This case was appealed from

Others: NRC-040-09075-MLA

# U.S. Circuit Court of Appeals

US Circuit Court of Appeals - D.C. Circuit

## 17-1059

## Oglala Sioux Tribe v. NRC, et al

**This case was retrieved from the court on Thursday, October 12, 2017**

### Header

| | |
|---|---|
| Case Number: | **17-1059** |
| Date Filed: | **02/21/2017** |
| Date Full Case Retrieved: | **10/12/2017** |
| NOS Description: | **(0) 0:; Appeal** |

### Summary

**No Information is Available for this case**

### Associated Cases

**No Information is Available for this case**

### Participants

| Litigant | Attorney |
|---|---|
| Oglala Sioux Tribe | Jeffrey Charles Parsons, Senior Attorney |
| Petitioner | [COR LD NTC Retained] |
| | Western Mining Action Project |
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| | |
| | Travis Stills, Attorney |
| | [COR LD NTC Retained] |
| | Energy & Conservation Law |

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Respondent

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| | |
|---|---|
| United States of America<br>Respondent | Lane N. McFadden, Esquire, Attorney<br>[COR LD NTC Gvt US Agency]<br>U.S. Department of Justice<br>(DOJ) Environment and Natural Resources Division<br>PO Box 7415, Ben Franklin Station<br>Washington, DC 20044-7415<br>202-514-2000<br>lane.mcfadden(at)usdoj.gov |
| | Jeffrey Heath Wood, Acting Assistant Attorney General<br>[cor Ntc Gvt US Doj]<br>U.S. Department of Justice<br>(DOJ) Environment and Natural Resources Division<br>950 Pennsylvania Avenue, NW<br>Washington, DC 20530<br>jeffrey.wood(at)usdoj.gov |
| Powertech (USA), Inc.<br>Intervenor for Respondent | Christopher Scott Pugsley, Esquire, Counsel<br>[COR NTC Retained]<br>Thompson & Pugsley, PLLC<br>1225 19th Street, NW<br>Suite 300<br>Washington, DC 20036<br>202-496-0780<br>202-496-0783<br>cpugsley(at)athompsonlaw.com |
| | Anthony J. Thompson, Esquire, Attorney<br>[COR NTC Retained]<br>Thompson & Pugsley, PLLC<br>1225 19th Street, NW<br>Suite 300<br>Washington, DC 20036<br>202-496-0780<br>202-496-0783<br>ajthompson(at)athompsonlaw.com |

