

**ENVIRONMENTAL APPEALS BOARD
 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 WASHINGTON, D.C.**

In re:)	
)	
Powertech (USA) Inc.)	UIC Appeal No. 20-01
)	
Permit Nos. SD31231-00000 & SD52173-)	
00000)	
)	

**ORDER GRANTING POWERTECH’S MOTION FOR EXTENSION OF TIME TO FILE
 RESPONSE**

On April 21, 2021, the Environmental Appeals Board (“Board”) issued an order directing Powertech (USA) Inc. (“Powertech”) to file a response addressing a motion by the U.S. Environmental Protection Agency Region 8 (“Region”) to further stay this matter ““in light of the potential for this action to be affected by litigation pending in the D.C. Circuit Court of Appeals.”” *Order Setting Deadline for Response to Region’s Motion for Further Stay* at 1, 3 (EAB, April 21, 2021) (quoting Region 8’s Status Report and Motion for Stay of Proceedings (April 19, 2021)). The Order directed Powertech, if it decided to oppose the Region’s request, to provide grounds for its opposition, including support for statements it made in a prior pleading: “that the proceedings in the D.C. Circuit case ‘regardless of the outcome, would not affect the issues that are properly before the Board in this Petition for Review’”; and that a stay of proceedings before the Board “would delay or affect the proceedings before the State of South Dakota.” *Id.* at 3. (quoting Powertech Response to Respondent’s Motion for Stay of Proceedings at 2 (Feb. 19, 2021)). The Order directed Powertech to file its response by no later than Tuesday, May 4, 2021, and stayed the briefing schedule for the Region’s response, any response

Powertech may wish to file, and other pleadings in this matter pending resolution of the Region's motion. *Id.*

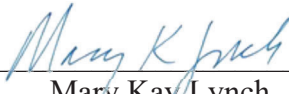
On Friday, April 30, 2021, Powertech filed a motion seeking a two-week extension of time until May 18 to file its response to the Region's motion for a further stay. Motion for Extension of Time to File Response Addressing the Region's Request for Further Stay (April 30, 2021). As support for its motion, Powertech explains that during the two week extension it "will be engaged in related and competing activities and consultations, including some related to [South Dakota] matters," and that it "will then be in better position to respond comprehensively to the Board's Order by May 18th." *Id.* at 1. Powertech represents that it contacted both Petitioner and the Region, and that Petitioner opposes, but the Region does not oppose, Powertech's motion. *Id.* Powertech argues that Petitioner "will not be prejudiced by an extension, having not opposed the Region's requested stay." *Id.*

In order to provide Powertech time to respond comprehensively to our Order, which will assist the Board in considering the Region's motion to further stay this matter, the Board **GRANTS** Powertech's motion. 40 C.F.R. §§ 124.19 (g), (o). Accordingly, Powertech's response must be filed by no later than **Tuesday, May 18, 2021**. The current briefing schedule continues to be stayed for the Region's response, any response Powertech may wish to file, and other pleadings in this matter pending resolution of the Region's motion.

So ordered.

Dated: May 03, 2021

ENVIRONMENTAL APPEALS BOARD

By: 
Mary Kay Lynch
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I certify that copies of the foregoing *Order Granting Powertech's Motion for Extension of Time to File Response* in the matter of Powertech (USA) Inc., UIC Appeal No. 20-01, were sent to the following persons in the manner indicated.

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Dated: May 03, 2021

Emilio Cortes

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Clerk of the Board