



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

September 23, 2013

NOTICE

TO: Max Main, Counsel for Powertech (USA) Inc, 618 State St, Belle Fourche SD 57717

Elected Full Party Participants in the matter of Powertech's Water Permit
Applications and Ground Water Discharge Plan Application

FROM: *for* Jeanne Goodman, Chief Engineer *Eric Gronlund*
Water Rights Program, DENR

SUBJECT: In the Matter of Powertech (USA), Inc. Applications
Prehearing Chair Hoyt's Orders dated September 19, 2013

Enclosed please find the following Orders executed by Prehearing Chair Hoyt regarding matters brought before him at the September 16, 2013, prehearing conference held in Rapid City.

- Order Denying Powertech's Motion to Allow Narrative Testimony
- Order Upon Reconsideration Denying Motion of Brenda S. Gamache
- Order Denying Black Hills Wild Horse Sanctuary, Susan Watt & Dayton Hyde's Motion to Continue

The original of the Orders has been filed with Eric Gronlund of the Water Rights Program, DENR.

c: Parties that Elected Full Party Participation (attached)
Everett Hoyt, Prehearing Chairman
Jeff Hallem, Assistant Attorney General, Counsel to Water Management Board
Roxanne Giedd, Deputy Attorney General, Counsel to Groundwater Quality Program
Diane Best, Assistant Attorney General, Counsel to Water Rights Program
Doris Ann Mertz, Custer County Library, 447 Crooks Street, Ste 4, Custer SD 57730
Cindy Messenger, Hot Springs Public Library, 2005 Library Drive, Hot Springs SD 57747
Michelle May, Woksape Tipi, Oglala Lakota College, PO Box 310, Kyle SD 57752
Ashley Cortney, Edgemont Public Library, PO Box A, Edgemont SD 57735
Government Documents, Rapid City Public Library, 610 Quincy Street, Rapid City SD 57701

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

RECEIVED

IN THE MATTER OF WATER)
PERMIT APPLICATIONS 2685-2)
and 2686-2, POWERTECH (USA),)
INC.)

SEP 23 2013

WATER RIGHTS
PROGRAM

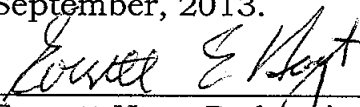
IN THE MATTER OF THE 2012)
GROUNDWATER DISCHARGE)
PLAN APPLICATION SUBMITTED)
BY POWERTECH (USA), INC.)

ORDER DENYING POWERTECH'S
MOTION TO ALLOW NARRATIVE
TESTIMONY

Applicant Powertech (USA) Inc. filed a Motion to Allow Narrative Testimony in the above captioned matter regarding experts who will testify during the scheduled hearing. Written responses opposing and seeking clarification regarding the scope of the motion were filed by several "A" status parties. The motion was heard by Prehearing Chair Hoyt during the September 16, 2013 Motions Hearing, at which parties presented argument and comments. Upon consideration of the motion and the parties' arguments and comments, and for reasons stated during the hearing, the Prehearing Chair that finds the granting of Powertech's blanket motion is improper. The consideration of any request to allow narrative testimony should be made during the contested case hearing on a witness-by-witness basis.

It is hereby ORDERED, that Powertech's Motion to Allow Narrative Testimony is denied, but that any party may bring such motions regarding individual witnesses during the hearing for consideration by the Hearing Chair.

Dated this 19th day of September, 2013.



Everett Hoyt, Prehearing Chair
South Dakota Water Management Board

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WATER MANAGEMENT BOARD

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IN THE MATTER OF WATER)
PERMIT APPLICATIONS 2685-2)
and 2686-2, POWERTECH (USA),)
INC.)

ORDER UPON RECONSIDERATION
DENYING MOTION
OF BRENDA S. GAMACHE

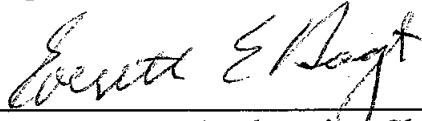
IN THE MATTER OF THE 2012)
GROUNDWATER DISCHARGE)
PLAN APPLICATION SUBMITTED)
BY POWERTECH (USA), INC.)

Party status "A" Intervenor Brenda S. Gamache filed documents seeking the Prehearing Chair's reconsideration of his September 6th Order Denying Motion of Brenda S. Gamache in the above captioned matter. The reconsideration was heard without additional argument by Prehearing Chair Hoyt during the September 16, 2013 Motion Hearing.

Upon consideration of the additional documents filed by Intervenor Gamache, and for the reasons stated during the hearing, the Prehearing Chair finds arguments raised do not provide a legal or factual basis to reverse his prior decision.

It is hereby ORDERED, that Intervenor Brenda S. Gamache's request of reconsideration of her Motion dated August 23, 2013, to compel discovery from the Department of Environment and Natural Resources Surface Water Quality Program is denied.

Dated this 19th day of September, 2013.



Everett Hoyt, Prehearing Chair
South Dakota Water Management Board

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WATER MANAGEMENT BOARD

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IN THE MATTER OF WATER)
PERMIT APPLICATIONS 2685-2)
and 2686-2, POWERTECH (USA),)
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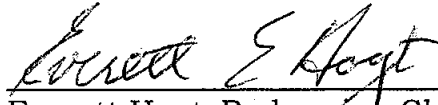
ORDER DENYING BLACK HILLS WILD
HORSE SANCTUARY, SUSAN WATT, &
DAYTON HYDE'S MOTION TO
CONTINUE

Party status "A" Intervenors Black Hills Wild Horse Sanctuary, Susan Watt and Dayton Hyde (BHWHS) filed a Motion to Continue in the above captioned matters to which the Clean Water Alliance filed a motion joining. Applicant Powertech (USA), Inc. filed a written response opposing the motion. The Motion to Continue was heard by Prehearing Chair Hoyt during the September 16, 2013 Motions Hearing, at which BHWHS, Powertech and other parties provided additional arguments and comments. BHWHS and other "A" status parties sought a continuance of the hearing scheduled to begin on October 7, 2013, until Powertech received permits from the federal Environmental Protection Agency (EPA) and Nuclear Regulatory Commission (NRC).

Upon consideration of the motion, and the arguments and comments made by the parties, and for the reasons set forth during the hearing, the Prehearing Chair finds there is no legal or persuasive factual basis to continue the Water Management Board's hearing on Powertech's applications until after Powertech obtains required permits from the EPA and NRC.

It is hereby ORDERED, that BHWHS' Motion to Continue is denied.

Dated this 19th day of September, 2013.



Everett Hoyt, Prehearing Chair
South Dakota Water Management Board

CERTIFICATION

I hereby certify that on September 23, 2013, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated September 23, 2013 regarding Orders executed by Prehearing Chair Hoyt in the matter of 2012 Ground Water Discharge Plan and Application Nos. 2685-2 and 2686-2 filed by Powertech (USA) Inc., addressed as stated below:

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PO BOX A
EDGEMONT SD 57735

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