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## Proceedings

| Date | Details |
|---|---|
| 02/21/2017 | PETITION FOR REVIEW CASE docketed. [17-1059] |
| 02/21/2017 | PETITION FOR REVIEW [1662500] of a decision by federal agency filed by Oglala Sioux Tribe [Service Date: 02/21/2017 ] Disclosure Statement: Not Applicable to this Party; Certificate of Parties: Not Applicable to this Filing. [17-1059] |
| 02/22/2017 | CERTIFIED COPY [1662502] of Petition for Review sent to respondent [17-1059] |
| 02/22/2017 | CLERK'S ORDER [1662506] filed directing party to file initial submissions: PETITIONER docketing statement due 03/24/2017. PETITIONER certificate as to parties due 03/24/2017. PETITIONER statement of issues due 03/24/2017. PETITIONER underlying decision due 03/24/2017. PETITIONER deferred appendix statement due 03/24/2017. PETITIONER procedural motions due 03/24/2017. PETITIONER dispositive motions due 04/10/2017; directing party to file initial submissions: RESPONDENT entry of appearance due 03/24/2017. RESPONDENT procedural motions due 03/24/2017. RESPONDENT certified index to record due 04/10/2017. RESPONDENT dispositive motions due 04/10/2017 [17-1059] |
| 02/27/2017 | ENTRY OF APPEARANCE [1663078] filed by James E. Adler and co-counsel Andrew P. Averbach on behalf of Respondent NRC. [17-1059] (Adler, James) |
| 03/14/2017 | MOTION [1665998] for leave to intervene [Disclosure Listing: Not Attached] filed by Powertech (USA), Inc. [Service Date: 03/14/2017 ] [17-1059]--[MODIFIED PARTY FILER--Edited 03/15/2017 by LMC] (Thompson, Anthony) |
| 03/14/2017 | ENTRY OF APPEARANCE [1666004] filed by Lane N. McFadden on behalf of Respondent USA. [17-1059] (McFadden, Lane) |
| 03/16/2017 | CORRECTED MOTION [1666293] for leave to intervene [Disclosure Listing: Not Attached] filed by Powertech (USA), Inc. [Service Date: 03/16/2017 ] [17-1059] (Thompson, Anthony) |
| 03/17/2017 | MOTION [1666580] to dismiss case for lack of jurisdiction (Response to Motion served by mail due on 03/27/2017) filed by NRC and USA (Service Date: 03/17/2017 by CM/ECF NDA) Length Certification: 3,775 Words. [17-1059] (Adler, James) |
| 03/24/2017 | ENTRY OF APPEARANCE [1667626] filed by Travis Stills on behalf of Petitioner Oglala Sioux Tribe. [17-1059] (Parsons, Jeffrey) |
| 03/24/2017 | CERTIFICATE AS TO PARTIES, RULINGS AND RELATED CASES [1667829] filed by Oglala Sioux Tribe [Service Date: 03/24/2017 ] [17-1059] (Parsons, Jeffrey) |
| 03/24/2017 | DOCKETING STATEMENT [1667830] filed by Oglala Sioux Tribe [Service Date: 03/24/2017 ] [17-1059] (Parsons, Jeffrey) |
| 03/24/2017 | STATEMENT OF INTENT REGARDING APPENDIX DEFERRAL [1667831] filed by Oglala Sioux Tribe [Service Date: 03/24/2017 ] Intent: AppxDeferred [17-1059] (Parsons, Jeffrey) |
| 03/24/2017 | STATEMENT OF ISSUES [1667832] filed by Oglala Sioux Tribe [Service Date: 03/24/2017 ] [17-1059] (Parsons, Jeffrey) |
| 03/24/2017 | UNDERLYING DECISION IN CASE [1667833] submitted by Oglala Sioux Tribe [Service Date: 03/24/2017 ] [17-1059] (Parsons, Jeffrey) |
| 03/24/2017 | RESPONSE [1667834] to motion for leave to intervene , motion for leave to intervene filed by Oglala Sioux Tribe [Service Date: 03/24/2017 by CM/ECF NDA] Length Certification: 1588 words. [17-1059] (Parsons, Jeffrey) |
| 03/24/2017 | RESPONSE IN OPPOSITION [1667849] to motion to dismiss case for lack of jurisdiction filed by Oglala Sioux Tribe [Service Date: 03/24/2017 by CM/ECF NDA] Length Certification: 3660 words. [17-1059] (Parsons, Jeffrey) |
| 03/27/2017 | RESPONSE IN SUPPORT [1668058] to motion to dismiss case for lack of jurisdiction filed by Powertech (USA), |

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Inc. [Service Date: 03/27/2017 by CM/ECF NDA, US Mail] Length Certification: 5 Pages. [17-1059] (Thompson, Anthony)

03/30/2017 REPLY [1668599] filed by NRC and USA to response [Service Date: 03/30/2017 by CM/ECF NDA] Length Certification: 2,541 Words. [17-1059] (Adler, James)

04/06/2017 CERTIFIED INDEX TO RECORD [1669861] filed by NRC [Service Date: 04/06/2017 ] [17-1059] (Adler, James)

04/17/2017 SUPPLEMENT [1671257] to response filed by Powertech (USA), Inc. [Service Date: 04/17/2017 ] [17-1059] (Thompson, Anthony)

04/25/2017 STATEMENT [1672492] with Disclosure Listing filed by Powertech (USA), Inc. [Service Date: 04/25/2017 ] [17-1059]--[MODIFIED EVENT--Edited 04/25/2017 by LMC] (Thompson, Anthony)

05/17/2017 PER CURIAM ORDER [1675530] granting corrected motion for leave to intervene ; referring motion to dismiss case for lack of jurisdiction to which this petition for review is assigned. Before Judges: Griffith, Srinivasan and Pillard. [17-1059]

05/18/2017 CLERK'S ORDER [1675800] filed setting briefing schedule: PETITIONER Brief due 06/27/2017. RESPONDENT Brief due on 07/27/2017. INTERVENOR FOR RESPONDENT Brief due 08/03/2017. PETITIONER Reply Brief due 08/17/2017. DEFERRED APPENDIX due 08/24/2017. Final Briefs due 09/07/2017. [17-1059]

06/01/2017 UNOPPOSED MOTION [1677788] to extend time to file brief filed by USA [Service Date: 06/01/2017 ] Length Certification: 696 words. [17-1059]--[RELIEF REPLACED--Edited 06/01/2017 by LMC] (McFadden, Lane)

06/02/2017 CLERK'S ORDER [1677936] filed granting federal respondents' unopposed motion to amend the briefing schedule , The following revised briefing schedule will now apply: PETITIONER Brief due 06/27/2017 (unchanged). RESPONDENT Brief due on 08/10/2017. INTERVENOR FOR RESPONDENT Brief due 08/21/2017. PETITIONER Reply Brief due 09/12/2017. DEFERRED APPENDIX due 09/19/2017. Final Briefs due 09/26/2017. [17-1059]

