contaminants including Arsenic, Thorium, Radium-226 and other progeny of Uranium that are created as Uranium either oxidizes and/or decays. So much is unknown about the proposed operations and the exact geology and hydrogeology involved that it is impossible at this time based on the Application to conclude that issuing the proposed license would protect the health and safety of the people of Custer and Fall River Counties.

Due to inter-connection between the aquifer being mined (Inyan Kara) and other aquifers which, like the Inyan Kara, are being used for drinking and other purposes in and around Buffalo Gap, Custer, Edgemont, Hot Springs, and Rapid City, South Dakota and Pine Ridge Indian Reservation (as discussed in the Petition), these contaminants from Applicant's proposed mine would be flowing into pathways to human ingestion and the environment in such places and/or depleting the water resources of the aquifers used by the people in these places. This causes adverse health and environmental impacts as well as adverse economic impacts to Petitioners. Further, because water travels long ways and in unpredictable ways, the contaminants from Applicant's proposed mine would travel to and beyond the outer boundaries of the PAA. Finally, spills into the stream and river beds and alluvium leads to contamination in pathways for human ingestion where several Petitioners live and/or own property.

Spills do happen and have happened at even the most experienced, long-standing ISL operations despite regulatory mandated precautions against spills and contamination from spills. However, Applicant has no actual experience in operating an ISL facility.

Therefore, it is asking the people of Custer and Fall River Counties to be the 'guinea pigs' for their grand experiment in learning ISL by doing in our aquifers while their legal papers say we have no right to be heard in this proceeding.

Contaminants also spread through accumulation in plants and in animal tissues that may be consumed by people. This interferes with substantial hunting, fishing and property rights and environmental, recreational and cultural values. These impacts affect the Petitioners who are ranchers like Susan Henderson and Dayton Hyde.

It is also well known that depletion of the High Plains Aquifer results in a reduction of property values. See, e.g., L. Torrell et. al., The Market Value of Water in the Ogallala Aquifer, 66 Land Economics 2d 163 (1990) (The value of water is a significant part of irrigated farmland transaction prices observed in the marketplace. Using a comprehensive data set of farm sales in New Mexico, Oklahoma, Colorado, Kansas, and Nebraska, the value of water was estimated as the price differential between irrigated and dryland farm sales. Results indicate the water value component of irrigated farm sale transactions ranged from 30 to 60 percent of the farm sale price, depending on state; with an average of 37 percent in Nebraska). Id. at 172 and Table 3. The Inyan Kara Aquifer proposed to be mined by Applicant will be depleted substantial – the water table is projected in the Application to be reduced by as much as 42 feet!

Substantial amounts of water including millions of gallons of water per year of the Madison Aquifer are proposed to be injected into Applicant's deep disposal well(s). In addition, once mined by Applicant, **and despite the fact that it IS CURRENTLY BEING USED BY PEOPLE AND FOR RANCHING AND LIVESTOCK,** the Inyan

Kara Aquifer will becomes irretrievably committed and may never again be used as a US Drinking Water source ("USDW"). See Section 51.45 and Petition. The foregoing facts support standing on the environmental and safety contentions.

II. STANDING

1. Applicable Principles of Standing. Each of the Petitioners has standing because they have demonstrated that they **may** be affected by a decision in this proceeding. The applicable and overriding statute, 42 U.S.C. Section 2239(a), provides that "the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding. LBP 08-06 at 29. **On the question of standing, the presiding officer must "construe the [intervention] petition in favor of the petitioner."** Id., citing Georgia Inst. of Tech. (Georgia Tech Research Reactor), CLI-95-12, 42 NRC 111, 115 (1995) (emphasis added). See, also, NRC Answer at 3, *concurring*. In LBP-08-06, the Board summarized long-standing applicable principles concerning standing in NRC licensing proceedings as follows:

> Any person requesting a hearing and seeking to intervene in an NRC proceeding must demonstrate that he or she has "standing" to participate in the proceeding. Standing is a concept that concerns whether a party has "sufficient stake" in a matter, as defined by relevant legal principles. The question of standing "focuses on the question of whether the litigant is the proper party to fight the lawsuit" — as contrasted with the separate question of whether there is a "justiciable," or "real and substantial controversy . . . appropriate for judicial determination," and not merely a hypothetical dispute. The petitioner bears the burden of demonstrating standing, but in ruling on standing a licensing board is to "construe the petition in favor of the petitioner." Id. at 28-29.

