

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

Before Administrative Judges:

William J. Froehlich, Chairman
Dr. Richard F. Cole
Dr. Mark O. Barnett

In the Matter of

POWERTECH USA, INC.

(Dewey-Burdock
In Situ Uranium Recovery Facility)

Docket No. 40-9075-MLA

ASLBP No. 10-898-02-MLA-BD01

August 8, 2014

ORDER

(Directing Parties to File Legal Memoranda on Newly Acquired Powertech Data)

Contention 3 in the above captioned proceeding concerns a challenge that the Final Environmental Impact Statement (FSEIS) failed to include adequate hydrogeological information to demonstrate the ability to contain fluid migration. On August 6, 2014 the Board asked applicant Powertech to address when its newly acquired data, referenced in exhibit OST-019, and appearing relevant to Contention 3, would be disclosed to the parties.¹ Powertech's response requested clarification on the type of response required, and stated that Powertech believed the Board would benefit from legal argument from all parties on this issue.²

¹ Order (Question Following Prehearing Hearing Conference) (Aug. 6, 2014) (unpublished).

² RE: NRC Proceeding "Powertech USA 40-9075-MLA", email from Christopher Pugsley, Counsel for Powertech, to Licensing Board (Aug. 7, 2014).

The Board now directs all parties to this proceeding to file legal memoranda on two issues. First, addressing the relevance of the newly acquired data³ to Contention 3 and second, whether the data is subject to mandatory disclosure in this proceeding as defined in 10 C.F.R. § 2.336(a).

Regardless of the outcome following this legal briefing the Evidentiary Hearing scheduled to begin Tuesday, August 19 in Rapid City, SD will begin on time and will proceed on all the issues within each contention scheduled to be heard.

The Board directs the parties to file their memoranda through the NRC's EIE system or by email if email filing was previously granted in this proceeding.⁴

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

William J. Froehlich, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland
August 8, 2014

³ The newly acquired data is referenced in OST-019, a Powertech press release, as data prepared by the Tennessee Valley Authority which Powertech agreed to purchase from Energy Fuels Resources (USA) Inc. on May 9, 2014.

⁴ Order (Granting Motion to File by Email) (Feb. 20, 2014) (unpublished).

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NUCLEAR REGULATORY COMMISSION

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)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Order (Directing Parties to File Legal Memoranda on Newly Acquired Powertech Data)** have been served upon the following persons by Electronic Information Exchange, and by electronic mail as indicated by an asterisk*.

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POWERTECH (USA) INC., DEWEY-BURDOCK IN SITU RECOVERY FACILITY
DOCKET NO. 40-9075-MLA

Order (Directing Parties to File Legal Memoranda on Newly Acquired Powertech Data)

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[Original signed by Brian Newell]
Office of the Secretary of the Commission

Rockville, Maryland
August 8, 2014