

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

---

In re: )

Powertech (USA) Inc. )

Permit Nos. SD31231-00000 & SD52173-00000 )

---

) UIC Appeal No. 20-01

**UNOPPOSED MOTION TO RESET ORAL ARGUMENT**

Powertech (USA) Inc. (“Powertech”) hereby respectfully requests that the Environmental Appeals Board (“Board”) amend the recently established date for oral argument in this matter. In accordance with 40 C.F.R. § 124.19(f)(2), counsel for Powertech has conferred with counsel for all parties and the parties have stated that they do not oppose this motion. Further, the previous motion indicated that the parties had reached consensus on resetting oral argument, but that involved an oversight. As set forth herein, Powertech asserts that good cause exists for resetting the oral argument.

On November 29, the Environmental Appeals Board (“Board”) issued an order in the above-captioned matter granting Petitioner’s Unopposed Motion to Amend Briefing and Oral Argument Schedule; *see* Order Granting Unopposed Motion to Amend Briefing and Oral Argument Schedule (Nov. 29, 2024). As noted in the Order, the motion represented 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.” However, counsel for Powertech failed to recognize and to communicate to counsel for the other parties that some of the dates identified as acceptable for oral argument in Petitioner’s motion would present conflicts for Powertech’s lead underground injection control (UIC) counsel, including the date selected by the Board. Specifically, such counsel is committed that week of February 26, 2024, to making two presentations, co-chairing a working group, and participating in other portions of the Underground Injection Control Conference of the Ground Water Protection Council, the national association of state UIC and groundwater protection agencies and officials, in Oklahoma City. As lead UIC counsel for Powertech, I need to be at the oral argument.

Accordingly, and with sincere apology for the failure and the inconvenience caused to the Board and the other parties, Powertech requests that the Board reset the date for oral argument. Based on communications among the parties in conjunction with this motion, we request that the date for oral argument be reset to a date February 20 to February 23, 2024, or March 7 to 22, 2024, as the Board may prefer.

Respectfully submitted,

/s/ Robert F. Van Voorhees

Robert F. Van Voorhees  
Robert F Van Voorhees PLLC  
1155 F Street, N.W.  
Suite 700  
Washington, DC 20004-1357  
Telephone: 202-365-3277  
E-mail: [bob.vanvoorhees@gmail.com](mailto:bob.vanvoorhees@gmail.com)

Jason A. Hill  
Hunton Andrews Kurth LLP  
600 Travis Street, Suite 4200  
Houston, Texas 77002  
(713) 220-4510  
[hillj@huntonak.com](mailto:hillj@huntonak.com)

Kerry McGrath  
Hunton Andrews Kurth LLP  
2200 Pennsylvania Avenue, NW  
Washington, D.C. 20037  
(202) 955-1519  
KMcGrath@huntonak.com

Counsel for Powertech (USA) Inc.

Dated: December 1, 2023

## CERTIFICATE OF SERVICE

I hereby certify that, on December 4, 2023, I served the foregoing document on the following persons by e-mail in accordance with the Environmental Appeals Board's September 21, 2020, Revised Order Authorizing Electronic Service of Documents in Permit and Enforcement Appeals:

*Attorneys for Petitioner Oglala Sioux Tribe*

Jeffrey C. Parsons, Senior Attorney  
Roger Flynn, Managing Attorney  
Western Mining Action Project  
P.O. Box 349  
Lyons, CO 80540  
(303) 823-5738  
[wmap@igc.org](mailto:wmap@igc.org)

Travis E. Stills  
Managing Attorney  
Energy & Conservation Law  
1911 Main Ave, Ste 238  
Durango, CO 81301  
(970) 375-9231  
[stills@frontier.net](mailto:stills@frontier.net)

*Attorney for Amicus Curiae Great Plains*

*Tribal Water Alliance, Inc.*  
Peter Capossela, PC  
Attorney at Law  
Post Office Box 10643  
Eugene, Oregon 97440  
(541) 505-4883  
[pcapossela@nu-world.com](mailto:pcapossela@nu-world.com)

*Attorneys for Respondent EPA*

Lucita Chin  
Senior Assistant Regional Counsel  
Environmental Protection Agency Region 8  
595 Wynkoop St.  
Mail Code: 8ORC-LC-M  
Denver, CO 80202  
[chin.lucita@epa.gov](mailto:chin.lucita@epa.gov)

Michael Boydston  
Office of Regional Counsel  
EPA Region 8  
1595 Wynkoop St.  
Mail Code: 8ORC-LC-G  
Denver, CO 80202  
(303) 312-7103  
[boydston.michael@epa.gov](mailto:boydston.michael@epa.gov)

Katie Spidalieri, Attorney-Advisor  
Water Law Office, Office of General Counsel  
U.S. Environmental Protection Agency  
(202) 564-4138  
[spidalieri.katie@epa.gov](mailto:spidalieri.katie@epa.gov)

/s/ Robert F. Van Voorhees

Robert F. Van Voorhees  
Robert F Van Voorhees PLLC  
1155 F Street, N.W.  
Suite 700  
Washington, DC 20004-1357  
E-mail: [bob.vanvoorhees@gmail.com](mailto:bob.vanvoorhees@gmail.com)