A licensing board shall consider three factors when deciding whether to grant

standing to a petitioner: (1) the nature of the petitioner's right under the AEA to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest. In addition, Commission precedent directs licensing boards, in deciding whether a petitioner in an NRC proceeding has established the necessary "interest" to show standing under Commission rules, to follow the guidance found in judicial concepts of standing, as stated in federal court case law. Id., citing Yankee Atomic Elec. Co. (Yankee Nuclear Power Station), CLI-98-21, 48 NRC 185, 195 (1998); Quivira Mining Co. (Ambrosia Lake Facility, Grants, New Mexico), CLI- 98-11, 48 NRC 1, 5-6 (1998); Georgia Tech, CLI-95-12, 42 NRC at 115.

Under these concepts, the Board is to consider whether a petitioner has alleged (1) a concrete and particularized injury that is (2) fairly traceable to the challenged action and (3) likely to be redressed by a favorable decision. The requisite injury may be either actual or threatened, but must arguably lie within the "zone of interests" protected by the statutes governing the proceeding — here, either the AEA or the National Environmental Policy Act (NEPA). And, as indicated above, the injury must be "concrete and particularized," and not "conjectural" or "hypothetical."

In reviewing affidavits with respect to standing, the Board should "avoid 'the familiar trap of confusing the standing determination with the assessment of petitioner's case on the merits,' Sequoyah Fuels Corp. (Gore, Oklahoma Site Decontamination and Decommissioning Funding, LBP-94-5, 39 NRC 54 (1994) (*citing* City of Los Angeles v. National Highway Traffic Safety Administration, 912 F.2d 478, 495 (D.C.Cir.1990)

(citations omitted)), aff'd, CLI-94-12, 40 NRC 64 (1994). In the Matter of HydroResources, Inc., LBP-98-9, 47 NRC 261, 272 (1998) ("HRI I").

Petitioners are not required to rely on the good will of Applicant, its hopeful projections or slanted view of science and research as stated in the Application, the future decisions of the NRC Staff, the Nuclear Regulatory Commission, or the Environmental Protection Agency. Petitioners who demonstrate that they rely on water supplies adjacent to the in situ leach ("ISL") mining project have a right to a hearing. HRI I at 269 (emphasis added). In addition, exposure to radon from living in close proximity to an ISL mine is an "injury in fact" sufficient to establish standing. In the Matter of HydroResources, Inc., LBP-03-27 58 NRC 408, 413 (2003) ("HRI II"). Applicant has not shown that its Radon releases will not impact Susan Henderson or Dayton Hyde. Therefore, those Petitioners must be admitted as to standing.

Therefore, anyone who uses a substantial quantity of water personally or for agriculture or livestock from a source that is reasonably contiguous to either the injection or processing sites of an ISL mine has suffered an "injury in fact." HRI II at 275. Therefore, all the Petitioners have standing.

A determination that the injury is fairly traceable to the challenged action, however, does not depend "on whether the cause of the injury flows directly from the challenged action, but **whether** the **chain of causation is plausible.**" (Emphasis added). Sequoyah Fuels, CLI-94-12, 40 NRC at 75 (emphasis added). The redressability element of standing requires a petitioner to show that the claimed actual or threatened injury could be cured by some action of the decisionmaker. Sequoyah Fuels Corp. (Gore, Oklahoma

Site Decommissioning), CLI-01-2, 53 NRC 9, 14 (2001).

