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	Docket No. 40-9075-MLA
POWERTECH USA, INC.	ASLBP No. 10-898-02-MLA-BD01
(Dewey-Burdock In Situ Uranium Recovery Facility)	April 30, 2014

ORDER
(Temporarily Granting Stay of Materials License Number SUA-1600)

On April 8, 2014 the NRC Staff issued NRC Source Materials License No. SUA-1600 to Powertech (USA), Inc. (Powertech).[1] The license allows Powertech to possess and use source and byproduct material in connection with the Dewey-Burdock Project.[2] Pursuant to 10 C.F.R. § 2.1213 Intervenors Oglala Sioux Tribe and Consolidated Intervenors filed motions to stay this license.[3] The Oglala Sioux Tribe also filed an answer in support of the Consolidated

[1] Materials License, NRC Form 374 (Apr. 8, 2014) (ADAMS Accession No. ML14043A392). See also, ADAMS Accession Package Number ML14043A052, which includes the license transmittal letter, the license, and the Final Safety Evaluation Report. The NRC Staff also issued its Record of Decision for the Dewey-Burdock Uranium In-Situ Recovery (ISR) Project at ADAMS Accession No. ML14066A466. The Final Programmatic Agreement was executed April 7, 2014 and is available in ADAMS Accession Package No. ML14066A344.

[2] Materials License, NRC Form 374 (Apr. 8, 2014) (ADAMS Accession No. ML14043A392) at 1.

[3] Oglala Siox Tribe's Motion for Stay of Effectiveness of License (Apr. 14, 2014); Consolidated Intervenors' Application for a Stay of the Issuance of License No. SUA-1600 Under 10 CFR Section 2.1213.

Intervenors' motion. On April 24, 2014 the NRC Staff and Powertech filed oppositions to Intervenors' motions.[4]

In their motions Intervenors have pled the necessary four elements of 10 C.F.R. § 1213, "(1) Whether the requestor will be irreparably injured unless a stay is granted; (2) Whether the requestor has made a strong showing that it is likely to prevail on the merits; (3) Whether the granting of a stay would harm other participants; and (4) Where the public interest lies."

Before ruling on whether Intervenors have met the above standard, the Board wishes to give the parties an opportunity to participate in a brief oral argument. An argument will be scheduled in coordination with the parties for the near future and announced in a subsequent Order. Until an oral argument is held and the Board issues a ruling on the stay motions, Powertech's Material License Number SUA-1600 is temporarily stayed. This temporary stay is intended to prevent any immediate and irreparable harm to any cultural or historic resources caused by earthwork or ground disturbance within the Dewey-Burdock sites. Depending on the Board's ruling on Intervenors' stay motions, this temporary stay will either be lifted or continue in

[4] NRC Staff's Opposition to Application for a Stay (Apr. 24, 2014); Powertech (USA) Inc's Response to Consolidated Intervenors and the Oglala Sioux Tribe Motions for Stay of the Effectiveness of NRC License No. SUA-1600 (Apr. 24, 2014).

effect pending completion of the evidentiary hearing on the admitted contentions associated with Powertech's license application.

It is so ORDERED.

THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

William J. Froehlich, Chair
ADMINISTRATIVE JUDGE

/RA/

Richard F. Cole
ADMINISTRATIVE JUDGE

/RA/

Mark O. Barnett
ADMINISTRATIVE JUDGE

Rockville, Maryland
April 30, 2014

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
POWERTECH (USA) INC.	)	Docket No. 40-9075-MLA
(Dewey-Burdock In Situ Recovery Facility	)	
Source Materials License Application)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Temporarily Granting Stay of Materials License Number SUA-1600)** have been served upon the following persons by Electronic Information Exchange, and by electronic mail as indicated by an asterisk*.

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[Original signed by Clara Sola]
Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 30th day of April 2014.

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