

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

In re:

Powertech (USA) Inc.

Permit No. SD31231-0000 and  
SD52173-0000

UIC Appeal No. 20-01

**MOTION FOR EXTENSION OF TIME TO RESPOND**

The U.S. Environmental Protection Agency (“EPA”) Region 8 (“Region”) respectfully requests that the Environmental Appeals Board (“EAB” or “Board”) grant a 30-day extension of time, until February 24, 2021, to file its response, including the certified index of the administrative record and relevant portions of the administrative record, to the Petition for Review filed in the above-captioned matter. The Region seeks an extension of time pursuant to 40 CFR § 124.19(g), which allows for one motion for an extension for up to 30 days.

The Region issued final Underground Injection Control (“UIC”) Class III and Class V area permits on November 24, 2020. Petitioner Oglala Sioux Tribe filed a Petition for Appeal on December 24, 2020. Pursuant to 40 C.F.R. § 124.19(b)(2), the Region “must file a response to the petition, a certified index of the administrative record, and the relevant portions of the administrative record within 30 days after the filing of a petition.” Therefore, the Region’s response to the petition is due on January 25, 2021.

The Region requests this extension of time for the following reason. There will be a change in administration on January 20, 2021. EPA will have new decisionmakers beginning on

this date who will need to be briefed about this action before the filing of the response. Given that the underlying permitting process took over seven years and garnered thousands of comments, and the Petition for Review raises issues under several federal statutes involving several offices within the Agency, there will not be adequate time for this to occur. Under these circumstances, the Region requests a 30-day extension to ensure that necessary internal coordination can take place.

Consistent with 40 C.F.R. § 124.19(f)(2), the Region contacted the Petitioner, and the Petitioner does not oppose this motion. Petitioner will not be prejudiced by an extension of time because the effectiveness of the permit has been stayed by the filing of the petition. 40 C.F.R. § 124.16(a). The Region also contacted the Permittee, Powertech (USA) Inc., and they do not oppose this motion.

In conclusion, the Region respectfully requests that the Board grant an extension of time to February 24, 2021 for the Region to file its response, including the certified index of the administrative record and relevant portions of the administrative record, to the Petition for Review.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Motion for Extension of Time to Respond in the matter of Powertech (USA) Inc., Appeal No. UIC 20-01, was filed electronically with the Environmental Appeals Board's E-filing System and was served on the following persons, this 12th day of January 2021 in the manner indicated below.

### **By Electronic Email**

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