"Proximity plus" standing requirements

Under Commission case law, some circumstances exist in which petitioners may be presumed to have standing based on their geographical proximity to a facility or source of radioactivity, without the need to show injury in fact, causation, or redressability. In proceedings not involving power reactors, however, the Commission has held that proximity alone is not sufficient to establish standing. Rather, a presumption of standing based on geographical proximity may be applied in nuclear materials licensing cases only when the activity at issue involves a *"significant source of radioactivity producing an obvious potential for off-site consequences*." Thus petitioners who wish to base their standing on such a presumption must demonstrate that the radiological material at issue presents such an "obvious potential for offsite consequences." Here, Applicant has measured upwards of 400,000 CPM radiation emissions on the ground at certain places with the PAA. Therefore, Petitioners submit that in this case there is a significant source of radioactivity from the proposed project producing an obvious potential for off-site consequences. Applicant has failed to submit wind and weather data that shows that Petitioners would not be within the pathways for human ingestion of radioactive fallout from disturbances of existing radioactive waste within the PAA and emissions of radon-222 from the proposed facilities.

How close to the source a petitioner must live or work to invoke this "proximity plus" presumption "depends on the danger posed by the source at issue." Thus, whether and at what distance a proposed action carries with it an "obvious potential for offsite

consequences" such that a petitioner can be "presumed to be affected" must be determined "on a case-by-case basis, taking into account the nature of the proposed action and the significance of the radioactive source." See Georgia Tech, CLI-95-12, 42 NRC at 116 (itself *citing* Sequoyah Fuels, CLI-94-12, 40 NRC at 75 n. 22). All of the foregoing show concrete, substantial and particularized harm to Petitioners that satisfy the requirements for Petitioners to demonstrate standing.

2. **Discussion of Standing in this Proceeding.**

A. Individual Standing

(i) Name, Address and telephone number: Stated in Petition.

(ii) The nature of this Petitioner's right under the Act to be made a party to the proceeding: The AEA specifically requires atomic energy and source materials to be regulated in the US national interest to assure the common defense and security and to protect the health and safety of the public. AEA Section 2012(a), (c)(d)(e). To the extent that Applicant's ISL mining operation may interfere with a Petitioner's health and safety, he or she has rights to be protected against activities that might harm him or her as a member of the general public referred to in the AEA. Id. and AEA Section 2239(a).

Each individual Petitioner has the right to clean water for drinking and to irrigate his or her family gardens from which they eat regularly and to ranch and use their land as they see fit. Petitioners have the right to have clean water for bathing. His or her health and safety would be adversely impacted due to flows of contaminants from the proposed the mined aquifer to the aquifer upon which Petitioner relies for drinking water and domestic and/or ranching use. As a result, the Petitioner's health and well-being and

economic rights are jeopardized.

(iii) The nature and extent of the requestor's/petitioner's property, financial or other interest in the proceeding:

Each Petitioner has a substantial interest in protecting and preserving his or her rights as stated above and in the Petition.

(iv) The possible effect of any decision or order that may be issued in the proceeding on the requestor's/petitioner's interest.

(a) The rights referred to in subsection (iii) above would be impaired or substantially restricted if Applicant's ISL operation is licensed for without obtaining reasonable evidence that its proposed operations will not cause pollution or depletion of the aquifers used by each Petitioner.

(b) The value of Petitioner's real and personal property would be reduced by contamination of the air, surface water and groundwater in and around the property.

I Petitioner's and his or her family members who eat from the gardens irrigated from the Inyan Kara aquifer have their personal health put at risk and may be damaged by continued uranium mining, "Excursions" and contamination of the air, surface water and groundwater unless it is proven that the proposed ISL operation will not cause any adverse health impacts or any contamination.

(c) An approval of the license would put each Petitioner and his or her family at further risk of personal health problems associated with contamination of the air, surface water and groundwater in a place where everyone already bears a burden of radiation exposure from the past, polluting uranium mining in the region.

(d) An approval of the license would adversely affect Petitioner's property

values due to contamination of the air, surface water and groundwater by the proposed operations.