06/27/2017 PETITIONER BRIEF [1681623] filed by Oglala Sioux Tribe [Service Date: 06/27/2017 ] Length of Brief: 12,996 words. [17-1059] (Parsons, Jeffrey)

08/08/2017 UNOPPOSED MOTION [1687739] concerning briefing format filed by Powertech (USA), Inc. [Service Date: 08/08/2017 ] Length Certification: 2 pages and certificate of service. [17-1059] (Pugsley, Christopher)

08/09/2017 CLERK'S ORDER [1687939] filed granting the unopposed motion of intervenor to amend the briefing schedule , The following revised briefing schedule will now apply: RESPONDENT Brief due on 08/10/2017 (unchanged). INTERVENOR FOR RESPONDENT Brief due 08/30/2017. PETITIONER Reply Brief due 09/21/2017. DEFERRED APPENDIX due 09/28/2017. Final Briefsdue 10/05/2017. [17-1059]

08/10/2017 RESPONDENT BRIEF [1688196] filed by NRC and USA [Service Date: 08/10/2017 ] Length of Brief: 12,947 Words. [17-1059] (Adler, James)

08/10/2017 SEPARATE STATUTORY ADDENDUM [1688198] filed by NRC and USA to Appellee/Respondent brief [Service Date:08/10/2017 ] [17-1059] (Adler, James)

08/30/2017 INTERVENOR FOR RESPONDENT BRIEF [1690838] filed by Powertech (USA), Inc. [Service Date: 08/30/2017 ] Length of Brief: 8,542 words. [17-1059] (Pugsley, Christopher)

09/21/2017 PETITIONER REPLY BRIEF [1693988] filed by Oglala Sioux Tribe [Service Date: 09/21/2017 ] Length of Brief: 6472 words. [17-1059] (Parsons, Jeffrey)

09/28/2017 INCORRECT DOCKET ENTRY-DISREGARD--JOINT APPENDIX [1695532] filed by Oglala Sioux Tribe. [Volumes: 2] [Service Date: 09/28/2017 ] [17-1059]--[Edited 09/29/2017 by LMC] (Parsons, Jeffrey)

09/29/2017 CORRECTED JOINT APPENDIX [1695662] filed by Oglala Sioux Tribe. [Volumes: 2] [Service Date: 09/29/2017 ] [17-1059] (Parsons, Jeffrey)

10/05/2017 RESPONDENT FINAL BRIEF [1697086] filed by NRC and USA [Service Date: 10/05/2017 ] Length of Brief: 12,946 Words. [17-1059] (Adler, James)

10/05/2017 SEPARATE STATUTORY ADDENDUM [1697088] filed by NRC and USA to Appellee/Respondent final brief [Service Date:10/05/2017 ] [17-1059] (Adler, James)

10/05/2017 INTERVENOR FOR RESPONDENT FINAL BRIEF [1697413] filed by Powertech (USA), Inc. [Service Date: 10/05/2017 ] Length of Brief: 8,542 words. [17-1059] (Thompson, Anthony)

10/05/2017 PETITIONER FINAL BRIEF [1697426] filed by Oglala Sioux Tribe [Service Date: 10/05/2017 ] Length of Brief:

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12,996. [17-1059] (Parsons, Jeffrey)

10/05/2017 PETITIONER FINAL REPLY BRIEF [1697427] filed by Oglala Sioux Tribe [Service Date: 10/05/2017 ] Length of Brief: 6477. [17-1059] (Parsons, Jeffrey)

10/06/2017 SEALED APPENDIX [1698013] filed by Oglala Sioux Tribe. [Volumes: 1] [Service Date: 10/06/2017 ] [17-1059]

10/10/2017 SEPARATE STATUTORY ADDENDUM [1697853] filed by Oglala Sioux Tribe to Appellant/Petitioner final brief [Service Date:10/10/2017 ] [17-1059] (Parsons, Jeffrey)

10/11/2017 ENTRY OF APPEARANCE [1698244] filed by Jeffrey C. Parsons and co-counsel Roger Flynn on behalf of Petitioner Oglala Sioux Tribe. [17-1059] (Parsons, Jeffrey)

## Pending Motion

**No Information is Available for this case**

## Brief

**No Information is Available for this case**

## Rehearings

**No Information is Available for this case**

## History

**No Information is Available for this case**

## Additional Case

**Additional Case Information**

Petition for Review - Review

Appeal from: Nuclear Regulatory Commission

District: NRC Division: 1 CaseNumber: NRC-040-09075-MLA

Date Decided: 12/23/2016

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