

In terms of the three pending motions, which were filed at a time when proceedings in the case were stayed, the Board has determined that it would be more effective and efficient for the parties to address the issues raised in those motions through their respective response and reply briefs, and not through further briefing on the motions.¹ *See* 40 C.F.R. § 124.19(n). This approach is consistent with the Board’s June 2, 2021 order on the pending motions. *See* Order Regarding Additional Pleadings 2 (June 2, 2021) (“Parties will have an opportunity to address the issues in the pending pleadings once a briefing schedule for this matter has been established.”).

As to the Tribe’s request for oral argument, *see* Petition for Review at 53, the Board has determined that argument would be of assistance in its deliberations on the issues remaining for Board resolution, as identified in the November 2023 Order. Accordingly, the Board will hold oral argument on **Thursday, February 29, 2024**, beginning at **1:30 p.m.** Eastern Time. The Board has allocated a total of sixty (60) minutes for oral argument, divided as follows and in the following order:

- Thirty (30) minutes for the Oglala Sioux Tribe
- Twenty (20) minutes for the Region
- Ten (10) minutes for Powertech

¹ The three pending motions include: Powertech Motion to Strike National Environmental Policy Act [“NEPA”] Challenges (May 18, 2021); Powertech Motion to Strike the Brief Amicus Curiae of The Great Plains Tribal Water Alliance, Inc. (May 28, 2021); and the Tribe’s Motion to Hold Responses to Permit Applicant’s Motion to Strike in Abeyance (May 28, 2021) (“Tribe’s Motion”). The Board rejects the Tribe’s request to treat Powertech’s motion to strike the NEPA challenges as Powertech’s response to the petition. Tribe’s Motion at 2, 4-5. The Tribe’s remaining requests, *id.* at 1, 6, are now moot.

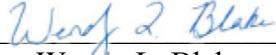
- The Tribe may reserve up to ten (10) minutes of its thirty-minute time allocation for rebuttal.

An order addressing the logistics for oral argument will follow in January 2024.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: Nov 16, 2023

By: 
Wendy L. Blake
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I certify that copies of the foregoing *Order Scheduling Briefing and Oral Argument* 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 16, 2023

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