(e) A denial of the license would protect each Petitioner's health, wellbeing and property values, and those of people who are similarly situated to each such Petitioner.

(f) An approval of the license would put each Petitioner and his or her family members who eat from the gardens irrigated with water from the Inyan Kara at further risk of personal health problems associated with contamination of the air, surface water and groundwater by uranium mining (such as arsenic, thorium, radium, etc.).

B. Organizational and Representational Standing

For an organizational petitioner to establish standing, it must show "either immediate or threatened injury to its organizational interests or to the interests of identified members." An organization seeking to intervene in its own right — i.e., to establish "organizational" standing — "must demonstrate a palpable injury in fact to its organizational interests that is within the zone of interests protected by the AEA or NEPA. This is referred to herein as "Organizational Standing."

An organization asserting standing on behalf of one or more of its members — i.e., "representational" standing — must (1) demonstrate that the interests of at least one of its members will be so harmed, (2) identify that member by name and address, and (3) show that the organization is authorized to request a hearing on behalf of that member. The organization must show that the member has individual standing in order to assert representational standing on his behalf, and "the interests that the representative organization seeks to protect must be germane to its own purpose." This is referred to

herein as "Representational Standing." See, also, Houston Lighting and Power Co. (South Texas Project, Units 1 and 2), ALAB-549, 9 NRC 644, 646-47 (1979), aff'g, LBP-79-10, 9 NRC 439, 447-48 (1979); Florida Power and Light Co. (Turkey Point Nuclear Generating Plant, Units 3 and 4), ALAB-952, 33 NRC 521, 528-30 (1991).

Both Clean Water Alliance and Aligning for Responsible Mining have asserted representational standing as stated in the Petition.

III. CONTENTIONS

A. Admissibility of Contentions and Pleading Requirements. The threshold standard is necessary to ensure that hearings cover only genuine and pertinent issues of and that the issues are framed and supported concisely enough at the outset to ensure that the proceedings are effective and focused on real, concrete issues.

It also recognized that "**technical perfection is not an essential element of contention pleading," and that the "[s]ounder practice is to decide issues on their merits, not to avoid them on technicalities**." The rules are still held to "bar contentions where petitioners have only 'what amounts to generalized suspicions, hoping to substantiate them later.'" Such is not the case in this Proceeding.

A petitioner must read the pertinent portions of the license application, including the Safety Analysis Report and the Environmental Report, state the applicant's position and the petitioner's opposing view, and explain why it disagrees with the applicant. Petitioners have done this. A contention must directly controvert a position taken by the applicant in the application, and "explain why the application is deficient." Petitioners have done this.

And a petitioner must support its contentions with "[d]ocuments, expert opinion, or at least a fact-based argument." Petitioners have done this.

A petitioner is not, however, required to prove its case at the contention stage, and need not proffer facts in 'formal affidavit or evidentiary form,' sufficient 'to withstand a summary disposition motion. But a protestant does not become entitled to an evidentiary hearing merely on request, or on a bald or conclusory allegation that a dispute exists. *The protestant must make a minimal showing that material facts are in dispute*, thereby demonstrating that an 'inquiry in depth' is appropriate. In other words, "a petitioner 'must present sufficient information to show a genuine dispute' and reasonably 'indicating that a further inquiry is appropriate.' Some sort of minimal basis indicating the potential validity of the contention" is required. Petitioners have done this.

A petitioner is not required "to provide an exhaustive list of possible bases, but simply to provide sufficient alleged factual or legal bases to support the contention. Petitioners have done this.

Finally, the "brief explanation of the basis" that is required by § 2.309(f)(1)(ii) helps define the scope of a contention — the reach of a contention necessarily hinges upon its terms coupled with its stated bases. But it is the contention, not "bases," whose admissibility must be determined.

The NRC's authority and responsibility to regulate the matters in dispute in this proceeding arise out of two sets of standards, found in NEPA and the AEA.

