

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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OGLALA SIOUX TRIBE, ALIGNING)	
FOR RESPONSIBLE MINING;)	
)	
Petitioners,)	No. <u>20-1489</u>
)	
v.)	
)	
UNITED STATES NUCLEAR)	
REGULATORY COMMISSION and the)	
UNITED STATES OF AMERICA,)	
)	
Respondents.)	
<hr/>)	

PETITION FOR REVIEW

Pursuant to 42 U.S.C. § 2239, the Hobbs Act, 28 U.S.C. §§ 2341-2351, and Federal and D.C. Circuit Rule 15, notice is hereby given this 4th day of December, 2020, that Petitioner Oglala Sioux Tribe and Aligning for Responsible Mining, through undersigned counsel, hereby Petitions the United States Court of Appeals for the District of Columbia Circuit for review of:

1. The United States Nuclear Regulatory Commission's ("Commission") January, 2014 Final Environmental Impact Statement ("EIS") for the Dewey-Burdock In-Situ Recovery Project in Custer and Fall River Counties, South Dakota (Attachment 1) (Excerpt);

2. The Commission's April 8, 2014 Record of Decision ("ROD") for the Dewey-Burdock Uranium In-Situ Recovery Project (Attachment 2);

3. The Commission's April 8, 2014 Materials License No. SUA-1600, Docket No. 040-09075, to Powertech (USA) Inc. (Apr. 8, 2014)(Amendment #3 effective October 7, 2020) (Attachment 3); and

4. The Commission's December 23, 2016 Memorandum and Order in *In the Matter of Powertech (USA), Inc.* (Dewey-Burdock In Situ Uranium Recovery Facility), Docket No. 40-9075-MLA, CLI-16-20 (December 23, 2016) (Attachment 4).

5. Compliance with Judgment entered on a previous petition for review that was "dismissed in part for lack of jurisdiction, [...] granted in part, and the case [...] remanded to the Commission for further proceedings, in accordance with the opinion of the court filed" on July 20, 2018. *Oglala Sioux Tribe v. U.S. Nuclear Regulatory Commission, et al.*, Appeal No. 17-1059 (Attachment 5).

6. The Commission's July 24, 2018 Memorandum and Order in *In the Matter of Powertech (USA), Inc.* (Dewey-Burdock In Situ Uranium Recovery Facility), Docket No. 40-9075-MLA, CLI-18-07 (July 24, 2018) (Attachment 6).

7. The Commission's January 31, 2019 Memorandum and Order in *In the Matter of Powertech (USA), Inc.* (Dewey-Burdock In Situ Uranium Recovery

Facility), Docket No. 40-9075-MLA, CLI-19-01 (January 31, 2019) (Attachment 7).

8. The Commission's September 26, 2019 Memorandum and Order in *In the Matter of Powertech (USA), Inc.* (Dewey-Burdock In Situ Uranium Recovery Facility), Docket No. 40-9075-MLA, CLI-19-09 (September 26, 2019) (Attachment 8).

9. The Commission's October 8, 2020 Memorandum and Order in *In the Matter of Powertech (USA), Inc.* (Dewey-Burdock In Situ Uranium Recovery Facility), Docket No. 40-9075-MLA, CLI-20-09 (October 8, 2020) (Attachment 9).

The Final EIS, ROD, identified Memoranda and Orders, Materials License, and actions underlying these final agency actions violate this Court's Judgment and remand opinion, the Administrative Procedure Act, 5 U.S.C. § 706, the National Environmental Policy Act, 42 U.S.C. §§ 4321, *et seq.*, the National Historic Preservation Act, 16 U.S.C. §§ 470, *et seq.*, the Atomic Energy Act, 42 U.S.C. §§ 2011 *et seq.*, and implementing regulations.

Respectfully submitted,

/s/ Jeffrey C. Parsons

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Western Mining Action Project

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Counsel for Petitioners

Filed this 4th day of December, 2020

CERTIFICATE OF SERVICE

I, Jeffrey C. Parsons, hereby certify that I caused a true and correct copy of
Petitioner's Petition for Review to be served by U.S. mail on the following this 4th
day of December, 2020:

United States Nuclear Regulatory Commission, Office of the General Counsel
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Hon. Annette Vietti-Cook, Secretary, United States NRC
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)

POWERTECH (USA) INC.)

(Dewey-Burdock In Situ Recovery Facility))

Docket No. 40-9075-MLA

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **COMMISSION MEMORANDUM AND ORDER (CLI-20-09)** 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
COMMISSION MEMORANDUM AND ORDER (CLI-20-09)

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,
This 8th day of October 2020.