

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



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In re Powertech (USA) Inc.

Permit Nos. SD31231-00000 & SD52173-  
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) UIC Appeal No. 20-01  
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**ORDER GRANTING UNOPPOSED MOTION TO AMEND BRIEFING AND ORAL  
ARGUMENT SCHEDULE**

On November 16, 2023, the Environmental Appeals Board (“Board”) issued an order in the above-captioned matter setting a briefing schedule for the issues remaining for Board resolution and an oral argument date for those issues. Order Scheduling Briefing and Oral Argument (Nov. 16, 2023); *see* Order Denying Motion to Amend Petition for Review, Denying Review on the Petition’s National Historic Preservation Act Section 106 Issue, and Identifying Issues in the Petition Remaining for Resolution 29-30 (Nov. 16, 2023). The scheduling order established December 18, 2023, as the deadline for the filing of responses to the petition, including the Region’s submission of the certified index and relevant portions of the administrative record; January 8, 2024, as the deadline for the filing of a reply brief; and February 29, 2024, as the date for oral argument on the remaining issues. Order Scheduling Briefing and Oral Argument at 1-2.

On November 22, 2023, Petitioner Oglala Sioux Tribe (“Tribe”) filed an unopposed motion seeking to amend the briefing and oral argument schedule. The motion represents that the parties “reached consensus on a proposed amended schedule setting a deadline of December 22, 2023 for the Region to file a response to the petition for review (along with a certified index

and the relevant portions of the administrative record) and for Powertech to file a response to the petition, if it chooses to file,” and of January 22, 2024 “for the Tribe to file a reply brief, if it chooses to file one.” Unopposed Motion to Amend Briefing and Oral Argument Schedule 1 (Nov. 22, 2023). It also represents that the parties “reached consensus on seeking to reset the oral argument to any date convenient to the Board, either between February 12, 2024 and February 28, 2024 or any date after March 6, 2024.” *Id.* Lastly, the motion explains that the Tribe seeks to amend the briefing and oral argument schedule “due to significant pre-existing personal travel plans during the holiday season and pre-existing professional obligations, including other briefing and oral argument obligations, in other cases for counsel for the Tribe.” *Id.* at 2.

Based on the representations in the Tribe’s motion, the Board **GRANTS** the motion. *See* 40 C.F.R. § 124.19(f)(6), (n). Accordingly, the Region’s response to the petition for review (along with a certified index and the relevant portions of the administrative record) and Powertech’s response to the petition, if it chooses to file one, are to be filed and served on or before **Friday, December 22, 2023**. The Tribe’s reply brief, if it chooses to file one, is to be filed and served on or before **Monday, January 22, 2024**. Oral argument will be held on **Tuesday, February 27, 2024**, beginning at **1:30 p.m. Eastern Time**. The time allocated and order of presentation remain as set forth in the Order Scheduling Briefing and Oral Argument. An order addressing the logistics for oral argument will follow in January 2024.

So ordered.

Dated: 11/29/2023

**ENVIRONMENTAL APPEALS BOARD**

By: Wendy L. Blake  
Wendy L. Blake  
Environmental Appeals Judge

## **CERTIFICATE OF SERVICE**

I certify that copies of the foregoing *Order Granting Unopposed Motion to Amend Briefing and Oral Argument Schedule* 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: Nov 29, 2023

Annette Duncan

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