Contentions must give notice of facts which petitioners desire to litigate and must be specific enough to satisfy the requirements of 10 CFR §2.309(f)(1). Petitioners have

done this.

A contention that simply alleges that some general, nonspecific matter ought to be considered does not provide the basis for an admissible contention." Sacramento Municipal Utility District (Rancho Seco Nuclear Generating Station), LBP-93-23, 38 NRC 200, 246 (1993). However, such is not the case in this proceeding where the Petition is specific and contains specific references to the Application as well as specific citations to NRC regulations and applicable law.

Petitioners included a concise statement of alleged facts or expert opinions that support the petitioner's position and references to specific sources and documents on which the petitioner intends to rely to support its position on the issue. Such is all that is required of Petitioners at this stage.

Petitioners may demonstrate standing and admissible contentions by making references to, quotations from, and comparisons between language from various sections of the Application, noting some inconsistencies and pointing out some statements they challenge by reference to other statements therein. Expert support is not required for admission of a contention; a fact-based argument may be sufficient on its own.

Petitioners have raised significant questions concerning the lack of information about fractures, faults, conductivity between aquifers, and related issues, as well as about the potential environmental, health, and safety impacts of these.

IV. SPECIFIC REPLIES TO NRC STAFF

A. NRC Response, p., 8: NRC Staff believes that none of the petitioners draw water from the 'specific portion of the Inyan Kara aquifer in which Powertech plans to conduct

ISL operations." How do they know when it is all unknown exactly which way the Inyan Kara flows. There is no scientific proof that the Inyan Kara is not all connected and that those who use it such as Susan Henderson and Dayton Hyde will not be directly impacted by anything that impacts the Inyan Kara, including the part that Powertech wants to mine. The Unknowns exist and Petitioners may not be excluded from the proceeding on the notion that if what Powertech says in its Application is true, the Petitioners won't be impacted. If such a syllogism were accepted, it would be impossible for any petitioner and the entire process would violate due process.

B. NRC Response at p.10: NRC states that I am upgradient but has no scientific proof to offer other than the speculations of the Application which are the subject of the disputes in this proceeding. Also, depletion of the Madison by the proposed operations would affect everyone in Buffalo Gap, SD, Hot Springs, SD, and Rapid City, SD and elsewhere who relies on the Madison because the reduction of the Madison due to the bleed into Powertech's proposed deep disposal wells will lower the water table and increase water costs, decrease availability and lower property values for all who rely on the Madison. Similar comments apply to all the Petitioners who use the Madison.

C. NRC Response, p.12, the NRC states that it is 'impossible to determine" the directional flow of the Inyan Kara for purposes of evaluating Susan Henderson's claims. Petitioners submit that if it cannot be determined to be safe, then the license may not be issued. If cannot be determined to be safe if the directional flow of the Inyan Kara is not proven scientifically to be away from Petitioners. It is up to the NRC Staff and the Applicant to provide such evidence not up to local ranchers like Susan Henderson and

Dayton Hyde.

D. NRC Response, p. 17 – the NRC Staff denies that there exists an obligation for an Applicant to make honest and complete disclosures to the NRC and the public in its Application. Section 40.9 clearly requires disclosure of all material facts. Failure to disclose all material facts is a ground for an admissible contention. Petitioners cited to the Application, cited to the applicable NRC regulation. Petitioners have properly asserted their Section 40.9 Contentions.

E. NRC Response, p.19 – NRC Staff denies that Petitioners have submitted any admissible contentions. This is part of NRC Staff's boilerplate response and should be disregarded by the Board. As discussed above in Section III hereof, technical perfection is not required and Petitioners have met the standards that are required.

V. SPECIFIC REPLIES TO APPLICANT

A. Applicant Response, p.11-21 - the Applicant includes a 10 page 'puff-piece' about ISL mining which is totally irresponsive to the Petition, constitutes an improper use of this proceeding and should be disregarded in its entirety. If such type of information was important to Applicant, it could have included it in the Application. It is too late now to include it. What is the purpose of including it here? Since it does not respond to the Petition, it is irrelevant and, accordingly, the entire Section C.1 should be stricken and to the extent it is allowed in this proceeding, its contents are disputed and denied by Petitioners. In this ISL mining marketing and promotion section of the Response, **Applicant fails to mention that no ISL facility anywhere has ever restored the groundwater to actual baseline conditions**.

B. Applicant Response, p.22 – the Applicant states that Petitioners have failed to allege a plausible pathway for migration to locations where Petitioners can be exposed. However, the Petition is full of explanations of how mining in the Inyan Kara and depletion of the Madison will impact Petitioners. Applicant fails to mention that for purposes of standing, unknowns must be resolved in favor of finding the standing of the Petitioners. Here, the knowledge about the directional flow of the Inyan Kara is not fully known and only partially tested, and the Applicant has not demonstrated that the Inyan Kara does not flow multi-directionally in the directions of Petitioners' locations.

C. Applicant Response, p. 26, the Applicant notes that it has no evidence one way or the other as to whether Susan Henderson is correct that the Inyan Kara flows toward her property or whether Applicant's hope is correct that it flows only the other way. Since this unknown must be made known before the project can be licensed in order to protect the health and safety of the public and demonstrate adequate confinement, it is Applicant's burden to scientifically show that the Inyan Kara does not flow towards Petitioners. To date, it has failed to meet that burden and, accordingly, the license must not be issued.

D. Applicant's Response, p.35, Applicant would require Dayton Hyde to demonstrate that the Cheyenne River would be impacted and in the same sentence, Applicant states that it understands that Dayton Hyde is downstream from the proposed ISL mining. So if there is a spill into the riverways and streamways upstream from Dayton Hyde, logic shows that he would be impacted. Absent as showing by Applicant to the contrary, this must be read most favorably to Mr. Hyde.

E. Applicant Response, p.46 – Applicant denies that Petitioners have submitted any admissible contentions. This is part of Applicant's boilerplate response and should be disregarded by the Board. As discussed above in Section III hereof, technical perfection is not required and Petitioners have met the standards that are required.

F. Applicant's Response, p. 52 – Applicant states that Petitioners misread 10 CFR Part 40, Appendix A, Criterion 5 but then admits that the NRC has applied it to ISL facilities. In either case, Criterion 5 applies and supports the contention.

G. Applicant's Response, p.53 – Applicant and Petitioners have a genuine dispute as to what constitutes 'adequate confinement' and what the meaning of NRC regulations are requiring confinement in light of the mandate for the NRC to protect the health and safety of the public and not to issue the license if it would be inimical thereto.

H. Applicant's Response, p. 56 – just because the Application contains a discussion of an issue, such as the potential impacts of groundwater discussion, does not mean that the discussion has analytical content or that such discussion meets the regulatory requirement – therefore, presence of a discussion on a topic does not void a contention as Applicant argues. If such were the case, an applicant could make brief mentions of topics and avoid contentions entirely all the time which would violate due process in these proceedings.

I. Applicant's Response, p. 97-98 – Applicant proposes a standard whereby if it mentions something in its Application, even if the disclosure is devoid of analytical content, the Applicant becomes immune from a contention based on Section 51.45. If that were the case, it would be impossible to state a contention based on a violation of

Section 51.45. Clearly such a reading would not comport with the duty of the NRC to issue licenses that are not inimical to public health and safety.

VI. CONCLUSION

For all the foregoing reasons, the Board should find standing for the Petitioners and that the Petitioners have proffered admissible contentions meriting a hearing and intervention as requested in the Petition. It is time to shine the light of day on this entire proposal to mine the Inyan Kara aquifer in and around Custer and Fall River Counties, South Dakota.

The public needs a hearing and that these Petitioners be admitted and their contentions be heard in order for there to be any valid governmental determination that the issuance of the proposed license is not inimical to the health and safety of the public.

Dated this *19th* day of April, 2010.

Respectfully submitted,

/s/ - electronically signed by

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